

May 11th, 2023

Notice Of Meeting

You are requested to attend the meeting to be held on **Tuesday, 9th May 2023 at 9:30 am** in **Hybrid**.

Agenda

1.0 Welcome & Apologies

Apologies received from: Scott Gill & Mark McCrudden

Tentative attendance advised by: Barry Mimmagh & Chanel Jones

2.0 Deputations

3.0 Conflicts of Interest

4.0 Tabling of Any Other Business

FOR APPROVAL

5.0 Minutes and Key Actions arising from last meeting

For Approval

Council is asked to approve and adopt the Minutes of meeting dated 21 March 2023 as a true and accurate record of events.

No actions.

📎 *Council - Draft Public Meeting Minutes - 210323 - V2.docx*

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📎 *Key Decisions & Actions - Council Public Meeting - 210323.docx*

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6.0 Draft Terms of Reference - Audit & Risk Committee

For Approval

Council is asked to approve the attached draft Terms of Reference.

📎 *Cover Note ARC ToR Review May 23 .docx*

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📎 *A&R ToR Review 2023 Final Draft 1.4.docx*

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7.0 AAPA Consultation

For Approval

Council is asked to consider the attached consultation documents and proposed consultation response and approve for submission to DHSC on 16 May 2023.

📎 *Council Paper - DHSC Regulatory Reforms - May 2023.docx*

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FOR INFORMATION

8.0 President's Report

For Information

Verbal Report

9.0 CEO's Report

For Information

Verbal report.

10.0 Corporate Strategy - update

For Information

Verbal update - Jonathan Patton.

11.0 Council Learning & Development - Update

For Information

Verbal update - Brendan Garland.

12.0 Correspondence Log

For Information

13.0 Any Other Business

For Information

1. Council Communications - decisions

14.0 Presentation - Overview of FtP Process

Presentation

Facilitated by Katie Quinn.

TO NOTE

15.0 Date of next Council Public Meeting

To Note

The date of the next Council meeting is to be agreed by Council.

Invitees

Ms June Alexander

Mrs Joan Duffy

Ms Colleen Duffy

Mr Ryan Duffy

Mr Brendan Garland

Mr Scott Gill

Mrs Laura Hughes

Mr Peter Hutchinson

Ms Chanel Jones

Mr Philip Knox

Mrs Michaela McAleer

Mr Mark McCrudden

Mr Gary McMurray

Ms Jenda McSwiggan

Mr Barry Mimmagh

Ms Carol Moore

Professor Patrick Murphy

Mr Mark Neale

Dr Geraldine O'Hare

Mr Jonathan Patton

Ms Alison Ragg



Draft Minutes of the Council Public Meeting
Remote – Via Zoom
On Tuesday, 21 March 2023 @ 10:30

	Agenda Item - Present	Council Members: Dr Geraldine O'Hare (President) Mr Jonathan Patton (Vice President) Ms Alison Ragg Prof Patrick Murphy Ms Carol Moore Mr Brendan Garland Mr Philip Knox Mr Scott Gill Ms Chanel Jones Mr Gary McMurray Visitors: Mr Christopher Pawluczyk – PSA Ms Jenda McSwiggan – Boardroom Apprentice In Attendance: Ms Michaela McAleer (Chief Executive) Ms Laura Hughes (Registrar & Director of Regulation) Mr Mark Neale (Director of Public Affairs) Ms Joan Duffy (Director of Business Operations) Mr Peter Hutchinson (Policy Standards & Engagement Lead) Mr Ryan Duffy (Interim Project Manager) Ms June Alexander (Executive Assistant)	Apologies Barry Mimmagh Mark McCrudden Colleen Duffy
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			Action
1.0	Welcome & Apologies	Council commenced its Public meeting at 10:30, after a presentation by the Chief Pharmaceutical Officer, Cathy Harrison. Council agreed on the benefits of such interactions with the CPO and agreed that an annual invitation to meet with Council should be extended to her. The President welcomed everyone to the meeting including attendees Philip Knox (Council) and Chris Pawluczyk (PSA) who joined remotely and Jenda McSwiggan, Boardroom Apprentice. Apologies were noted from Barry Mimmagh, Mark McCrudden and Colleen Duffy.	
2.0	Deputations	The President was in attendance throughout. No deputation required.	
3.0	Conflicts of Interest	No conflicts of interest were raised.	
4.0	Tabling of Any Other Business	No other business was tabled.	
5.0	Minutes & Key Actions from last meeting For Approval	<u>Minutes:</u> Council approved and adopted the Minutes of the Public meeting of 31 January 2023 as a true and accurate record of events. Key Decision / Action: Council approved and adopted the Minutes of the Public meeting of 31 January 2023 as a true and accurate record of events.	Proposed by: Brendan Garland Seconded by: Carol Moore

			Action
6.0	Scrutiny Committee Annual Report 2022 For Approval	The CEO advised that the Scrutiny Committee Chair produced an Annual Report for approval by Council as laid out in the Regulations, the current Chair being Nicole Lappin. Council was reminded that the Scrutiny Committee dealt with referrals from the Registrar and applied a realistic prospect test as to whether the Statutory Committee would find that Fitness to Practise had been impaired. Their test was based on papers from the Registrar and the registrant. The Scrutiny Committee had dealt with five referrals in 2022, three of which were referred on to the Statutory Committee and two were issued warnings. Council was asked to approve the Annual Report 2022 and make any observations. In response to a Council query, the Registrar clarified that the Scrutiny Committee has the authority to either close a case or to send it on to the Statutory Committee. It can also ask for further information before making its decision. If the Scrutiny Committee found itself conflicted, it would refer the case on the Statutory Committee. In addition, the CEO confirmed that she had attended an event to speak with first year pharmacy students. She confirmed to Council that no action can be taken against an individual until they join the Register and, in the process, make a declaration in relation to Fitness to Practise.	

			Action
6.0	Scrutiny Committee Annual Report 2022 For Approval (continued)	The Registrar advised that some behavioural issues were raised with the accreditation panel at the Ulster University, but were satisfied with the University's involvement. Council approved the Scrutiny Committee Annual Report 2022. Key Decision: Council approved the Scrutiny Committee Annual Report 2022.	Proposed by: Jonathan Patton Seconded by: Alison Ragg
7.0	President's Report For Information	The President advised that, 4 months into her role, she had completed all 1-2-1 meetings with Council members bar one which was scheduled for April. She noted that she was most impressed with the work of Council and PSNI staff and thanked everyone for their responsiveness and willingness to volunteer for tasks. In relation to her report, the President updated Council as follows: • The President and CEO had weekly meetings to keep up to date and the VP joined, when possible. • They had a meeting with the CPO on 15 February and reported that a good relationship was forming. • They also met with PDA on 06 March. • Both the President and CEO had been invited to attend the Pharmacy Forum Management Board meeting on 30 March. • The President had also met with Gisela Abbam, GPhC Chair, on 06 March and a further meeting had been arranged with her and Duncan Rudkin on 17 April. •	
			Action

7.0	President's Report For Information (continued)	- The President and CEO both attended the Women in Leadership event on 10 March. - The President has established a Chairs' Meeting to enable herself and the Chairs to communicate up to date information on various workstreams.	
8.0	CEO's Report For Information	The CEO updated Council as follows: - PSNI had agreed to co-chair the Pharmacy Technicians Oversight Board which will review the plans, now extended to 2025, for the regulation and registration, and would also co-chair the Comms sub-group. - Working groups would include education and workforce development and a workshop was scheduled for 27 March with speakers from GPhC who have experience in interacting with pharmacy technicians. - The CEO and President had a very positive meeting with PDA on 09 January. The outcome of their survey was discussed which mainly focussed on fees with 80% of respondents wanting payment by instalments. The organisation was already looking at that option and had committed to having a payment by instalment option for the 2024/25 year. The CEO confirmed that there appeared to be nothing in the legislation to prevent payment by instalments and also confirmed that the retention fee encompasses the PSNI and Pharmacy Forum NI. The key message was that fees had not been increased in seven years and the organisation was looking at the direct debit process. - In relation to EDI, the Equality Commission had been invited to meet with the organisation in relation to issues around Northern Ireland legislation and data collection.	

			Action
9.0	Report on Progress Against Strategy For Information	The CEO advised that there was little change from the last Council meeting except for some slight updates to the narrative: 1(a): PSA had published their report and the CEO had already updated Council on pharmacy technicians. 2(b): In relation to standards work, the CEO advised that an internal operational work programme was being drafted to review the standards over the next year or so. In relation to 3(a), Council asked if a progress report could be provided in relation to timelines, efficiencies and costs for FtP processes to show any improvement. The CEO advised that a deep dive into FtP costings was in progress and she was reviewing the information provided to Council in relation to FtP.	
10.0	PSAPR 21/22 Final Report To Note	The CEO advised that there had been a successful outcome with all 18 standards having been met and that the Executive Team would look closely at all additional comments and identify any additional work required.	
11.0	Any Other Business For Information	None tabled.	
12.0	Date of Next Council Public Meeting	The President confirmed that the next Public Council meeting was scheduled for 09:30 on Tuesday, 09 May 2023 and that the meeting would be hybrid.	



**Key Decisions & Actions
Council Public Meeting
Tuesday, 21 March 2023**

			Action
5.0	Minutes & Key Actions from last meeting	Council approved and adopted the Minutes of the Public meeting of 31 January 2023 as a true and accurate record of events.	Decision
6.0	Scrutiny Committee Annual Report 2022	Council approved the Scrutiny Committee Annual Report 2022.	Decision

Pharmaceutical Society NI – Briefing paper

Date: 26 April 2023

Title: Review - Audit and Risk Terms of Reference

Type of Paper

- *To Note*

Action required by Council.

Council is asked to:

- Note and ratify the revised Terms of Reference for the Audit and Risk Committee.

BACKGROUND

In line with the Corporate Governance Handbook and Committee Terms of Reference (ToR) it is the responsibility of each Committee to regularly review their ToR. To comply with this requirement, the Audit and Risk Committee (ARC) commenced a review of the ToR in early March 2023.

Views were sought from all Council members and a revised draft ToR developed. This revised draft was specifically consulted upon with the ARC membership, Council Committee and Working Group Chairs, the Council President and CEO. All consultation responses have been incorporated into the review and a final revised ToR has been drafted.

The revised ARC ToR is attached and will now form part of Committee Governance. Council is asked to note and ratify the new ToR.

Revision of the Corporate Governance Handbook will incorporate ARC ToR changes in due course.

I would like to add a note of thanks to everyone who took the time to respond to the consultation, your contribution and interest was much appreciated.

Philip Knox
Chair Audit and Risk Committee

AUDIT & RISK COMMITTEE TERMS OF REFERENCE

1.0 Purpose

1.1 To provide assurance to Council on the integrity and robustness of the systems and processes for managing risk; overseeing financial management; ensuring effective corporate governance, and on their related dependencies and out workings.

2.0 The Relationship with Council and competency

2.1 The Audit & Risk Committee is a Committee of the Council of the Pharmaceutical Society NI.

2.2 There will be a two-way link between the Council and the Audit & Risk Committee through an element of common membership. Minutes of the Audit & Risk Committee will be made available to members of the Council.

2.3 The Audit & Risk Committee corporately requires a range of skills and competences, as outlined in the PSNI Competency Framework, to allow it to be effective in its functions. The Chair and President will have responsibility for ensuring that there is an appropriate competency and skills mix across the membership.

2.4 Committee membership - where it is deemed necessary, Council members may be co-opted into the Committee or, subject to budget, external specialists/services may be engaged by the Committee, on a time-limited and non-voting basis, where specific skills or knowledge are required to inform the Committee's decision.

3.0 Membership, Chair & Quorum

3.1 Membership will consist of 4-6 Council Members including the Chair who will Chair the Committee meetings and be responsible for the conduct of the meeting.

3.2 The Chair and Members of the Committee will be appointed by the President and Vice-President for a period of up to 3 years, extendable by one additional period of 3 years. Membership expiration dates will be staggered to ensure continuity.

3.3 In the absence of the Committee Chair, the remaining members present shall elect one of their number to chair the meeting.

3.4 A quorum of 3 is necessary for the transaction of business. Members' attendance via telephone or video-link is permissible for the purposes of determining a quorum.

3.5 All efforts will be made to take committee decisions on a consensus basis but if that is not possible then a majority decision will stand. If committee is unable to reach a majority decision, then the Chair will bring the issue at debate, including an explanation of the various positions, to Council for final agreement.

3.6 A designated executive staff lead will be appointed to support the work of the committee but will have no voting rights. They will assist the Chair in drawing up the agenda, providing necessary papers/data and ensuring implementation of the Minutes and action logs.

3.7 Administrative support to the Chair and the Committee, including minuting of meetings and circulation of Committee papers, will be provided. Minutes will be circulated to members as soon as possible after they are finalised by the Chair.

3.8 The Chair of the Audit & Risk Committee may not sit on any other Committee. Members of the Audit & Risk Committee may not chair any other formal Committee.

4.0 Meetings

- 4.1 The Audit & Risk Committee will meet at least three times during each financial year.
- 4.2 The annual timetable for Committee meetings will be agreed between the Chair and Executive Staff Lead at the start of each financial year.
- 4.3 Extraordinary Committee meetings can be convened as agreed between the Chair and members as business requires.
- 4.4 Council may request the committee to convene further meetings as necessary.

5.0 Accountability & Reporting

- 5.1 The Audit & Risk Committee will be accountable to Council.
- 5.2 The Audit & Risk Committee will formally report back to the Council (at the next scheduled council meeting after the committee meeting has taken place) by way of Minutes of the Committee Meeting and any additional verbal or written report deemed necessary by the Chair of the Committee or as directed by Council.

6.0 Responsibilities

6.1 Risk Management

- 6.1.1 reviewing the policies and process for identifying and assessing business risks, and the management of those risks by the organisation and making recommendations for any necessary changes to the Chief Executive Officer and Council; and ¹
- 6.1.2 assuring the effectiveness of the management of policies and processes for risk, control and governance including regular review of the Risk Register and escalating any issues to the Chief Executive Officer and Council in a timely manner.

6.2 Governance

- 6.2.1 ensuring the regular review (at a minimum every 3 years) and ongoing maintenance of the Corporate Governance Handbook, assuring adherence to same and making recommendations to Council and the Chief Executive for any necessary improvements in line with best practice;

6.2.2 External Audit

- overseeing the tender and procurement process for appointment of an external auditor and making recommendations to Council on the related contractual appointment; and
- overseeing the external audit process including assurance regarding the implementation of recommendations made.

6.2.3 Internal Audit

- overseeing the tender and procurement process for appointing a suitably qualified internal auditor; delegated authority; and making recommendations to Council on the related contractual appointment; and
- overseeing the internal audit process; and
- reviewing and agreeing the internal audit strategy and programme and, where appropriate, requesting that internal audit undertakes specific work; and
- satisfying itself that the internal audit function is adequately resourced, independent, and objective and has appropriate standing within the organisation; and

- oversight, assurance, and support regarding the annual audit report including providing an accountability and challenge function to management's response to any internal audit recommendations.

6.2.4 Third party audits (e.g. PSA)

- considering reports
- oversight, assurance, and support including providing an accountability and challenge function to management's response to any recommendations.

6.3 Financial Management

6.3.1 seeking assurance of compliance with statutory instruments and appropriate financial management systems and considering external and internal audit reports and agreeing recommendations for approval to Council.

6.4 Raising Concerns- Making A public Interest Disclosure²

6.4.1 annually review the effectiveness of PSNI and Council's arrangements for anyone, internal or external to the organisation, to make a public interest disclosure, in confidence, about danger, illegality or wrongdoing that may affect others including, but not limited to, possible improprieties in financial matters, abuse of position, conflicts of interest, or other health and safety matters.

6.4.2 ensure that any arrangements allow proportionate and independent investigation of such matters and appropriate follow up action. An outline of the responsibilities of the Chair of Audit and Risk, as required within PSNI's Making a Protected Disclosure Policy, is included at Appendix 'A' of this Terms of Reference.

6.4.3 An analysis of concerns raised in the organisation and the action taken in response to those concerns should be reported regularly to the Audit and Risk Committee. The Committee as part of the control environment will provide a challenge function when it receives management information about concerns raised.

The annual report and accounts should also include a section on concerns raised and improvements made in the organisation as a result.

6.5 Counter-Fraud

6.5.1 satisfy itself that there are adequate arrangements, including appropriate policies and procedures, in place for countering fraud, bribery, and corruption.

6.5.2 should the committee during its course of work, or otherwise through separate reporting, become aware of any issue relating to fraud or corruption it will report the matter to The President and The Chief Executive Officer as soon as is reasonably practicable.

6.5.3 review the outcomes of any counter fraud work or investigations, overseeing the management response to addressing any gaps in internal controls identified and that any related recommendations are being implemented.

7.0 **Performance Evaluation**

7.1 The performance of Audit & Risk Committee and its members will be formally evaluated to ensure that the commitment and skills mix contributes and supports the objectives of the Council. This evaluation will be conducted as part of the Council annual appraisal process.

² See Appendix V of Corporate Governance Handbook

8.0 Terms of Reference Review

8.1 The Audit & Risk Committee Terms of Reference will be reviewed on a regular basis and at least every three years preferably as part of/alongside the review of the corporate governance handbook. Any recommendations for change will be submitted to the Council for approval.

Raising Concerns

1. Raising a concern in the public interest is the action of telling someone in authority, either internally and/ or externally (e.g. regulators or media), about wrongdoing, risk or malpractice.
2. Should none of the routes for raising concerns within the PSNI Whistleblowing arrangements be suitable (for example if the person raising the concern feels they will be victimised if they raise the matter internally, if they believe disclosure could result in the destruction of evidence or the matter is so serious it cannot be discussed internally), then the complainant may approach the Chair of Audit and Risk Committee directly.
3. The Chair should meet with the complainant and can advise the complainant on the implications of the legislation and the possible internal and external avenues of complaint open to them. The Chair will decide, with the agreement of the complainant, upon the most appropriate course of action to address the concerns.
4. The Chair can decide to engage other members of Audit and Risk Committee in the decision-making process if this is conducive with the obligation to treat all such disclosures in a confidential and sensitive manner. If for any such reason it has been deemed necessary to keep a complaint confidential then the Chair will report to the Audit and Risk Committee upon resolution of the complaint including details of the complaint, the investigation and the subsequent outcome.
5. The Chair can request access to independent professional or legal advice if they deem it necessary to meet Council obligations. The costs of this advice will be covered by PSNI.
6. The Chair will consider whether the matter meets the definition of a Raising Concerns issue and can appoint a person to investigate the concern, independent of PSNI or Council, to review, gather evidence and report findings on the matter. The Chair will decide what action to take based on the investigative findings.
7. If there is evidence of criminal activity, then the Chair will inform the police as soon as is practicable and ensure that any internal investigation does not conflict with the requirements of a formal police investigation.
8. The complainant should be kept regularly informed of the progress of the investigations and, if appropriate, of the outcome.
9. If appropriate, a copy of the outcomes will be passed to the external / internal auditors to enable a review of procedure.

Council Paper – May 2023

For Approval

Title: DHSC Reform of Professional Regulation – Public Consultation on Regulating anaesthesia associates and physician associates

Action required by Council

Council is asked to consider the attached consultation documents and proposed consultation response and approve for submission to DHSC on 16 May 2023.

Background

DHSC and the devolved governments of the UK first consulted on high-level proposals to reform professional regulation from 31 October 2017 to 23 January 2018. *Promoting Professionalism; reforming regulation* set out high level principles for reform with the aim of making professional regulation faster, simpler and more responsive to the needs of patients, professionals, the public and employers.

The Council of the Pharmaceutical Society NI responded to that consultation on 23 January 2018.

The UK and devolved Governments published a consultation report and its proposals on 09 July 2019 which Council considered at its July 2019 Council Meeting.

Since September 2019, we have been working with DHSC, DoH, PSA and the other regulators on developing policy proposals and drafting instructions for legislation. Council has been kept abreast of our interactions with DHSC on its proposals. Throughout the policy development phase, we have provided feedback on the substance of the proposals and on technical issues. This process culminated in the second consultation *Regulating HealthCare Professionals, Protecting the Public*, which was launched on 24 March 2021. Council responded to this Consultation on 22 June 2021.

Progress since the consultation has closed.

In August 2021, DHSC wrote to the regulators outlining that they would start sharing drafting of the various parts of the proposed GMC Section 60 to all regulators, the PSA and the Devolved Administrations for review and comment.

This would be shared on a module-by-module basis starting with the drafting Education & Training clauses. These will be followed by the Registration; Governance & Operating Framework and Fitness to Practise modules.

We have continued to work with DHSC and the other regulators on the proposals based on Council's response to the public consultation.

On 01 April 2022, the Executive received a full draft Section 60 Order and was asked by DHSC to provide feedback. The GMC set up a series of meetings with the regulators to discuss the draft order, by module, which we participated in. This series of meetings ran until the middle of May. The DHSC has also held meetings with all the regulators to discuss aspects of the Section 60 Order. We met with DHSC on 09 June and 16 June 2022.

We provided a comprehensive feedback paper to DHSC on 06 July 2022.

Throughout the second half of 2022, we continued to work with DHSC and the other regulators as DHSC developed a draft Section 60 Order for public consultation.

DHSC launched a public consultation on regulating anaesthesia associates and physician associates on 17 February 2023. The consultation closes on 16 May 2023.

This consultation primarily seeks views on the Anaesthesia Associates and Physician Associates Order (the draft Order) that will give the General Medical Council (GMC) the necessary powers and duties to regulate anaesthesia associates (AAs) and physician associates (PAs) in the UK.

The legislative provisions have been drafted on the basis of the detailed policy proposals set out in the government response to the [Regulating healthcare professionals, protecting the public](#) consultation.

As well as bringing AAs and PAs into regulation, this consultation also paves the way for full scale reform of the regulatory frameworks of all the healthcare professional regulators. DHSC has described this as a rare and significant opportunity to deliver a large-scale programme of reform that will implement improvements to the system of professional regulation, to the health and care workforce and, most importantly, to patient and public safety.

As such, professionals, employers, regulatory bodies and training providers have been encouraged to engage with this consultation as the resultant legislation will provide a template for the subsequent regulatory legislative reforms.

DHSC has already given the regulators an indication that they will be seeking further engagement with us once the consultation has closed.

The consultation period will run from 17 February 2023 until 16 May 2023.

Attached Documents

Appendix 1 – The Anaesthesia Associates and Physician Associates Order 2023 (Draft Order)

Appendix 2 – Consultation Document

Appendix 3 – PSNI Draft Response

Action required by Council

Council is asked to consider the attached consultation documents and proposed consultation response and approve for submission to DHSC on 16 May 2023.

For Further Information

Mark Neale

Director of Public Affairs.

Draft Order laid before Parliament and the Scottish Parliament under section 62(10) of the Health Act 1999 (c.8) for approval by resolution of each House of Parliament and by resolution of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No. 0000

HEALTH CARE AND ASSOCIATED PROFESSIONS
PROFESSIONAL QUALIFICATIONS
PROFESSIONS SUPPLEMENTARY TO MEDICINE

The Anaesthesia Associates and Physician Associates Order
2023

Made - - - - 2023

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the [xxxx] day of [xxxx]

Present,

The King’s Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60(1)(b) and 62(4) and (4A) of, and Schedule 3 to, the Health Act 1999(a).

The Secretary of State and the Scottish Ministers published a draft of this Order in Council and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to the Health Act 1999.

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council, together with a report about the consultation, was laid before Parliament and the Scottish Parliament.

(a) 1999 c.8. Subsections 62(4) and (4A) were substituted by paragraph 11 of Schedule 10 to the Health and Social Care Act 2008 (c.14). Schedule 3 was amended by section 26(10) of the National Health Service Reform and Health Care Professions Act 2002 (c.17); paragraph 8(b) of Schedule 4 to the Health Professions Order 2001 (S.I. 2002/254); paragraph 67 of Schedule 11, and Part 4 of Schedule 14, to the Health and Social Care (Community Health and Standards) Act 2003 (c.43); section 33 of, and Schedule 9 to, the Health Act 2006 (c.28); paragraphs 4 to 10 of Schedule 8, paragraph 12 of Schedule 10 and Part 2 of Schedule 15, to the Health and Social Care Act 2008; section 211 of, and paragraphs 61 and 72 of Schedule 15 to, the Health and Social Care Act 2012 (c.7); and section 168(4) of the Health and Care Act 2022 (c.31).

A draft of this Order in Council has been approved by resolution of each House of Parliament and the Scottish Parliament in accordance with section 62(10) of the Health Act 1999.

Accordingly, His Majesty is pleased, by and with the advice of His Privy Council, to make the following Order in Council:

PART 1

GENERAL

Citation and commencement

1.—(1) This Order may be cited as the Anaesthesia Associates and Physician Associates Order 2023.

(2) Article 14(b) comes into force after a period of three years beginning with the date on which this Order is made.

(3) The remaining provisions of this Order come into force after a period of one year beginning with the day on which this Order is made.

Interpretation

2.—(1) In this Order—

“approved qualification” means a qualification approved under article 4(1)(a)(iii);

“associate” means—

- (a) anaesthesia associate, or
- (b) physician associate;

“case examiner” means a person who carries out the functions under articles 9 and 10 on behalf of the Regulator;

“court”, except in the term “county court”, means—

- (a) in the case of a person whose registered address is, or would be if they were registered—
 - (i) in Scotland, the Court of Session,
 - (ii) in Northern Ireland, the High Court of Justice in Northern Ireland, and
- (b) in any other case, the High Court of Justice in England and Wales;

“emergency” means an emergency of the type described in section 19(1)(a) of, read with section 19(2)(a) and (b) of, the Civil Contingencies Act 2004(a) (meaning of “emergency”);

“Final Measure” means—

- (a) a condition imposed upon an associate;
- (b) a suspension of an associate from practice; or
- (c) a requirement that an associate’s entry be removed from a part of the register (into which the register is divided under article 5(2)(a));
- (d) “fitness to practise proceedings” means proceedings under Part 4;

“Interim Measure” means—

- (a) a condition imposed upon an associate; or
- (b) a suspension of an associate from practice;

“Panel” means a panel constituted pursuant to rules made under paragraph 5 of Schedule 4 which has functions under this Order;

(a) 2004 c.36.

“the register” means the register referred to in article 5(1);

“the Registrar” means the Registrar appointed under paragraph 1(b)(i) of Schedule 1;

“registration” means registration in the register; and “registered” must be construed accordingly; and

“the Regulator” means the General Medical Council(a).

(2) Any reference in this Order to—

- (a) fitness to practise being impaired is a reference to impairment by reason of—
 - (i) inability to provide care to a sufficient standard; or
 - (ii) misconduct;
- (b) a member of the Regulator is to a person appointed under paragraph 1A(2) of Schedule 1 to the Medical Act 1983(b).

PART 2

STANDARDS AND APPROVALS

Standards

3.—(1) The Regulator—

- (a) must determine standards for the purposes of article 4 (approvals) and article 6(2)(c)(i) (registration); and
- (b) may determine other standards in relation to associates.

(2) The Regulator must—

- (a) consult such persons as the Regulator considers appropriate before determining a standard under paragraph (1); and
- (b) keep standards determined under paragraph (1) under review.

Approvals

4.—(1) The Regulator may—

- (a) approve—
 - (i) education or training of,
 - (ii) a person who provides education or training for,
 - (iii) a qualification for, or
 - (iv) an examination or assessment of,
 persons who are, or wish to be, registered;
- (b) subject to article 13(1)(a)—
 - (i) attach a condition to any approval given under sub-paragraph (a) which may include a condition limiting the period of time for which that approval is valid; or
 - (ii) subject to article 13(1)(a), withdraw such an approval.

(2) An approval under paragraph (1)(a) may be given in relation to a person or thing anywhere.

(3) The Regulator may coordinate the stages of education and training of associates.

(a) Section 1(1) of the Medical Act 1983 (c.54) provides for the continued existence of the General Medical Council.

(b) Paragraph 1A was substituted by paragraph 21(2) of Schedule 1 to the Health Care and Associated Professions (Miscellaneous Amendments) Order (S.I. 2008/1774) and amended by paragraph 6 of Schedule 20 to the Health and Social Care Act 2012.

PART 3

THE REGISTER

Register

5.—(1) The Registrar must—

- (a) keep—
 - (i) a single register of persons registered under article 6 (registration); and
 - (ii) that register correct in accordance with the provisions of, and made under, this Order; and
- (b) take steps to guard against, and facilitate the discovery of, falsification of the register.

(2) The Registrar—

- (a) must divide the register into—
 - (i) one part for anaesthesia associates; and
 - (ii) one part for physician associates; and
- (b) may not divide the register into further parts.

(3) The Registrar must record in the register in relation to a person registered under article 6—

- (a) a registration number and date of most recent registration;
- (b) details as to that person's identity inclusion of which in the register the Regulator is satisfied serves the purpose of protection of the public, which must include that person's name and contact details provided for in rules made under paragraph 1(3) of Schedule 4;
- (c) information related to that person's practice as an associate, inclusion of which in the register the Regulator is satisfied serves the purpose of protection of the public;
- (d) without prejudice to the generality of sub-paragraph (c), any—
 - (i) warning under article 9(1)(b) or 9(1)(d)(i);
 - (ii) Interim Measure or Final Measure; and
 - (iii) decision under article 12(3)(a).

(4) The Registrar may record other information in the register.

Registration

6.—(1) Subject to rules made under paragraphs 2 and 3 of Schedule 4 (rules prescribing persons etc and procedure), the Registrar must register a person ("the applicant") who applies for registration if the applicant satisfies—

- (a) where the applicant is not registered by reason of a Final Measure—
 - (i) the Registrar of the matters in paragraph (2), and
 - (ii) a Panel that the applicant's fitness to practise is not impaired;
- (b) where the applicant is not registered following removal of an entry in the register relating to that applicant other than by reason of a Final Measure, a person prescribed in rules under paragraph 2(1) of Schedule 4—
 - (i) of the matters in paragraph (2), and
 - (ii) in a case prescribed in rules under paragraph 2 of Schedule 4, that the applicant's fitness to practise is not impaired; or
- (c) in any other case, the Registrar of the matters in paragraph (2).

(2) The matters for the purpose of paragraph (1) are—

- (a) as to the applicant's identity;

- (b) that the applicant has in force, or will have in force by the date on which the applicant begins to practise in the United Kingdom, an indemnity arrangement, insurance policy or combination thereof which provides appropriate and adequate cover in relation to the applicant's practice as an associate; and
 - (c) that the applicant meets—
 - (i) standards of education, training, knowledge, skills, experience, conduct, performance, ethics and English language determined under article 3(1)(a), and
 - (ii) any requirements specified in rules made under paragraph 3(1)(a) (procedure other than appeals) of Schedule 4.
- (3) If the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur and that action should be considered under this paragraph, the Registrar may register a person if the Registrar considers the person to be—
- (a) a fit, proper and suitably experienced person to be registered with regard to the emergency; or
 - (b) one of a group comprised of persons of a type who may be reasonably considered to be fit, proper and suitably experienced persons with regard to the emergency.
- (4) The Registrar may register by virtue of paragraph (3)(b) all of the persons comprising a specified group of persons without first identifying each person in the group.

Conditions on registration

7. Registration under—

- (a) article 6(1) (non-emergency registration) is subject to such condition as the Regulator may decide in relation to a description of associate prescribed in rules under paragraph 2(d) of Schedule 4; and
- (b) article 6(3) (emergency registration) is subject to such condition as the Regulator may decide in relation to—
 - (i) an individual associate; or
 - (ii) a group, within the meaning of article 6(3)(b), of associates.

Removal of an entry

8.—(1) The Registrar must remove an entry from the register where—

- (a) the Registrar is satisfied that the person to whom the entry relates has died;
- (b) a Final Measure is imposed requiring the removal of the entry; or
- (c) the person to whom the entry relates has a conviction for an offence listed in—
 - (i) paragraphs 1 to 8 of Schedule 2 (listed offences), or
 - (ii) any other paragraph of Schedule 2 in respect of which a custodial sentence has been imposed,

which was committed on or after the date on which this article comes into force.

(2) Subject to article 13(1)(b), the Registrar may remove an entry from the register where—

- (a) registration was procured fraudulently or made incorrectly; or
- (b) the person to whom it relates—
 - (i) has requested the removal; or
 - (ii) has not—
 - (aa) complied with rules made under paragraph 3(2)(b) of Schedule 4 (evaluation as to standards and fitness to practise),
 - (bb) paid a fee in accordance with rules made under paragraph 7 of Schedule 4,

- (cc) an indemnity arrangement, insurance policy or combination thereof in force which provides appropriate and adequate cover in relation to their practice as an associate,
 - (dd) maintained an effective means of contact with the Registrar, or
 - (ee) provided information in accordance with a requirement under this Order.
- (3) The Registrar—
 - (a) must remove an entry made under article 6(3) (emergency registration) from the register if the Secretary of State advises the Registrar that the circumstances that led to the advice mentioned in that paragraph no longer exist;
 - (b) may remove an entry made under article 6(3) from the register for any other reason at any time, including in particular where the Registrar has grounds for suspecting that the person's fitness to practise may be impaired.
- (4) The entry of a person registered by virtue of article 6(3)(b) as one of a specified group may be removed—
 - (a) without removing the entries of other members of the group, or
 - (b) along with the entries of all the members of the group.

PART 4

FITNESS TO PRACTISE

Case examiner and Panel functions where fitness to practise question arises

- 9.—**(1) Where a question arises as to whether a person's fitness to practise as an associate is impaired, a case examiner may, except in relation to a person registered under article 6(3) (emergency registration)—
- (a) pending the case examiner's decision under sub-paragraphs (b) to (d), refer the case to a Panel which may, subject to article 13(4), impose an Interim Measure;
 - (b) decide that the person's fitness to practise is not impaired in which case the case examiner may issue a warning;
 - (c) subject to article 13(1)(b), impose a Final Measure where paragraph (2) applies; or
 - (d) subject to article 13(3), refer the case to a Panel which may—
 - (i) decide that the person's fitness to practise is not impaired in which case the Panel may issue a warning; or
 - (ii) impose—
 - (aa) subject to article 13(4), an Interim Measure, or
 - (bb) subject to article 13(1)(b), a Final Measure if it is satisfied that the person's fitness to practise is impaired.
- (2) For the purpose of paragraph (1)(c), this paragraph applies where the person—
- (a) has—
 - (i) agreed to a Final Measure, and
 - (ii) accepted—
 - (aa) their fitness to practise is impaired, and
 - (bb) the case examiner's findings in that respect; or
 - (b) does not provide a reasoned response to a notification of a proposed Final Measure within the period prescribed in rules made under paragraph 10(1)(a) of Schedule 4 (prescribed period) provided that the notification warned the person of this consequence.

(3) An Interim Measure may be imposed for such period as is specified in the Measure save that such period may not be longer than 18 months but this is without prejudice to a subsequent measure being imposed by a court based on the same evidence.

(4) A Final Measure which is not a requirement that an entry be removed from the register may be imposed for such period as is specified in the Measure save that such period may not be longer than 12 months but this is without prejudice to a subsequent measure being imposed based on the same evidence.

Review of Interim Measure and imposition of further Interim Measure by court

10.—(1) A case examiner must review an Interim Measure which remains in force, whether or not it is revised, imposed under article 9 or this article—

- (a) before six months; and
- (b) again before twelve months,

have expired beginning with the date on which it was imposed.

(2) A failure to review under paragraph (1) does not affect the validity of the Interim Measure.

(3) The Regulator may apply to the court before an Interim Measure ceases to have effect.

(4) On an application under paragraph (3), the court may, before the expiry of an Interim Measure in relation to an associate, impose an Interim Measure in respect of that person.

PART 5

REVISIONS AND APPEALS

Revision of decisions

11.—(1) The Regulator may revise a decision under—

- (a) article 4(1);
- (b) article 6 other than paragraphs (1)(a)(ii) and (3);
- (c) article 7(a);
- (d) article 8(1) or (2);
- (e) article 9 of a case examiner—
 - (i) to impose a Final Measure,
 - (ii) that fitness to practise is not impaired, or
 - (iii) to issue a warning, or
- (f) this article,

on the ground that it was based on an error of fact or law or that there has been a material change of circumstances since it was made.

(2) The Regulator may revise a decision—

- (a) under article 9(1)(a) or (d)(ii) of the Panel but not so as to increase the period specified in an Interim Measure or Final Measure;
- (b) under article 10(4) to impose an Interim Measure;
- (c) under article 12(3)(a)(iii); or
- (d) pursuant to article 12(3)(a)(iv),

on the ground that there has been a material change of circumstances since it was made.

(3) Paragraphs (1) and (2) are subject to article 13(1)(b) and rules made under paragraph 11(a) of Schedule 4.

(4) Subject to rules made under paragraph 11(a) of Schedule 4, the Regulator may revise a decision under article 6(3), 7(b) or 8(3).

Appeals

12.—(1) Subject to paragraph (4), a person described in paragraph (5) may appeal to a Panel against a decision under—

- (a) article 4(1) (approvals);
- (b) article 6(1) (registration) other than sub-paragraph (a)(ii);
- (c) article 7(a) (conditions on registration);
- (d) article 8(2) (removal of an entry);
- (e) article 9 of a case examiner—
 - (i) to impose a Final Measure,
 - (ii) that fitness to practise is not impaired, or
 - (iii) to issue a warning; or
- (f) article 11(1) or (2).

(2) A person described in paragraph (6) may appeal to—

- (a) the county court against a decision of the Panel on an appeal under paragraph (1)(b) or (d); and
- (b) the court against a decision—
 - (i) under article 6(1)(a)(ii) or 8(1)(c); or
 - (ii) except where sub-paragraph (a) applies, of the Panel on the ground of error of law,

within 28 days beginning with the date on which that decision was served on that person.

(3) On an appeal under this article—

- (a) the Panel, county court or court may—
 - (i) dismiss the appeal,
 - (ii) quash the decision under appeal,
 - (iii) substitute for the decision under appeal a decision that could have been made, or
 - (iv) remit the matter to be disposed of in accordance with its directions; and
- (b) the county court or court may make any order as to costs as it thinks fit.

(4) No appeal under paragraph (1) lies against a decision made solely on the ground that the person has not—

- (a) paid a fee payable in accordance with rules made under paragraph 7 of Schedule 4; or
- (b) applied for registration in accordance with rules made under paragraph 3(1) of Schedule 4.

(5) The person for the purposes of paragraph (1) is any person prescribed in rules made under paragraph 11(b) of Schedule 4 for the purpose of this paragraph and for the purposes of—

- (a) paragraph (1)(a), is the person who applied for approval;
- (b) paragraph (1)(b), is the applicant;
- (c) paragraph (1)(c), is the person who is subject to the condition;
- (d) paragraph (1)(d), is the person to whom the entry relates;
- (e) paragraph (1)(e), is the person in respect of whom a Final Measure or to whom the warning is given; and
- (f) paragraph (1)(f) is the person subject to the decision which is revised.

(6) The person—

- (a) for the purposes of paragraph (2) is, subject to sub-paragraph (b), any person prescribed in rules made for the purpose of this paragraph under paragraph 11(b) of Schedule 4; and
- (b) for the purposes of—
 - (i) paragraph (2)(a), is a party to the appeal to the Panel; and
 - (ii) paragraph (2)(b)(i), is—
 - (aa) the applicant in the case of a decision under article 6(1)(a)(ii), and
 - (bb) the person to whom the entry relates in the case of a decision under article 8(1)(c).

PART 6

MISCELLANEOUS

Opportunity to make representations

13.—(1) Subject to paragraph (2), a decision may not be made under—

- (a) article 4(1)(b) (approvals) unless the person who applied for the approval under article 4(1)(a) has been given an opportunity to make representations beforehand; or
- (b) article 8(2)(a), (b)(ii)(aa) or (ee) (removal of entry from register), 11(1) or (2) (revision) nor may a Final Measure be imposed unless the associate affected has been given an opportunity to make representations beforehand.

(2) The representations under paragraph (1)(b) may be in writing or, except where—

- (a) the Regulator revises an Interim Measure; or
- (b) a case examiner imposes a Final Measure,

if the associate chooses, orally.

(3) A case examiner may not refer a case under article 9(1)(d) unless the person whose fitness to practise is in question has been given an opportunity to make written representations beforehand.

(4) A Panel may not impose an Interim Measure on an associate unless, where practicable, that associate has been given an opportunity to make representations beforehand in writing or, if the associate chooses, orally.

(5) Representations under paragraphs (2) and (4) may, if the associate chooses, be made by a representative.

Offence relating to registration etc.

14. A person commits an offence, who, with intent to deceive—

- (a) falsely represents anyone, including themselves, to have an approved qualification, or to be registered;
- (b) uses the title of anaesthesia associate or physician associate without being registered as such;
- (c) makes a false representation as to the content of the register; or
- (d) procures, or attempts to procure, the inclusion of information in, or exclusion of information from, the register,

and is liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale.

Schedules 1 and 3 to 5

15. Schedules 1 (the Regulator) and 3 to 5 (evidence gathering etc. rule-making powers and consequential amendments) have effect.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE 1 THE REGULATOR

Article 15

Appointment of registrar etc.

1. The Regulator, for the purposes of this Order—
 - (a) may make such appointments as it may determine; and
 - (b) without prejudice to the generality of sub-paragraph (a), must appoint—
 - (i) a Registrar, and
 - (ii) members of a Panel.

Delegation

- 2.—(1) Subject to paragraph 8 of Schedule 3 to the Health Act 1999, the Regulator may delegate functions under this Order to—
 - (a) a member of the Regulator or staff member;
 - (b) any other person if—
 - (i) the Regulator considers that the delegation is likely to lead to an improvement in the exercise of its functions, and
 - (ii) the person has agreed to the terms of the delegation.
- (2) The functions that may be delegated under paragraph (1) do not include—
 - (a) the power conferred by that paragraph, or
 - (b) any function of making rules under Schedule 4.
- (3) A function may be delegated under sub-paragraph (1)—
 - (a) wholly or partly;
 - (b) generally or only in specific circumstances;
 - (c) unconditionally or subject to specific conditions.
- (4) A delegation does not—
 - (a) prevent the Regulator from exercising the function or making other arrangements for its exercise;
 - (b) affect any liability or responsibility of the Regulator for the exercise of its functions.

Objective, matters to which the Regulator must have regard and co-operation

- 3.—(1) The Regulator—
 - (a) has the objective of promoting and maintaining—
 - (i) public confidence in, and
 - (ii) proper professional standards and conduct for members of, the anaesthesia associate and physician associate professions;
 - (b) must have regard, in exercising its functions under this Order, to—

- (i) the interests of persons using or needing the services of associates in the United Kingdom,
- (ii) any differing interests of different categories of anaesthesia associates and physician associates, and
- (iii) the principle that regulatory activity should be targeted only at cases in which action is needed;
- (c) must discharge its functions under this Order in a way which is transparent, accountable, proportionate and consistent; and
- (d) must co-operate insofar as is appropriate and practicable, with persons concerned with the employment (whether or not under a contract of service), education or training of associates or the services they provide.

(2) In carrying out its duty to co-operate under sub-paragraph (1)(d), the Regulator must have regard to any differing considerations relating to practising as an associate which apply in England, Scotland, Wales or Northern Ireland.

Default powers of the Privy Council

4.—(1) If it appears to the Privy Council that the Regulator has failed to perform any functions under this Order which, in the opinion of the Privy Council, should have been performed, the Privy Council may notify the Regulator of its opinion and require the Regulator to make representations to it.

(2) The Privy Council may, having considered such representations, give such directions, if any, to the Regulator as the Privy Council considers appropriate.

(3) If the Regulator does not comply with a direction given under sub-paragraph (2), the Privy Council may give effect to the direction.

(4) Subject to sub-paragraph (5), for the purpose of sub-paragraph (3), the Privy Council may—

- (a) exercise any power of the Regulator or do any act or other thing authorised to be done by the Regulator; and
- (b) do, of its own motion, any act or other thing which it is otherwise authorised to do under this Order at the instigation of the Regulator.

(5) The Privy Council may not under this paragraph make, amend or remove an entry in the register in respect of an individual, nor refuse to do so.

(6) The powers under sub-paragraphs (1) and (2) may be exercised by a person authorised or designated by the Privy Council for that purpose.

Incidental powers

5.—(1) The Regulator may do anything which appears to it to be incidental or conducive for the purpose of, or in connection with, the performance of its functions other than its functions under the Medical Act 1983(a) including—

- (a) paying members and staff of the Regulator and Panel members such remuneration, pensions, expenses, allowances or gratuities as it may determine; and
- (b) borrowing.

(2) The Regulator must arrange for the provision of such advice, assistance, accommodation, services and other facilities for a Panel as the Regulator thinks necessary or expedient for the proper performance of the Panel's functions.

(3) Arrangements under sub-paragraph (2) may include arrangements with the Medical Practitioners Tribunal Service established under section 1(3)(g) of the Medical Act 1983(b).

(a) See paragraph 9 of Schedule 1 to the Medical Act 1983.

(b) Section 1(3)(g) was inserted by article 2(1) of the General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794).

Grant making power

6.—(1) The Secretary of State, the Scottish Ministers, Welsh Ministers and the Department of Health in Northern Ireland may make a grant to the Regulator for the purposes of its functions under this Order.

(2) A grant under sub-paragraph (1) may be made subject to a condition.

SCHEDULE 2 LISTED OFFENCES

Article 8(1)(c)

Listed offences

1. Murder

2.—(1) An offence under the following provisions of the Sexual Offences Act 2003(a)—

- (a) section 1 (rape)
- (b) section 2 (assault by penetration)
- (c) sections 5 to 8 (rape and other offences against children under 13)
- (d) sections 9 to 12 (child sex offences)
- (e) sections 30 to 33 (offences against persons with a mental disorder impeding choice)
- (f) sections 47 to 50 (sexual exploitation of children)

3. An offence under sections 9 to 12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005(b) (sexual services of children and child pornography)

4. An offence under the following provisions of the Sexual Offences (Northern Ireland) Order 2008(c)—

- (a) article 5 (rape)
- (b) article 6 (assault by penetration)
- (c) article 12 (rape of a child under 13)
- (d) articles 13 to 15 (assault in relation to children under 13)
- (e) articles 16 to 19 (offences against children under 16)
- (f) articles 37 to 40 (abuse of children under 18 through prostitution and pornography)
- (g) articles 43 to 46 (offences against persons with a mental disorder impeding choice)

5. An offence under the following provisions of the Sexual Offences (Scotland) Act 2009(d)—

- (a) section 1 (rape)
- (b) section 2 (sexual assault by penetration)
- (c) sections 3 to 6 (sexual assault and other sexual offences) committed against a person who is, by virtue of section 17 of that Act (capacity to consent: mentally disordered persons), treated as incapable of consenting
- (d) sections 18 to 26 (young children)

(a) 2003 c.42. Sections 47 to 50 were repealed in relation to Northern Ireland by articles 78(c) and 83 of, and Schedule 3 to, the Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769) (N.I.2). Section 47(7) was repealed by articles 3 and 8 of the Sexual Offences (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1779). Sections 48 to 50 were amended by section 68(1) and (3) to (5) of the Serious Crime Act 2015 (c.9).

(b) 2005 asp 9; sections 9 to 12 were amended by section 40(2) of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13.

(c) S.I. 2008/1769 (N.I. 2).

(d) 2009 asp 9; section 26 was amended by section 43(4) of the Criminal Justice and Licensing (Scotland) Act 2010.

- (e) sections 28 to 33 (older children)
- 6. An offence under the following provisions of the Modern Slavery Act 2015(a)—
 - (a) section 1 (slavery, servitude and forced or compulsory labour)
 - (b) section 2 (human trafficking)
- 7. An offence under either of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015(b)—
 - (a) section 1 (offence of human trafficking)
 - (b) section 4 (slavery, servitude and forced or compulsory labour)
- 8. An offence under the following provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015(c)—
 - (a) section 1 (slavery, servitude and forced or compulsory labour)
 - (b) section 2 (human trafficking)
- 9. Extortion (in Scotland)
- 10. An offence under section 21 of the Theft Act 1968(d) (blackmail)
- 11. An offence under section 20 of the Theft Act (Northern Ireland) 1969(e) (blackmail)
- 12. An offence under section 3 of the Sexual Offences Act 2003 (sexual assault)
- 13. An offence under article 7 of the Sexual Offences (Northern Ireland) Order 2008 (sexual assault)
- 14. An offence under section 3 of the Sexual Offences (Scotland) Act 2009 (sexual assault)

SCHEDULE 3

Article 15

EVIDENCE GATHERING, NOTIFICATIONS, PUBLICATION AND DATA

Disclosure of information

1.—(1) Subject to sub-paragraph (2), the Regulator may disclose information about any matter, regardless of when or where it arose, relating to its functions under this Order.

(2) The Regulator must not disclose information—

- (a) which relates to a particular associate's fitness to practise; or
- (b) related to fitness to practise in relation to every—
 - (i) associate, or
 - (ii) associate of a particular class,

unless it considers it to be in the public interest to do so.

(3) For the purposes of sub-paragraph (2)(b), the Regulator need not consider whether it is in the public interest to disclose the information in question in relation to each individual to whom it relates.

(a) 2015 c.30.

(b) 2015 asp 12.

(c) 2015 c.2 (N.I.).

(d) 1968 c.60; section 21 was extended by section 1(1)(d) of the Nuclear Material (Offences) Act 1983 (c.18).

(e) 1969 c.19 (N.I.).

Notifications

2.—(1) The Regulator must notify—

- (a) a decision under—
 - (i) article 4(1)(a) or (b) to the person who applied for the approval under article 4(1);
 - (ii) article 6(1) (registration) to the person who applied for registration under that paragraph;
 - (iii) article 7(a) (conditions on registration) to the person subject to a condition under that paragraph;
 - (iv) article 8(2) (removal of an entry), other than paragraph (2)(b)(i) or (ii)(dd), to the person whose entry is removed under that paragraph;
 and, where applicable, that they may apply for revision under article 11 (revision of decisions) or appeal under article 12 (appeals);
- (b) a person (“P” in this paragraph and the next) in respect of whom a decision has been made as to their fitness to practise—
 - (i) of a decision under article 9 (case examiner and Panel functions where fitness to practise question arise) and the reasons for that decision, and
 - (ii) that they may—
 - (aa) apply for revision under article 11, and
 - (bb) appeal under article 12; and
- (c) a decision under article 9, other than a decision to refer a case to a Panel, to—
 - (i) any person by whom P is employed, or with whom P has an arrangement, to provide medical services (where known),
 - (ii) any regulatory body with which P is registered (where known), and
 - (iii) the complainant (if any);
- (d) a revision under article 11 to anyone who was notified of the decision that has been revised; and
- (e) a Panel’s determination of an appeal to the parties to that appeal (other than to any complainant who has renounced this duty).

(2) The Regulator must include in the notification under paragraph (1)(a) reasons for the decision except where the decision is to grant an application without a condition.

(3) The Regulator must notify a removal of an entry and the date of removal under article 8(1)(c) to—

- (a) the person (“R”) whose entry has been removed under that provision;
- (b) where known, any—
 - (i) person by whom R is employed, or with whom R has an arrangement, to provide services as an associate, or in relation to such services; and
 - (ii) any regulatory body with which R is registered.

(4) The Regulator must notify a person whose entry has been removed under article 8(1)(c) that they may appeal under article 12(2)(b)(i).

Power to publish

3.—(1) The Regulator may publish—

- (a) information related to fitness to practise in relation to every—
 - (i) associate; or
 - (ii) associate of a particular class,
 if it considers it to be in the public interest to do so;

- (b) the findings of any investigation under paragraph 7(1)(a) in relation to an approval under article 4 and any warning the Regulator may give in consequence of the findings; and
- (c) a removal under article 8(2);
- (d) a decision under article 9(1)(d)(i);
- (e) the reasons for the determination of an appeal under this Order if it considers it to be in the public interest to do so;
- (f) information relating to former registrants which was previously published under paragraph 4; and
- (g) guidance about the exercise of functions under this Order.

(2) For the purposes of sub-paragraph (1)(a), the Regulator need not consider whether it is in the public interest to publish the information in question in relation to each individual associate to whom it relates.

Duty to publish registration information and certain decisions

- 4.—(1) The Registrar must publish, together, in respect of each registered person—
- (a) that person's name, registration number and date of most recent registration;
 - (b) which part of the register the person is registered in; and
 - (c) information related to that person's practice as an associate, publication of which the Regulator is satisfied serves the purpose of protection of the public.
- (2) The Regulator must, as soon as practicable, publish in addition—
- (a) a removal under article 8(1)(c);
 - (b) a warning under article 9(1)(b) or 9(1)(d)(i);
 - (c) an Interim Measure or a Final Measure; and
 - (d) a decision under article 12(3)(a),

until the Regulator is no longer satisfied such publication serves the purpose of protection of the public.

Duty to publish other matters

- 5.—(1) The Regulator must publish—
- (a) any rules made under this Order;
 - (b) standards determined under article 3;
 - (c) subject to sub-paragraph (2)(a), a list of approvals given under article 4(1);
 - (d) any condition or withdrawal of approval under article 4; and
 - (e) guidance as to what amounts to impairment of fitness to practise.
- (2) The Regulator—
- (a) may not include in the list published under sub-paragraph (1)(c) an approval which relates to education or training provided only for a particular individual; and
 - (b) must keep guidance issued under sub-paragraph (1)(e) under review.

Information to be included in a report under section 52A of the Medical Act 1983

6. The Regulator must include in a report under section 52A of the Medical Act 1983(a) produced on or after the date on which this paragraph is commenced a description of—

(a) Section 52A was substituted by paragraph 18 of Schedule 1 to the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 (S.I. 2008/1774).

- (a) the arrangements which it has put in place to protect members of the public from registered associates whose fitness to practise is impaired, together with its observations on the report; and
- (b) the likely impact of any change made during the period covered by the report to fees set under paragraph 7 of Schedule 4, in particular in relation to—
 - (i) the workforce of the health service in the United Kingdom;
 - (ii) associates; and
 - (iii) the Regulator.

Evidence gathering

7.—(1) The Regulator must take such steps as it considers necessary for the purpose of evaluating whether—

- (a) standards determined under article 3(1) are met; or
- (b) a person's fitness to practise as an associate is impaired.

(2) The steps taken under sub-paragraph (1)(a)—

- (a) must include requiring prescribed persons to supply prescribed information, at prescribed intervals in such manner as may be prescribed, to the Regulator; and
- (b) may include setting exams.

(3) In sub-paragraph (2)(a), “prescribed” means prescribed in rules under paragraph 13 of Schedule 4.

(4) Subject to sub-paragraph (5) and paragraph 8, the Regulator may require a person (including an associate in respect of whom the information or document is sought) to supply information or produce a document which the Regulator considers the person is able to supply and which appears to the Regulator to be relevant for the purposes of its functions under this Order.

(5) The Regulator may not require, for the purposes of fitness to practise proceedings, an associate to provide it with material produced by that associate—

- (a) for the purposes of professional development; or
- (b) in the course of reflecting on their professional practice in order to improve it.

(6) If a person fails to supply any information or produce any document within 14 days of being required to do so under paragraph (4), the Regulator may seek an order of the county court or, in Scotland, the sheriff in whose sheriffdom is situated the address which—

- (a) is shown in the register as the address of the person concerned; or
- (b) would have been so shown if the person concerned were registered,

requiring the information to be supplied or the document to be produced.

Further provision as to disclosure

8.—(1) Nothing in article 13 (opportunity to make representations) or this Schedule requires or permits the making of a disclosure which contravenes the data protection legislation.

(2) Paragraph 7(4) does not apply in relation to the supply of information or the production of a document which a person could not be compelled to supply or produce in court.

(3) Where, for the purposes of paragraph 7(4), information is held in a form which is not disclosable by reason of the data protection legislation because the information is capable of identifying an individual, the Regulator may require that information be put into a form which is not capable of identifying that individual.

(4) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2018(a) (see section 3(9) of that Act).

SCHEDULE 4

RULE-MAKING POWERS

Article 15

Rules as to the register

- 1.—(1) The Regulator may make rules as to the form and keeping of the register.
- (2) Subject to paragraph 3 and sub-paragraph (3), the Regulator may make rules as to the entering, amendment and removal of information in the register.
- (3) The Regulator must prescribe in rules which contact details, including addresses, of associates must be recorded in the register under article 5(3)(b).

Rules prescribing persons etc. for the purposes of articles 6 and 7

- 2.—(1) The Regulator must prescribe in rules a person for the purposes of article 6(1)(b).
- (2) The Regulator may prescribe in rules—
 - (a) a period, for the purposes of article 6(1)(a) or (b), that must have elapsed before an applicant may apply to be registered;
 - (b) a limitation on the number of applications an applicant may make under article 6(1)(a) or (b);
 - (c) a case for the purposes of article 6(1)(b); and
 - (d) a description of associate for the purpose of article 7(a).

Procedural rules other than for appeals

- 3.—(1) The Regulator must prescribe in rules the procedure for the purposes of—
 - (a) articles 4, 6(1), 9, 10 and 1; and
 - (b) removing an entry under article 8(1)(c) including, in particular, the time within which any step must be taken.
- (2) The Regulator may prescribe in rules the procedure for—
 - (a) the removal of entries in the register in the circumstances referred to in article 8(1)(a) and (2); and
 - (b) an evaluation under paragraph 7 of Schedule 3 and, in particular, for an assessment of a person’s physical or mental health.

Procedural rules for appeals

- 4.—(1) The Regulator must prescribe in rules the procedure for appeals under article 12(1) (appeals), which must in particular—
 - (a) specify—
 - (i) the timescales within which any steps in an appeal are to be taken,
 - (ii) the content of a notice of appeal,
 - (iii) the information to be provided with such a notice of appeal, and
 - (iv) how and when service of a notice is deemed to have been made;

(a) 2018 c.12; section 3(9) was amended by paragraph 4(3) of Schedule 2 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419).

- (b) provide for a Panel to dispose of the appeal with or without a hearing, but with the proviso that a Panel must hold a hearing if the appellant so requests; and
- (c) permit, in relation to any hearing, the appellant to—
 - (i) attend, and be represented,
 - (ii) make oral representations, and
 - (iii) call witnesses.

Rules as to Panels

- 5. The Regulator, in rules—
 - (a) must provide for the constitution of a Panel; and
 - (b) may provide that a Panel may consider more than one referral in relation to an individual at the same time.

Rules as to non-compliance

- 6.—(1) The Regulator must prescribe in rules the consequences for non-compliance with—
 - (a) an Interim Measure; and
 - (b) a Final Measure which is a condition or suspension.
- (2) Subject to sub-paragraph (3), rules under sub-paragraph (1)(b) may include provision giving power to substitute a different Final Measure.
- (3) Rules under sub-paragraph (1)(b) may not permit substitution of a Final Measure without—
 - (a) giving the associate an opportunity to make representations as to whether the variation or substitution should be made, and
 - (b) taking into account any representations made.
- (4) The Regulator may prescribe in rules—
 - (a) the consequences of non-compliance with—
 - (i) rules under paragraph 3(2)(b), or
 - (ii) a direction under rules under paragraph 10(4); and
 - (b) for a Panel to draw adverse inferences in circumstances prescribed in the rules.
- (5) Rules under sub-paragraph (4)(a)(ii) may—
 - (a) prescribe—
 - (i) the circumstances in which costs may be awarded by a Panel, and
 - (ii) what factors need to be taken into account in awarding costs; and
 - (b) provide for—
 - (i) the assessment or taxation of costs or in Scotland, taxation of expenses, and
 - (ii) the enforcement of an award of costs or expenses by a Panel.

Rules as to fees

- 7.—(1) The Regulator may make rules as to the setting, charging, collection and recovery of fees in connection with the discharge of any functions under this Order, including in particular in connection with—
 - (a) any appeal under article 12(1); and
 - (b) the discharge of functions outside the United Kingdom.
- (2) The rules must require the level of any fees to be set with a view to ensuring that, so far as practicable, the Regulator's fee income does not exceed its expenses (taking one year with another).

- (3) The rules may—
- (a) authorise fees to be set at a level that exceeds the cost of the matters in respect of which they are charged;
 - (b) provide that a request or application in respect of which a fee is payable is not valid unless the fee is paid.
- (4) Any fees recoverable pursuant to this paragraph may be recovered by—
- (a) the Regulator; or
 - (b) a person or body prescribed in the rules,

in such cases or circumstances, and to such extent, as may be prescribed in the rules.

(5) In England and Wales or Northern Ireland, any such sum is recoverable summarily as a civil debt.

Rules as to notifications

8.—(1) The Regulator must make rules as to the notification of the opportunity to make representations under article 13 and as to notification under paragraph 2 of Schedule 3, which include provision as to—

- (a) the content of the notifications;
- (b) any information to be provided with them;
- (c) the period within which they must be given;
- (d) their service; and
- (e) the date on which they are to be deemed to have been received.

(2) Rules under sub-paragraph (1) must require that any notification informs the recipient of, as appropriate—

- (a) the nature of the proceedings to which it refers;
- (b) the timescale within which any response to it is required and the method for making such a response;
- (c) any consequences of failing to respond to it or to comply with the fitness to practise procedure, and in particular any decisions that may be taken in the absence of the person and any action that may be taken for failure to comply with the fitness to practise procedure; and
- (d) any right to be represented and to make representations.

Rules as to Panel appointments

9.—(1) The Regulator must make rules for appointment under paragraph 1(b)(ii) (member of a Panel) of Schedule 1.

(2) Such rules may provide for, in particular—

- (a) the process for appointment, suspension and removal;
- (b) the term of appointment; and
- (c) remuneration.

Rules as to Fitness to Practise

10.—(1) The Regulator must prescribe in rules—

- (a) subject to sub-paragraph (2), a period for the purpose of article 9(2)(b) which may not be less than 28 days beginning with the date on which the associate received the notification of proposed Final Measure referred to in that provision; and
- (b) the quorum of a Panel and that a Panel in fitness to practise proceedings must consist of at least—

- (i) one person who—
 - (aa) has been registered,
 - (bb) has an approved qualification, or
 - (cc) is a registrant member (within the meaning of paragraph 1A(1)(a) of Schedule 1 to the Medical Act 1983); and
 - (ii) one person who does not satisfy sub-paragraph (i);
 - (c) the circumstances in which proceedings before a Panel are to be held in private.
- (2) For the purpose of sub-paragraph (1)(a), a notification sent electronically must be deemed to be received on the day on which it was sent.
- (3) The Regulator may make rules on any matter relating to the functions of case examiners and Panels, including as to—
- (a) case management of cases;
 - (b) admissibility of evidence;
 - (c) administration of oaths; and
 - (d) requiring persons to attend and give evidence or to produce documents.
- (4) The Regulator may prescribe in rules the procedural directions that may be given in fitness to practise proceedings.

Rules as to revision and appeal

11. The Regulator—

- (a) may prescribe in rules cases or circumstances in which a revision may not be made under article 11; and
- (b) may prescribe in rules persons, other than itself, for the purposes of article 12.

Rules as to when decisions take effect

12. The Regulator may make rules setting out the date from which—

- (a) a removal under article 8(1)(c);
- (b) a revision under article 11;
- (c) an Interim Measure; or
- (d) a Final Measure,

takes effect.

Rules for the purpose of paragraph 7 of Schedule 3

13. The Regulator must prescribe in rules persons, information, an interval and a manner for the purpose of paragraph 7 (evidence gathering) of Schedule 3.

General provision about rules

14.—(1) Rules under this Schedule may make—

- (a) different provision for different cases or different classes of case; and
- (b) may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Regulator to be necessary or expedient.

(a) Paragraph 1A was substituted by paragraph 21(1), (2) of Schedule 1 to the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 (S.I. 2008/1774) and amended by paragraph 6(a) of Schedule 20 to the Health and Social Care Act 2012.

(2) Before making rules under this Schedule the Regulator must consult, to the extent it considers proportionate, representatives of any group of persons which appear to the Regulator likely to be affected by the rules, including representatives of—

- (a) associates;
- (b) employers of associates;
- (c) users of the services of associates; and
- (d) persons providing, assessing or funding education or training for associates of prospective associates.

SCHEDULE 5

CONSEQUENTIAL AMENDMENTS

Article 15

Medical Act 1983

1.—(1) Schedule 1 to the Medical Act 1983 (the General Medical Council and its Committees, and the Branch Councils) is amended as follows.

(2) In paragraph 1A(1) (membership of the General Medical Council: general)—

(a) for paragraph (a) substitute—

“(a) registrant members, that is members who are—

- (i) fully registered under this Act and hold licences to practise,
- (ii) provisionally registered under this Act and hold licences to practise, or
- (iii) registered under the Anaesthesia Associates and Physician Associates Order 2022; and”;

(b) in paragraph (b)—

- (i) in sub-paragraph (i), at the end insert “under this Act”;
- (ii) omit “and” at the end of sub-paragraph (ii); and
- (iii) after sub-paragraph (iii) insert—
 - “(iv) are not and never have been registered under the Anaesthesia Associates and Physician Associates Order 2022, and
 - (v) do not hold a qualification approved under article 4(1)(a)(iii) of that Order.”.

(3) For paragraph 19G(14)(a) (Medical Practitioners Tribunals and Interim Orders Tribunals) substitute—

“(14) In this paragraph—

“lay member” has the same meaning as in paragraph 1A;

“registrant member” means a member who—

- (a) is fully registered or provisionally registered under this Act, and
- (b) holds a licence to practise.”.

Video Recordings Act 1984

2. In the Video Recordings Act 1984(a), in section 3(11) (exempted supplies of video recordings), after “the Nursing and Midwifery Order 2001,” insert “the Anaesthesia Associates and Physician Associates Order 2022,”.

(a) Paragraph 19G was inserted by article 3(3) of the General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794).

Police Act 1997

3.—(1) In the Police Act 1997(b), in Schedule 8A (offences which must be disclosed unless a sheriff orders otherwise), after paragraph 34F insert—

“**34G.**—(1) An offence under article 14 of the Anaesthesia Associates and Physician Associates Order 2022 (offence relating to registration etc.).”.

(2) The reference in sub-paragraph (1) to Schedule 8A is to the Schedule inserted by article 3 of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No 2) Order 2015.

National Health Service Reform and Health Care Professions Act 2002

4.—(1) The National Health Service Reform and Health Care Professions Act 2002(c) is amended as follows.

(2) In section 26 (powers and duties of the Professional Standards Authority: general), in subsection (4) (powers to take action in relation to the case of an individual)—

(a) omit “or” at the end of paragraph (b); and

(b) after paragraph (c) insert—

“or

(d) requesting that the General Medical Council exercises the power conferred by article 11(1) of the Anaesthesia Associates and Physician Associates Order 2022 so as to revise a decision of a case examiner to impose a measure under article 9(1)(c) of that Order.”.

(3) In section 29 (reference of disciplinary cases by the Professional Standards Authority to court)—

(a) in subsection (1), after paragraph (h) insert—

“(ha) any step taken by a panel under article 9(1)(a) or (d) of the Anaesthesia Associates and Physician Associates Order 2022 (case examiner and Panel functions where fitness to practise question arises),”;

(b) in subsection (2)(a)—

(i) after “committee” insert “or panel”; and

(ii) for “to (h)” substitute “to (ha)”; and

(c) after subsection (7A) insert—

“(7B) In a case where the relevant decision is taken by a panel constituted under the Anaesthesia Associates and Physician Associates Order 2022, the reference in subsection (7)(b) to the body which made the decision is to be read as a reference to the General Medical Council.”.

(a) 1984 c.39; section 3(11) was amended by section 39 of the Chiropractors Act 1994 (c.17), paragraph 47(b) of Schedule 5 to, the Children and Social Work Act 2017 (c.16), paragraph 4 of Schedule 4 to the Health Professions Order 2001 and paragraph 9 of Schedule 5 to the Nursing and Midwifery Order 2001 (S.I. 2002/253).

(b) 1997 c.50; Schedule 8A was inserted by article 3(8) of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 Remedial (No. 2) Order 2015 (S.S.I. 2015/423). Paragraph 34F was inserted, in relation to Scotland, by SSI 2022/379, regulation 2(20) of the Police Act 1997 (Offences in Schedules 8A and 8B) Amendment (Scotland) Regulations 2022 (S.S.I. 2022/379).

(c) 2002 c.17; section 26(4) was substituted by section 115 of the Health and Social Care Act 2008 and amended by paragraph 62(b) of Schedule 15 to the Health and Social Care Act 2012. Section 29(1) was amended by section 118 and Part 2 of Schedule 15 to the Health and Social Care Act 2008, paragraph 73(1) of Schedule 15 to the Health and Social Care Act 2012, paragraph 13 of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135), paragraph 1 of the Schedule to the Health Act 1999 (Consequential Amendments) (Nursing and Midwifery) Order 2004 (S.I. 2004/1771), paragraph 13 of Schedule 1 to the Opticians Act 1989 (Amendment) Order 2005 (S.I. 2005/848), paragraph 4 of Schedule 6 to the Dentists Act 1984 (Amendment) Order 2005 (S.I. 2005/2011), paragraph 10(4) of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231), article 18 of the General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794).

Income Tax (Earnings and Pensions) Act 2003

5. In the Income Tax (Earnings and Pensions) Act 2003(a), in section 343(2) (deduction of professional membership fees), in paragraph 1 of the Table (health professionals), at the end insert—

“(t) the register kept under the Anaesthesia Associates and Physician Associates Order 2022.”.

Safeguarding Vulnerable Groups Act 2006

6. In the Safeguarding Vulnerable Groups Act 2006(b), in the table in section 41(7), at the end insert—

“12. The register kept under article 5 of the Anaesthesia Associates and Physician Associates Order 2022	The Registrar appointed under paragraph 1 of Schedule 1 to that Order”
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Data Protection Act 2018

7. In the Data Protection Act 2018(c), in section 204(1) (meaning of “health professional”), at the end insert—

“(l) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001

8. In the Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001(d), in regulation 4(5) (disqualification for appointment)—

(a) omit “or” at the end of sub-paragraph (g); and

(b) at the end, insert—

“or

(i) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

Northern Ireland Social Care Council (Appointments and Procedure) Regulations (Northern Ireland) 2001

9. In the Northern Ireland Social Care Council (Appointments and Procedure) Regulations (Northern Ireland) 2001(e), in regulation 4(7) (disqualification for appointment)—

-
- (a) 2003 c.1. The part of the Table relating to health professionals in section 343(2) was amended by Part 2 of Schedule 15 to the Health and Social Care Act 2008, paragraphs 51 and 56(d) of Schedule 15 to the Health and Social Care Act 2012, paragraph 29 of Schedule 5 to the Children and Social Work Act 2017, paragraph 5 of Schedule 6 to the Dentists Act 1984 (Amendment) Order 2005 (S.I. 2005/2011), paragraph 9 of Schedule 1 to the Pharmacists and Pharmacy Technicians Order 2007 (S.I. 2007/289), article 2(2) of the Income Tax (Professional Fees) Order 2008 (S.I. 2008/836), paragraph 6 of Schedule 5 to the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), paragraph 11 of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231),
- (b) 2006 c.47; section 41(7) was amended by paragraph 27(2) of Schedule 2 to the Education Act 2011 (c.21), section 213(7)(m) and paragraph 52 of Schedule 15 to the Health and Social Care Act 2012, paragraph 64 of Schedule 9 to the Protection of Freedoms Act 2012 (c. 9), paragraph 54 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016 anaw. 2, paragraphs 34 and 47 of Schedule 5 to the Children and Social Work Act 2017 and paragraph 15 of Schedule 4 to the Pharmacy Order (S.I. 2010/231).
- (c) There are amendments to section 204(1) which are not relevant to this Order.
- (d) S.S.I. 2001/303, there is an amendment to regulation 4(5) not relevant to this Order.
- (e) S.R. 2001 No. 313; regulation 4(7) was amended by regulation 3(c) of the Northern Ireland Social Care Council (Appointments and Procedure) (Amendment) Regulations 2002 (S.R. 2002/349).

- (a) omit “or” at the end of sub-paragraph (g); and
- (b) at the end, insert—
 - “or
 - (h) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

Northern Ireland Practice and Education Council for Nursing and Midwifery (Appointments and Procedure) Regulations (Northern Ireland) 2002

10. In the Northern Ireland Practice and Education Council for Nursing and Midwifery (Appointments and Procedure) Regulations (Northern Ireland) 2002(a), in regulation 4(8) (disqualification for appointment), at the end, insert—

- “(h) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

Medicines for Human Use (Clinical Trials) Regulations 2004

11. In the Medicines for Human Use (Clinical Trials) Regulations 2004(b), in regulation 2(1) (interpretation), in the definition of “health care professional”—

- (a) omit “or” at the end of paragraph (g); and
- (b) at the end, insert—
 - “or
 - (i) a person registered under the Anaesthesia Associates and Physician Associates Order 2022;”.

Northern Ireland Medical and Dental Training Agency (Establishment and Constitution) Order (Northern Ireland) 2004

12. In the Northern Ireland Medical and Dental Training Agency (Establishment and Constitution) Order (Northern Ireland) 2004(c), in regulation 5(10) (disqualification for appointment), at the end, insert—

- “(h) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

Regulation and Improvement Authority (Appointments and Procedure) Regulations (Northern Ireland) 2004

13. In the Regulation and Improvement Authority (Appointments and Procedure) Regulations (Northern Ireland) 2004(d), in regulation 4(8) (disqualification for appointment), at the end, insert—

- (a) omit “or” at the end of sub-paragraph (g); and
- (b) at the end, insert—
 - “or
 - (h) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

(a) S.R. 2002 No. 386.

(b) S.I. 2004/1031, there are amendments to regulation 2(1) not relevant to this Order.

(c) S.R. 2004 No. 62. Article 5(10) was amended by paragraph 7 of Schedule 3 to the Children and Social Work Act 2017 (Consequential Amendments) (Social Workers) Regulations 2019 (S.I.2019/1094).

(d) S.R. 2004 No. 37.

National Assembly for Wales (Representation of the People) Order 2007

14. In the National Assembly for Wales (Representation of the People) Order 2007(a), in paragraph 4(2) (professionals who may attest to disability for the purposes of proxy voting in elections for the National Assembly for Wales) of Schedule 1—

- (a) omit “or” at the end of paragraph (n); and
- (b) at the end, insert—
 - “or
 - (p) a person registered as a physician associate under the Anaesthesia Associates and Physician Associates Order 2022.”.

Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008

15. In the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008(b), in regulation 2(2)(j) (condition of appointment for chair and non-executive members of the Council)—

- (a) omit “and” at the end of paragraph (ix); and
- (b) at the end, insert—
 - “and
 - (xi) the Anaesthesia Associates and Physician Associates Order 2022.”.

Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011

16. In the Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011(c), in regulation 1(2) (interpretation), in the definition of “health care professional”—

- (a) omit “or” at the end of sub-paragraph (g); and
- (b) at the end, insert—
 - “or
 - (i) a person registered under the Anaesthesia Associates and Physician Associates Order 2022;”.

Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011

17. In the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011(d), in regulation 4(4) (welfare of users)—

- (a) omit “or” at the end of sub-paragraph (g); and
- (b) at the end, insert—
 - “(i) a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

-
- (a) S.I. 2007/236; paragraph 4(2) of Schedule 1 was amended by paragraph 13 of Schedule 1 to the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments to Secondary Legislation) Regulations 2017 (S.I. 2017/52) and paragraph 16 of Schedule 3 to the Children and Social Work Act 2017 (Consequential Amendments) (Social Workers) Regulations 2019 (S.I. 2019/1094). There are other amendments to paragraph 4 not relevant to this Order.
 - (b) S.I. 2008/2927; regulation 2(2)(j) was amended by paragraph 67 of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231), paragraph 56 of the Schedule to the Health and Social Care Act 2012 (Consequential Provision—Social Workers) Order 2012 (S.I. 2012/1479) and paragraph 19 of Schedule 3 to the Children and Social Work Act 2017 (Consequential Amendments) (Social Workers) Regulations 2019 (S.I. 2019/1094).
 - (c) S.S.I. 2011/182, there are amendments to regulation 1(2) not relevant to this Order.
 - (d) S.S.I. 2011/210, there is an amendment to regulation 4(4) not relevant to this Order.

Human Medicines Regulations 2012

18. In the Human Medicines Regulations 2012(a), in regulation 8(1) (general interpretation), in the definition of “health care professional”—

- (a) omit “or” at the end of paragraph (j); and
- (b) at the end insert—
 - “or
 - (l) a person registered under the Anaesthesia Associates and Physician Associates Order 2022;”.

Social Security (Personal Independence Payment) Regulations 2013

19. In the Social Security (Personal Independence Payment) Regulations 2013(b), in paragraph 1 of Schedule 1 (personal independence payment assessment)—

- (a) in the definition of “monitor a health condition”—
 - (i) omit “or” at the end of paragraph (b)(ii); and
 - (ii) after paragraph (b)(iii) at the end, insert—
 - “or
 - (iv) a physician associate registered under the Anaesthesia Associates and Physician Associates Order 2022;” and
- (b) in the definition of “therapy”—
 - (i) omit “or” at the end of paragraph (a)(ii); and
 - (ii) at the end of paragraph (a), insert—
 - “or
 - (iv) a physician associate; or”.

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013

20. In the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013(c), in—

- (a) article 2(1)(d) (interpretation)—
 - (i) after ““associate”,”, insert “except in the expression “registered associate”,”; and
 - (ii) before the definition of “registered chiropractor”, insert—
 - ““registered associate” means a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”;
- (b) Schedule A1(e), after entry 35, insert—
 - “**35A.** An offence under article 14 of the Anaesthesia Associates and Physician Associates Order 2022 (offence relating to registration etc.)”; and
- (c) Part 1 of Schedule 4 (excepted professions, offices, employments and occupations), at the end, insert—

-
- (a) S.I. 2012/1916; the definition of “health care professional” was amended by paragraph 42(a) of Schedule 2 to the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593) and paragraph 30(b) of Schedule 2 to the Children and Social Work Act 2017 (Consequential Amendments) (Social Workers) Regulations 2019 (S.I. 2019/1094).
 - (b) S.I. 2013/377; the definition of “monitor a health condition” was amended by regulation 2(2)(d) of the Social Security (Personal Independence Payment)(Amendment) Regulations 2017 (S.I. 2017/194).
 - (c) S.S.I. 2013/50.
 - (d) There are amendments to article 2(1) not relevant to this Order.
 - (e) Schedule A1 was inserted by the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order (S.S.I. 2015/329). There are amendments to Schedule A1 not relevant to this Order.

“18. Registered associate.”.

Public Bodies (Joint Working) (Health Professionals and Social Care Professionals) (Scotland) Regulations 2014

21. In the Public Bodies (Joint Working) (Health Professionals and Social Care Professionals) (Scotland) Regulations 2014(a), in regulation 2 (prescribed descriptions of health professionals)—

- (a) omit “or” at the end of paragraph (h); and
- (b) at the end, insert—
 - “; or
 - (j) persons included in the register kept under article 5(1)(a) of the Anaesthesia Associates and Physician Associates Order 2022.”.

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

22. In the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014(b), in paragraph 4(4) of Schedule 1 (regulated activities)—

- (a) in paragraph (a)—
 - (i) omit “or” at the end of sub-paragraph (xiii); and
 - (ii) at the end, insert—
 - “or
 - (xv) an associate;”;
- (b) at the end, insert—
 - “(g) “associate” means a person registered under the Anaesthesia Associates and Physician Associates Order 2022.”.

European Union (Recognition of Professional Qualifications) Regulations 2015

23. In the European Union (Recognition of Professional Qualifications) Regulations 2015(c), in regulation 3(a) (application), at the end, insert—

- “(xiv) the Anaesthesia Associates and Physician Associates Order 2022;”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the regulation of anaesthesia associates and physician associates (“associates”) by the General Medical Council (“the Regulator”).

Article 3 requires the Regulator to set standards in particular in relation to education, training and registration of associates. It enables the Regulator to set other standards. It also provides for consultation and review in that respect. Article 4 enables the Regulator to give approvals in relation to education and training of associates; to attach conditions to such approvals and to withdraw them.

Articles 5 and 6 provide for the Regulator’s Registrar to register associates and to maintain the register. Article 7 allows for conditions to be imposed on associates’ registration; and article 8 provides for the removal of entries in the register.

(a) S.S.I. 2014/307.
 (b) S.I. 2014/2936, to which there are amendments not relevant to this Order.
 (c) S.I. 2015/2059; regulation 3 was substituted by paragraph 7 of Schedule 1 to the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/312).

Article 9 provides for fitness to practise proceedings. It enables Interim Measures and Final Measures to be imposed by case examiners and Panels. “Interim Measure” and “Final Measure” are defined in article 2: they allow for conditions, suspension or, in the case of a final Measure, striking off. Panels may also give a warning to an associate. Article 10 provides for the review of Interim Measures and for Interim Measures to be imposed by a court.

Article 11 enables the Regulator to revise decisions under the order where there has been a material change of circumstances since it was made or on ground of error of fact or law. It may revise a decision of a panel or the court where there has been a material change of circumstances. Article 12 enables decisions of the regulator under the Order to be appealed to a panel; and also for panel decisions to be appealed to court.

Article 13 provides for the making of representations by associates before Interim Measures and Final Measures are imposed.

Article 14 creates an offence.

Schedule 1 makes provision as to the Regulator, in particular as to appointments, committees, delegation, how it is to exercise its functions, default powers of the Privy Council, incidental powers and as to the making of grants to the Regulator.

Schedule 2 contains the list of offences for the purposes of automatic removal pursuant to article 8(1)(c).

Schedule 3 provides for evidence gathering, notifications, publication and data processing under this Order.

Schedule 4 provides rule making powers.

Schedule 5 makes amendments consequential on the provisions in this Order.

Foreword

Strengthening the future NHS workforce remains one of the government's top priorities. Anaesthesia associates (AAs) and physician associates (PAs) are already a valued and integral part of the multi-disciplinary healthcare team, but they have the potential to make an even greater contribution. Regulating these professions will help to increase the contribution AAs and PAs can make to the United Kingdom's (UK) healthcare, while keeping patients safe.

In 2019, the government asked the General Medical Council (GMC), which regulates medical practitioners (doctors), to regulate AAs and PAs. The GMC is best placed to regulate AAs and PAs as they form part of the medical team and are trained to the medical model. Regulation also paves the way for broadening their scope of practice, for example requesting ionising radiation where local governance allows and, in the future, the possibility of being able to prescribe.

This consultation is not a consultation on whether we should introduce statutory regulation for AAs and PAs, that decision has already been made.

The aim of this consultation is to seek views on the legislative provisions that will give the GMC the necessary powers and duties to regulate AAs and PAs in the UK. The legislative provisions have been drafted on the basis of the detailed policy proposals consulted on in [Regulating healthcare professionals, protecting the public](#), published in March 2021, and the government response to that consultation which set out the final policy positions that had been reached based on feedback to the consultation. Those documents are a key part which set out the context and detail which underpin this consultation. This is an important milestone in the work to regulate AAs and PAs and reflects the government's continued commitment to regulating these professionals.

As well as bringing AAs and PAs into regulation, this consultation also paves the way for full scale reform of the regulatory frameworks of all the healthcare professional regulators. This is a rare and significant opportunity to deliver a large-scale programme of reform that will implement improvements to:

- the system of professional regulation
- to the health and care workforce
- most importantly, patient and public safety

Successive governments have considered such reforms, but these have never come to fruition, until now. As such, professionals, employers, regulatory bodies, and training providers are encouraged to fully engage with this consultation, as the resultant legislation will provide a template for the subsequent regulatory legislative reforms.

Executive summary

The current UK model of regulation for healthcare professionals is rigid, complex and needs to change to better protect patients, support our health services and to help the workforce meet future challenges.

One of the key elements of our reform programme will be the introduction of a modern, fit for purpose regulatory system, which we will achieve by updating the legislative framework for each of the 9 healthcare professional regulators:

- General Chiropractic Council (GCC)
- General Dental Council (GDC)
- General Medical Council (GMC)
- General Optical Council (GOC)
- General Osteopathic Council (GOsC)
- General Pharmaceutical Council (GPhC)
- Health and Care Professions Council (HCPC)
- Nursing and Midwifery Council (NMC)
- Pharmaceutical Society of Northern Ireland (PSNI)

The reforms span the 4 key areas of regulation:

- governance and operating framework
- education and training
- registration

- fitness to practise

In particular, we will provide each regulator with greater autonomy to set out the details of their regulatory procedures in legislation that they publish themselves, called rules. Regulators will be required to consult before making their rules but will not need to secure the approval of Parliament or the Privy Council. This will give them increased flexibility to rapidly adapt their processes and procedures to changing requirements.

We are starting our programme of reform with the draft legislation which will provide the GMC with the framework and powers needed to regulate anaesthesia associates (AAs) and physician associates (PAs). As set out in the government's response to [Regulating healthcare professionals, protecting the public](#), we are introducing the regulatory framework for AAs and PAs without changing the regulatory framework for medical practitioners in the first instance.

However, while we work towards laying the legislation that will bring AAs and PAs into regulation, we intend to continue to progress the reforms for medical practitioners as a top priority.

To enable the GMC to start regulating AAs and PAs, legislation needs to be drafted, consulted upon, and given approval by Parliament (both Westminster and the Scottish Parliament) before becoming UK law.

The Anaesthesia Associates and Physician Associates Order (the draft order) (see Annex A) will provide the GMC with the necessary statutory powers and duties to regulate the AA and PA professions in the UK.

In summary, the draft order will give the GMC powers to:

- register qualified and competent AAs and PAs
- set standards of practice, education and training, and continuing professional development and conduct for AAs and PAs
- approve AA and PA education and training programmes
- operate fitness to practise procedures to deal with associates where there are concerns about the fitness to practise of an AA or PA

It will also restrict the GMC from requiring any AA or PA whose fitness to practise it is investigating to provide it with any material they produced for the purposes of professional development or in the course of reflecting on their professional practice. This is in line with recommendation 5.3 of the [Williams review into gross negligence manslaughter in healthcare](#).

Regulation will also mean that it will be an offence for someone, with intent to deceive:

- use the titles 'anaesthesia associate' or 'physician associate' if they are not registered as such with GMC (though note the transitional arrangements below)
- falsely represent anyone to have an approved qualification (which will cover AA and PA courses) or be registered
- make a false representation as to the content of the register
- procure, or attempt to procure, the inclusion or exclusion of information in the register

Transitional arrangements will be put in place to allow time for individuals to meet the requirements for registration with the GMC. The offence relating to the use of the protected titles 'anaesthesia associate' and 'physician associate' will not take effect until 3 years after the order is made which allows for 12 months for the GMC to begin regulation and then a 2-year transition period.

Consequential changes to other pieces of primary and secondary legislation will also need to be made to ensure that legislation relating to regulated healthcare professionals is updated to reflect the regulation of AAs and PAs where appropriate.

This consultation on the draft order is being taken forward in accordance with the requirements of [section 60 of the Health Act 1999](#). The regulation making power in section 60 permits changes to the regulation of healthcare professions by means of an order in council and sets out that before any draft legislation can be laid in Parliament, a 3 month consultation must take place. Following this statutory consultation, the order will be laid in both the Westminster and Scottish Parliaments and will be subject to the affirmative Parliamentary process, meaning that it will be subject to debates and a voting process before any changes can become law.

The legislation provides a high-level framework for the GMC to regulate AAs and PAs and importantly gives them autonomy to set out the details of their regulatory procedures in their rules.

Regulatory reform

Overview

The current UK model of regulation for healthcare professionals is rigid, complex and needs to change to better protect patients, support our health services and to help the workforce meet future challenges. The COVID-19 emergency highlighted how inflexible some of the regulators' primary and secondary legislation is. For example, the NMC, the HCPC and the PSNI did not have powers allowing them to temporarily register individuals or groups to help respond to the COVID-19 emergency. In addition, the GPhC and HCPC had to seek approval from the Privy Council to temporarily amend their rules to allow them to hold remote hearings during the pandemic.

We must ensure that any reforms we introduce deliver a flexible and modern system of regulation for health and care professionals across the UK. This is why we have undertaken an extended period of stakeholder engagement and policy development following the publication of our last consultation on our proposals for wider regulatory reform, [Regulating healthcare professionals, protecting the public](#). That consultation and our engagement with stakeholders has resulted in a set of finalised policy proposals which are set out in the [government response](#) to the consultation. In turn, our legislation, drafted on the basis of those final policy positions, will provide the regulators with greater autonomy to set out the details of their regulatory procedures in legislation that they themselves publish, called rules. Regulators will be required to consult on their rules but will not need to secure the approval of Parliament or the Privy Council to make their rules, giving increased flexibility to rapidly adapt their processes and procedures to changing requirements.

We have engaged thoroughly with the regulators, the devolved legislatures, the Professional Standards Authority for Health and Social Care (PSA) (the independent body that oversees the work of the 10 statutory healthcare regulators in the UK) and other key stakeholders across the health and care, employment, commercial and legal sectors to ensure that the first legislative order (the Anaesthesia Associates and Physician Associates Order) provides the legislative template framework for all of the healthcare regulatory bodies.

As set out in the government's response to [Regulating healthcare professionals, protecting the public](#), we are introducing regulation for AAs and PAs under a new reformed framework without changing the GMC's regulatory framework for medical practitioners. This means that the draft order will not include some of the governance and operating reforms, such as replacing the current 2-tier council with a unitary board structure. Therefore, the draft order is not a complete template for the reforms that will be rolled out to the rest of the regulators. This means that the GMC's overall governance framework and regulation of medical practitioners will continue to be legislated for under the Medical Act 1983 after the draft order comes into effect.

A second legislative order will be drafted and published for consultation in due course, which will cover the reforms for doctors and include the remaining governance and operating framework reforms. Bringing these reforms forward remains a top priority once we have made the necessary progress to regulate AAs and PAs.

Replacing multiple pieces of regulators' legislation will be a long-term project. We will be working with each regulator to identify any profession-specific variation to our template proposals. Changes to each regulator will then have to be consulted on. Where possible, we envisage working on the legislation of multiple regulators at the same time to expedite delivery of the overall programme.

Professor Sir Norman Williams's review into gross negligence manslaughter in healthcare

In February 2018, the former Secretary of State for Health and Social Care announced that a rapid policy review into gross negligence manslaughter in healthcare would be undertaken by Professor Sir Norman Williams. The review was set up to consider the wider patient safety impact resulting from concerns among healthcare professionals that simple errors could result in prosecution for gross negligence manslaughter, even if they occur in the context of broader organisation and system failings. In particular, there was some evidence that these concerns had the potential to have a negative impact on healthcare professionals being open and transparent should they be involved in an untoward event, as well as on their reflective practice, both of which are vital to learning and improving patient care.

On 11 June 2018, Professor Sir Norman Williams published his [review into gross negligence manslaughter in healthcare](#). The review made a number of recommendations. In line with recommendation 5.3 of the review, the draft order restricts the GMC from requiring AAs or PAs to provide material produced for the purposes of professional development or in the course of reflecting on their professional practice, for fitness to practise purposes. The UK government remain committed to implementing the Williams Review recommendations in respect of medical practitioners as soon as possible.

Next steps for reform programme

As set out above, reforming the GMC's regulatory framework for medical practitioners remains a top priority once we have made the necessary progress to regulate AAs and PAs. While it is our intention to work as swiftly as possible to deliver reform for each regulator and profession, we will prioritise delivery based on criteria including the size of registrant base, the need for reform, and regulators' readiness to implement the changes.

Based on these criteria, we intend to start working with the NMC and the HCPC, alongside the GMC, to develop reformed legislation for their professions over the next couple of years. The NMC is the largest regulator with over 750,000 registrants and has been

prominent in its work to support the development of these reforms. Furthermore, the NMC has completed significant preparatory work to ensure readiness to implement these changes, including preparing draft rules. The HCPC regulates around 300,000 registrants across fifteen professions and operates with particularly constrained fitness to practise legislation. Focusing on the GMC, the NMC and HCPC in the first instance will enable us to implement reform for the majority of regulated healthcare professionals within the next few years.

We will then progress to make changes for the remaining regulators taking in to account the criteria set out above. Where reforms impact on the PSA, we also intend to explore changes to its legislation.

We are also working with the Department for Business and Trade to understand the impact of any mutual recognition obligations from international trade agreements on our reforms to regulators' legislation.

What regulation will mean for anaesthesia associates and physician associates

This section provides an overview of what regulation will mean in practice for AAs and PAs and what changes they can expect.

The purpose of statutory regulation

The overarching purpose of the regulation of healthcare professionals is public protection. It plays an important role in letting patients, employers and other healthcare professionals know that those providing care are safe to practise and can be held to account if serious concerns are raised about their conduct or performance.

The legislation states that pursuing the overarching objective of public protection involves the pursuit of 3 further sub-objectives:

- to protect, promote and maintain the health, safety, and well-being of the public
- to promote and maintain public confidence in those they regulate
- to promote and maintain proper professional standards and conduct for regulated professionals

Core functions of a regulator

Regulators fulfil their objectives through a number of core functions. These are also described in their governing legislation. The functions are to:

- set standards for, and oversee, the education and training for the regulated professions, and decide who is qualified to work in the UK
- hold the register of professionals who are eligible to practise in the UK
- set the professional standards that registrants need to follow, and make sure that they continue to meet those standards throughout their careers
- take action to prevent a registrant from putting the safety of patients or the public's confidence in the profession at risk

Regulators usually have a council who are the governing body and set the strategy and an executive team who are responsible for the day-to-day running of the regulator. The chief executive is also usually the registrar which means they are officially responsible for keeping a register or official records.

The following sections provide further detail about these functions and how they will apply to AAs and PAs.

Education and training

Regulators set the outcomes that students and trainees are required to meet in order to qualify in their chosen regulated profession. They also set the standards that providers must meet in delivering education and training for their students and carry out checks to ensure that providers continue to meet those standards. One key benefit of the regulator setting standards for training is consistency of training content and outcomes.

For AAs and PAs, the GMC will be responsible for setting, owning and maintaining a shared outcomes framework which will set a combination of professional and clinical outcomes. The outcomes framework will help to establish and maintain consistency, embed flexibility, and establish principles and expectations to support career development and lifelong learning. In addition to this shared outcome framework:

- the relevant Royal Colleges and faculties will develop, own and maintain the national curriculum for their respective roles, with the GMC playing an approval role
- course providers will continue to develop, own and maintain their own course syllabus but, through its quality assurance processes, the GMC will now have a role in checking that the course provider can demonstrate that the syllabus follows the curriculum
- the GMC will set, own and maintain the pre-registration assessment for PAs (and, in the future, one for AAs as well)

Further detail on the education and training framework and future changes following regulation can be found below.

Anaesthesia associate qualification

AAs currently undertake a 27-month postgraduate course at Birmingham University or a 24-month course at University College London, with a third course due to launch at Lancaster Medical School in March 2023. Following the introduction of regulation, these and any future UK AA courses will need to be approved by the GMC. Where a course fails to meet the required standards, the GMC will be

able to issue warnings, impose conditions or withdraw its approval of the course as it considers appropriate.

The GMC may also choose to accept certain overseas qualifications which meet the required standards and also qualifications from a UK-approved overseas course.

The GMC is in the process of developing a pre-registration assessment for AAs (as is already the case for PAs - see below) which is likely to apply to AAs completing their qualification from 2025 onwards. Practising AAs who apply to join the GMC register before the assessment is available won't be required to sit that assessment. Instead, their AA qualification will provide the required evidence of knowledge and skills.

Physician associate qualification

PAs currently complete one of 37 physician associate courses offered around the UK. As for AAs, following the introduction of regulation, the GMC will be responsible for approving UK PA courses that meet the standards that it sets and will have the discretion to issue warnings, impose conditions or withdraw approval of a course if it does not meet the required standards.

Again, as for AAs, the GMC may also choose to accept certain overseas qualifications which meet the required standards and also qualifications from a UK-approved overseas course.

At present, after they qualify, PAs must pass a pre-registration assessment delivered by the Royal College of Physicians of London (RCP) if they want to join the voluntary register held by the Faculty of Physician Associates at the Royal College of Physicians (FPARCP). Currently, passing the pre-registration assessment is not a requirement to practise as a PA in the UK. However, when regulation begins, passing the pre-registration assessment will become one of the requirements for registration with the GMC. The GMC is working with the RCP and others to develop a new assessment which will test newly qualified PAs who have followed the new education framework referred to below. This will be called the PA registration assessment and will be used from 2025.

Developing a new education framework for anaesthesia associates and physician associates

The GMC has worked with the Royal College of Physicians, the Faculty of Physician Associates and the Royal College of Anaesthetists to develop [a new education framework for AAs and PAs](#). This consists of overarching learning and outcomes-based curriculum for each profession. The framework was published on 29 September 2022 and will be implemented for students beginning their training from summer 2023.

Registration requirements

Regulators are responsible for holding and maintaining a centralised register of all individuals who meet the required standards. In turn, the register provides assurance that professionals practising in the UK have the required education, training, knowledge, skills and experience needed to meet standards that patients expect.

This means that any individual wishing to practise as an AA or a PA within the UK, and use the relevant professional title, must in future be registered with the GMC. This includes AAs and PAs who are currently registered on the voluntary registers held by the FPARCP and the Royal College of Anaesthetists (RCOA) respectively.

Irrespective of where they have qualified (within the UK or in the rest of the world), to gain entry to the GMC's register, AAs and PAs will need to satisfy the GMC that:

- they have the knowledge, skills and experience to work safely as an AA or PA in the UK
- where any concerns about an associate's fitness to practise are outstanding, that following an evaluation by the GMC, a decision is taken that the person's fitness to practise is not impaired

Regulation will mean that it will be an offence to:

- use the professional titles ‘anaesthesia associate’ or ‘physician associate’ unless registered as one of these professions with the GMC
- falsely claim (with intent to deceive) to have an approved qualification or be registered
- make a false representation as to the content of the register
- procure, or attempt to procure, the inclusion of information in, or exclusion of information from, the register

The draft order makes provision for the offences relating to the use of the professional titles of ‘anaesthesia associate’ and ‘physician associate’ to come into force 3 years after the order is made to enable individuals to continue to work and use their relevant professional title while they go through the process of registering with the GMC. The 3 years allows for 12 months for the GMC to begin regulation and then a 2-year transition period. By the end of the transition period, individuals must have joined the GMC’s register or stopped practising and using their relevant title. After the transition period it will be a criminal offence to practise as an AA or PA without being registered with the GMC. The GMC will encourage individuals to complete the registration process at the earliest possible opportunity and plans to send reminders to students and employers.

Standards and guidance

Standards for regulated healthcare professionals define what constitutes good (and expected) practice. They describe the professional values and behaviours expected of all registrants in the areas of:

- knowledge, skills and performance
- safety and quality
- communication
- partnership and teamwork
- maintaining trust

As established professions, AAs and PAs will already be aware of the importance of upholding professional values in everything they do. As such it is important for these regulated professionals to be familiar with the standards that apply to their profession, and to use the relevant guidance when making decisions with patients about their care.

PAs currently work to a [code of conduct](#) that is similar in style and content to the GMC's core ethical guidance for doctors, [Good medical practice](#). There is currently no formal code of conduct for AAs, however, the Association of Anaesthesia Associates has advised its members to reflect on the GMC's ethical guidance in preparation for statutory regulation.

The GMC has published [an interim set of standards](#) that provides a framework for decision-making that is designed to keep patients safe. It is based on the current version of [Good medical practice](#) and has been tailored to reflect the role of AAs and PAs.

The guidance covers a wide range of situations, including working cooperatively with colleagues, practising in line with best available evidence and working within the limits of individual competence. The [ethical guidance](#) published by the GMC for doctors is also relevant to AAs and PAs and complements the interim set of standards.

Once regulated, AAs and PAs will have personal accountability for their professional practice and be required to follow the duties set out in the GMC's professional guidance, including to:

- recognise and work within their competence
- be competent in all aspects of their work
- keep professional knowledge and skills up to date
- regularly take part in activities that maintain and develop competence and performance
- take steps to monitor and improve the quality of work
- seek input and advice from colleagues and supervisors as appropriate when providing care
- raise concerns about issues that could impact patient safety

Fitness to practise

In most cases where concerns are raised about an individual's practice these can, and should, be addressed through the appropriate employer processes without the involvement of the regulator.

However, serious or persistent failure to follow the GMC's guidance where it poses a risk to patient safety or public trust will put a healthcare professional's registration at risk. Where this occurs, the regulator has powers to investigate the concerns raised and, where necessary, impose a range of measures to ensure that patients and the public are protected. These measures include warnings, conditions on registration, suspension of registration or removal of registration.

Ongoing assurance requirements

Regulated healthcare professionals must remain up to date and fit to practise in the work that they do. Doctors demonstrate this to the GMC on a regular basis through a process called revalidation which is a condition for continuing to hold a licence to practise. Participation in this process is one of the ways through which the GMC seeks to maintain the confidence of patients and the public in the profession.

An equivalent ongoing assurance process for AAs and PAs will not be in place immediately when regulation begins. The draft order will enable the GMC to design and implement a system of assurance that is proportionate to the risks posed by each profession. This process is being developed and is expected to be ready within 2 to 3 years of regulation. In the interim, AAs and PAs (like doctors) will still be expected to keep their knowledge and skills up to date and participate in activities that help them to reflect on their practice and maintain and develop their professional performance.

Extended scope of practice

Prescribing responsibilities

AAs and PAs cannot currently prescribe, but the government supports the principle of extending a form of medicines mechanism for both professions. A working group involving the department, GMC and other stakeholders is examining how prescribing responsibilities could potentially operate once AAs and PAs are regulated. However, prescribing responsibilities for AAs and PAs can only be introduced once regulation is in place and will require separate legislation.

Ionising radiation (medical exposure) regulations

Registered healthcare professionals can request ionising radiation for patients as 'non-medical referrers' (NMRs) providing their employer has entitled them as an NMR and they have undergone the appropriate training.

It is expected that AAs and PAs will be able to do this once they are registered with the GMC and have undergone the appropriate training.

The transition journey

Regulation means that anyone wishing to practise in the UK as an AA or PA will need to be registered with the GMC. As set out on page 13, the offences relating to the use of the titles 'anaesthesia associate' and 'physician associate' will come into force 3 years after the order is made to enable individuals to continue to work and use their relevant professional title while they go through the process of registering with the GMC. The 3 years allows for 12 months for the GMC to begin regulation followed by a 2-year transition period. By the end of the transition period, individuals must have joined the GMC's register or stopped practising and using their relevant title. After the transition period it will be a criminal offence to practise as an AA or PA without being registered with the GMC. The GMC will encourage individuals to complete the registration process at the

earliest possible opportunity and plans to send reminders to students and employers.

In addition, the GMC is designing routes to registration for all current and future AAs and PAs. These routes will cover those who:

- are working in the UK (whether or not they are already members of one of the voluntary registers held by the FPARCP and the RCoA)
- are on a career break
- are qualified but not working
- will qualify in future
- are AAs and PAs who qualified overseas

Everyone will need to apply and provide evidence of their qualification, a pass in the relevant registration assessment, their fitness to practise and details of registration as any other regulated profession. Those currently on a voluntary register will be invited by the GMC to apply through a streamlined process. Please see the [further information on registration requirements](#).

Legislation and consequential amendments

In addition to the overarching legislative framework that the draft order provides, a number of consequential changes to other pieces of primary and secondary legislation will also need to be made to ensure that legislation relating to regulated healthcare professionals is updated to reflect the regulation of AAs and PAs where appropriate. The proposed amendments are summarised below:

- amendment to the Medical Act 1983 to ensure that AAs and PAs can join the GMC's Council and committees as registrant members
- amendment to the Video Recordings Act 1984 to incorporate AAs and PAs into the term 'medical or related

occupation' as defined within that act. The effect of which being that the supply of video recordings is exempt from regulation where it is for the training of those medical and related professions

- amendment to the Police Act 1997 to exclude offences in the draft order from being protected convictions in Scotland, the effect of which is that such offences will be a relevant matter capable of being detailed on a criminal record certificate, regardless of whether they are spent. In England and Wales, spent convictions can also be included on certificates if they occurred within a specified timeframe (11 years prior to the certificate if the person was over 18 at the time of conviction), although these timeframes are different to those that apply in Scotland (15 years if the person was over 18)
- amendments to the National Health Service Reform and Health Care Professions Act 2002 firstly to ensure the PSA is not prevented from requesting the GMC exercises its power to revise a decision of a case examiner, in a fitness to practise matter, to impose a final measure and secondly, to allow the PSA to refer certain fitness to practise cases to the relevant court if it considers that the decision made by a Fitness to Practise Panel is not sufficient for the protection of the public
- amendment to the Income Tax (Earnings and Pensions) Act 2003 to include the professional registration fees of AAs and PAs to the list of deductible fees for tax purposes, as is the case with other regulated healthcare professions
- amendment to the Safeguarding Vulnerable Groups Act 2006 to enable the GMC to provide the Disclosure and Barring Scheme with any information it holds relating to a person where relevant conditions are satisfied
- amendment to the Data Protection Act 2018 to ensure that AAs and PAs are incorporated into the definition of health professional for the purposes of this act
- amendment to the Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001 to disqualify any AA or PA whose registration has been withdrawn or is currently suspended for appointment as convener or member of the council as is the case for other regulated healthcare professionals

- amendment to the Northern Ireland Social Care Council (Appointments and Procedure) Regulations (Northern Ireland) 2001 to add AAs and PAs to the disqualified list in relation to appointment as chairman or as a member of the Northern Ireland Social Care Council where registration has been withdrawn or suspended
- amendment to the Northern Ireland Practice and Education Council for Nursing and Midwifery (Appointments and Procedure) Regulations (Northern Ireland) 2002 to add AAs and PAs to the disqualified list in relation to appointment as chairman or as a member of the Northern Ireland Practice and Education Council where registration has been withdrawn or suspended
- amendment to the Medicines for Human Use (Clinical Trials) Regulations 2004 to include AAs and PAs within the definition of healthcare professional for the purposes of these regulations which regulate the conduct of clinical trials
- amendment of the Northern Ireland Medical and Dental Training Agency (Establishment and Constitution) Order (Northern Ireland) 2004 to add AAs and PAs to the disqualified list in relation to appointment as the chairman or as a member of the Northern Ireland Medical and Dental Training Agency where registration has been withdrawn or suspended
- amendment of the Regulation and Improvement Authority (Appointments and Procedure) Regulations (Northern Ireland) 2004 to add employed and self-employed AAs and PAs to the disqualified list in relation to appointment as chairman or as a member of the Regulation and Improvement Authority, and to add all AAs and PAs to the disqualified list where registration has been withdrawn or suspended
- amendment to the National Assembly for Wales (Representation of the People) Order 2007 to add PAs to the list of professionals who may counter-sign an application by a person with a severe sight impairment or other disability for a proxy vote in the Welsh Assembly elections
- amendment to the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc.) Regulations 2008 to exclude an AA or PA from being eligible for appointment as chair or non-executive director of the Council (now known as

- the Professional Standards Authority for Health and Social Care (PSA)). This brings AAs and PAs into line with other regulated healthcare professions
- amendment to the Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011 to include AAs and PAs within the definition of 'healthcare professional' for the purposes of these regulations. This means, where these regulations apply, providers of independent health care services will need to ensure that consultations between AAs and PAs and service users are recorded in medical records. This amendment brings AAs and PAs into line with other regulated healthcare professionals
 - amendment to Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 to add AAs and PAs to the definition of 'healthcare professional' in these regulations in relation to a provider of a care home service making arrangements as are necessary for the provision to service users of adequate services from any healthcare professional
 - amendment to the Human Medicines Regulations 2012 to include AAs and PAs in the definition of healthcare professional for the purposes of the regulations which deal with a breadth of matters concerning medicines for human consumption
 - amendment to the Social Security (Personal Independence Payment) Regulations 2013 to include PAs in the list of professionals who may monitor a health condition or recommend therapy, so that these activities by PAs can be admissible evidence for the purposes of Personal Independence Payment assessments
 - amendment to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 to add AAs and PAs to the list of professions excepted from certain sections of the Rehabilitation of Offenders Act 1974. Where the order applies, any question asked of an AA or PA when applying for registration with the GMC will relate to spent convictions, and ancillary circumstances to them. Also, evidence can be admissible in proceedings before

- a panel, or other judicial authority, to prove that the person has a spent conviction
- amendment to the Public Bodies (Joint Working) (Health Professionals and Social Care Professionals) (Scotland) Regulations 2014 to incorporate AAs and PAs into the definition of 'health professionals' for the purposes of these regulations which prescribe descriptions of persons who come within that definition for the purposes of the Public Bodies (Joint Working) (Scotland) Act 2014 which sets the framework for integrating adult health and social care in Scotland
 - amendment to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 to make provision of treatment for a disease, disorder, or injury by or under the supervision of an AA or PA a regulated activity, meaning the provider will need to be CQC registered
 - amendment to the European Union (Recognition of Professional Qualifications) Regulations 2015 to exclude AAs and PAs from these regulations in accordance with the post-EU Exit position for other regulated healthcare professionals

Timetable for regulation

While this consultation is an important step in the process, there are a number of further steps that will need to be taken to bring AAs and PAs into regulation. These are set out below:

- following this consultation, any responses will be analysed and, subject to further amendments, the draft order will be finalised
- the finalised order will then be laid before the UK and Scottish Parliaments alongside a report on the outcome of this consultation. This gives parliamentarians, in both England and Scotland, the opportunity to consider the legislation and to debate it. We anticipate that this will take place in the second half of 2023 (subject to parliamentary time)

- once debated, the legislation will either be approved or rejected
- if approved, His Majesty may then make the order
- the GMC will then develop, consult on, and make its rules and put in place the processes for regulating AAs and PAs with a view to commencing regulation within 12 months of the legislation being made

The draft order and consultation questions

This chapter of the consultation is intended to be a high-level description of what the legislation will do and should be read alongside the draft order at Annex A. Where there has been a meaningful policy change since our previous consultation, [Regulating healthcare professionals, protecting the public](#), we have highlighted this and sought further views.

Part 1: general

Citation and commencement

This article sets out the name of the draft order and the date provisions come into force.

The draft order currently states that article 14(b) (which relates to the use of protected titles) will come into force 3 years from the date the draft order is made to allow the GMC 12 months to complete their preparations and commence regulation and a further 2 years for the relevant medical associate professionals to register with the GMC. All remaining provisions will commence one year after the date the draft order is made. As the passage of legislation is subject to the Parliamentary timetable, we will keep the commencement provisions under review to ensure that regulation of AAs and PAs begins in

timely fashion, while providing the GMC with the necessary time to prepare and consult on its rules.

Interpretation

This article lists the definitions of certain words in the draft order.

Included is confirmation that any reference in the draft order to a person's fitness to practise being impaired is a reference to impairment by reason of:

- inability to provide care to a sufficient standard or
- misconduct

These are the new grounds for action, which are set out in article 2(2) (a) of the draft order. They set out the reasons why the GMC might need to investigate and take action where there is a concern about an associate's fitness to practise. As set out in our response to our consultation, [Regulating healthcare professionals, protecting the public](#), we are of the view that going forwards all regulators should be provided with the same 2 grounds for action. This will introduce consistency across regulators and clarify to the public and registrants the circumstances in which action can be taken. The terms that we have decided on are different to those we initially consulted on which were 'misconduct' and 'lack of competence'.

We considered the alternative terminology proposed by respondents to the consultation and following further policy development work with the healthcare regulators and other key stakeholders, we are of the view that 'inability to provide care to a sufficient standard' is a more appropriate term. It is intended that this term will cover concerns relating to lack of competence, health matters and insufficient English language ability (further background to this change can be found in [our consultation response](#)).

Do you have any comments relating to 'part 1: general' of the consultation?

Part 2: standards and approvals

Standards

Article 3 sets out the GMC's duty to set standards in relation to education and training and registration. For registration, this requires regulators to set standards of education, training, knowledge, skills, experience, conduct, performance, ethics, and English language. Regulators are expected to have regard to the government's [Code of Practice on the English language requirements for public sector workers](#) when setting the language proficiency requirements for the professions they regulate. These are the standards which the GMC must be delivering at a minimum. The draft order requires the GMC to establish processes for the on-going assurance of associates on their register and this article gives the GMC powers to set any standards it determines are relevant to this process.

This article includes a requirement for the GMC to consult appropriate persons when determining standards and to keep the standards under review.

The government considers the power to issue advice in relation to standards to be incidental to the power to approve qualifications, education or training providers, or an examination or assessment.

Approvals

Article 4 sets out the GMC's approval power. This power extends to:

- education or training qualifications
- education or training providers
- an examination or assessment of persons who are or wish to be registered

Approvals can have conditions attached and can be withdrawn. Article 4 also allows for the above approvals outside the UK. Article 4 is broad enough to ensure that approval of curricula is covered.

The government position is the power to award qualifications is incidental to the power to approve qualifications, education or training providers, or an examination or assessment.

GMC role in co-ordinating education and training

Article 4 (3) provides the GMC with the power to coordinate all stages of education and training of associates. This, in conjunction with schedule 1 paragraph 3(1)(d) and its incidental powers, will provide for the GMC to have an overarching role in the education and training of AAs and PAs.

Do you agree or disagree that the powers outlined in 'part 2: standards and approvals' are sufficient to enable the GMC to fulfil its role safely and effectively in relation to the education and training of AAs and PAs?

Note: This question does not relate to the GMC's powers for setting the standards for registration contained in Part 3.

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on 'part 2: standards and approvals' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

Part 3: the register

Register

Article 5 sets out that the registrar must keep an up-to-date register of associates that they are satisfied meet the criteria for registration. The registrar also has a duty to safeguard the integrity of the register by taking steps to prevent falsification.

It sets out that the registrar must only divide the register into 2 parts, one for each of the following:

- anaesthesia associates
- physician associates

Associates may be registered in one or both parts of the register.

It sets out the mandatory information that the registrar must record against an entry and that the GMC must set rules detailing which contact details it will record.

The registrar also has a duty to include information in the register which relates to a person's practice as an associate, where the regulator determines its inclusion serves the purpose of protection of the public.

The registrar also has a discretionary power to include any additional information they see fit.

As set out in the government response to the consultation [Regulating healthcare professionals, protecting the public](#), we believe it is appropriate for the GMC to have proportionate powers to determine when additional information should be included (or 'annotated') in the register. The powers set out in article 5 and in schedule 3 will enable the GMC to include and publish information relating to the identity and practice of professionals where doing so will serve the protection of the public. There is also a further discretionary power to hold other types of additional information which may not be published.

Registration

Article 6 sets out the standardised requirements for registration as an associate with the GMC, and for restoration to its register. It also contains powers for the GMC to register associates where the Secretary of State declares that an emergency has occurred or is about to occur - see the 'emergency registration' section for a summary of the emergency registration powers contained in the draft order.

Paragraph 1(a) and (b) set out the requirements that applicants must meet to be restored to the register.

Paragraph (1)(a) requires applicants who were removed from the register as a result of a final measure to satisfy the registrar that they meet the criteria for registration, and they must also satisfy a panel that their fitness to practise is not impaired.

Paragraph (1)(b) requires all other applicants for restoration to satisfactorily demonstrate that they meet the criteria for registration set out at paragraph 2 and additionally, where the regulator has made rules which apply to an application, that the applicant's fitness to practise is not impaired. Regulators must set out in rules who will decide applications for this category of applicants.

These powers are an important patient safeguard that will enable the GMC to consider any concerns that have been raised about an associate's fitness to practise before they can be restored to the register.

Paragraph 2 sets out the standards and requirements for each profession that associates must meet to be registered with the GMC, including: identity, insurance or indemnity cover, and the regulator's standards of education, training, knowledge, skills, experience, conduct, performance, ethics, and English language. It also gives the regulator a power to set out in rules any other procedural requirements for registration that fall outside of these standards.

Do you agree or disagree that the draft order provides the GMC with the necessary powers to determine the standards and procedural requirements for registration?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you agree or disagree that the draft order provides the GMC with proportionate powers for restoring AAs and PAs to the register where they have previously been removed due to a final measure?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you agree or disagree that the draft order provides the GMC with proportionate powers for restoring AAs and PAs to the register where the regulator identifies in rules that it is necessary for the applicant to satisfy the regulator that their fitness to practise is not impaired?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Conditions on registration

Article 7(a) gives the GMC powers to set and impose conditions on the scope of registration of groups of associates.

This article also gives regulators broad powers to impose conditions on the scope of registration of individuals or groups of associates registered under the emergency registration powers - see the 'emergency registration' section for further details.

In respect of non-emergency registration, the powers in this section of the draft order enable regulators to set conditions that will apply to the registration of associates who meet pre-determined criteria, as set out in rules at paragraph 2(d) of schedule 4. The GMC can set out how the condition will operate, how long a condition applies, or any particular criteria that associates must meet before the end of a condition period. Depending on the nature of a condition set by the GMC, there may be implications for future registration, in line with other provisions in the draft order. For example, non-compliance with a condition could result in registration being removed or fitness to practise proceedings commencing.

This power could also be used by the GMC to create different registration categories that enable associates who meet the baseline registration standards and requirements to join the register and practice. This may include temporary overseas registration or provisional registration that in turn will be capable of restricting or enhancing an associate's scope of practice.

As set out in the government response to the consultation [Regulating healthcare professionals, protecting the public](#), the draft order only allows the GMC to divide the single register into 2 parts, one for AAs and one for PAs. Therefore, the draft order does not allow for the GMC to create a separate part of the register for students. However, the powers to set conditions on registration would enable students who the regulator considers meet the standards of registration to be registered, subject to any conditions the regulator deems necessary.

Do you agree or disagree that the powers in the draft order relating to the content of the register and its publication will enable the GMC to effectively maintain a register of AAs and PAs who meet the standards required to practise in the UK?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you agree or disagree that the draft order provides the GMC with the necessary and proportionate powers to reflect different categories of registration and any conditions that apply to the registration of people in those categories?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Removal of an entry

Article 8 sets out the duties and powers for the GMC to remove entries from the register.

The regulator has a duty to remove a person from the register in the following circumstances:

- in the event of their death
- when a final measure for removal is issued at the conclusion of fitness to practise proceedings
- where the regulator determines the associate has been convicted of or, in relation to some offences has received a custodial sentence for, an offence listed at schedule 2 of the draft order

The GMC may also remove an entry from the register where:

- the entry was obtained through fraud or made incorrectly
- the associate has requested the removal (sometimes referred to as 'voluntary removal from the register')
- the associate has failed to comply with requirements made in rules in respect of an assessment of standards or an associate's fitness to practise
- the associate has not paid a required fee
- the associate does not have appropriate and adequate indemnity or insurance cover
- the associate has failed to maintain an effective means of contact with the GMC, as per the requirements set by regulator in its rules
- the associate has failed to comply with a requirement in the draft order to provide information

The GMC also has duties and powers to remove entries from the register where they relate to an entry under the emergency registration powers - see the 'emergency registration' section.

Do you agree or disagree that the draft order provides the GMC with proportionate and necessary powers in relation to the removal of AA and PA entries from the register which will enable it to operate a safe and fair system of regulation that protects the public?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on 'part 3: the register' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

Emergency registration

Powers for the GMC relating to the registration of associates during an emergency situation (as declared by the Secretary of State) are located across different sections of the draft order, summarised below.

Registration - article 6(3) and (4)

Paragraphs 3 and 4 contain powers that enable the GMC to register associates where the Secretary of State informs the GMC that an emergency has occurred. For registration in these circumstances, the regulator may register any fit, proper, and suitably experienced persons or groups of people, for the period of the emergency.

Paragraph 4 gives regulators broad powers to declare that anyone who meets its criteria for emergency registration can be considered to be registered, before formally processing individual applications or automatically adding them to the register.

Conditions on registration - article 7(b)

Where the GMC has registered an associate using the emergency registration provisions in the draft order, it may determine, impose, and make amendments to, conditions on the registration of either groups of associates, or individual associates. This gives the regulator powers to determine the scope of practice of associates registered under the emergency powers. For example, this might include limiting the activities they are permitted to perform or requiring them to work under the supervision of an associate subject to non-emergency registration with the GMC.

Removal of an entry - article 8(3) and (4)

The GMC must remove an entry made under the emergency registration powers once it is declared that the emergency has ended.

The GMC has a discretionary power to remove an entry made under the emergency provisions for any reason, including where concerns have been raised about an associate's fitness to practise.

Revision of decisions - article 11

Article 11 paragraph 4 gives the GMC powers to revise a decision relating to emergency registration for any reason. This is intentionally broad to enable regulators to rapidly flex their emergency registration policies, for example by changing the criteria for registration under the emergency powers. There is a separate power at paragraph 11(a) of schedule 4 that allows regulators to set out in rules particular cases or circumstances in which a revision may not be made.

Appeals - article 12

There is no right of appeal against any decision in relation to the regulator's emergency registration powers.

Do you agree or disagree that the draft order provides the necessary powers to enable the GMC to implement an efficient and safe system of temporary registration for AAs and PAs during a period of emergency as declared by the Secretary of State?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Part 4: fitness to practise

Regulated professionals are required to meet the standards for practising their profession safely and effectively. This is one of the principle means by which regulators ensure public protection. This part of the draft order sets out the GMC's fitness to practise process for associates.

In our consultation, [Regulating healthcare professionals, protecting the public](#), we proposed that all regulators should have a 3-stage fitness to practise process consisting of the initial assessment stage, the case examiner stage and the Fitness to Practise Panel stage. The majority of respondents to our consultation supported a 3-stage fitness to practise process.

We are of the view that the case examiner stage and the Fitness to Practise Panel stage should be set out in the draft order. However, we do not believe the draft order needs to prescriptively set out the initial assessment stage. We are of the view that the GMC is able to set out the initial assessment stage process in rules, under the rule making power in schedule 4, paragraph 3(1)(a) of the draft order. This will give it more flexibility to amend this stage and to respond to changing circumstances over time.

Article 9 and the rule-making power referred to enable the GMC to determine whether a fitness to practise case should be referred to a case examiner to make a determination. We consider that this approach provides the GMC with sufficient flexibility to determine which cases should be closed at initial assessment without taking any further action and which cases should be referred to a case examiner. The GMC will be able to appoint one or more case examiners to conclude a case.

Case examiner and panel functions where fitness to practise question arises

Article 9 sets out that where a question arises as to whether a person's fitness to practise as an associate is impaired, a case examiner will be able to decide whether the associate's fitness to practise is or is not impaired. Note that associates registered using the GMC's emergency registration powers are exempt from fitness to practise procedures, meaning that the GMC can remove or add conditions to the registration of any emergency registered associate.

Where a case examiner determines that an associate's fitness to practise is not impaired, article 9(1)(b) of the draft order empowers them to close the case without taking any further action, or issue a warning to the associate, if they believe this is necessary.

Where a case examiner determines that an associate's fitness to practise is impaired, they will be able to conclude cases through an accepted outcomes process where the associate accepts both the findings (including impairment) and the proposed measure, as set out in article 9(2)(a) of the draft order. Case examiners will have a full suite of final measures available to them including applying condition to registration, suspension of registration, and removal of registration. The maximum period for which a condition or suspension could be applied is 12 months, although this can be extended by review.

Associates will be required to provide a reasoned response to a notification of a proposed accepted outcome from a case examiner, within a timeframe prescribed in the GMC's rules which may not be less than 28 days beginning with the date on which the associate received the notification as set out in schedule 4, paragraph 10(1)(a) of the draft order. The notification must also have warned the associate that a measure may be imposed if they do not respond to the case examiner. An associate will be required to provide a reasoned response to a case examiner in order to satisfy the case examiner that they have accepted both the findings and the proposed measure. If an associate does not accept or disputes the findings and/or the proposed measure, the case will proceed to the panel stage.

Where an associate does not provide a reasoned response to a case examiner's offer of an accepted outcome within the GMC's timeframe, a case examiner may impose a final measure upon the associate. This is not an accepted outcome, but a separate power set out in article 9(2)(b) of the draft order and only applies where the case examiner concludes that the associate's fitness to practise is impaired.

Schedule 4, paragraph 3(1)(a) of the draft order places a duty on the GMC to prescribe in rules the procedure for its case examiner stage.

Interim measures

A case examiner will be able to refer a case to a panel to impose an interim measure on an associate or to make a determination on a case.

Interim measures are restrictions on an associate's practice that a panel can put in place to address a public protection risk and/or an associate protection risk, while their fitness to practise is under consideration. Article 9(1)(d)(ii) allows a panel to impose an interim measure on an associate subject to the associate or their representative having been given an opportunity to make a written or oral representation to the panel. The panel may put in place an interim measure for a period of up to 18 months.

Final measures

Following a referral from a case examiner, a panel may also be required to make a determination as to whether an associate's fitness to practise is impaired or not. A case examiner may not refer a case to a panel unless the person whose fitness to practise is in question has been given an opportunity to make a written representation beforehand. The person whose fitness to practise is in question will not have a right of appeal against a decision by a case examiner to refer a case to a panel.

The GMC may choose to provide in rules that a panel can consider more than one referral in relation to the same individual at the same time, as set out in schedule 4 paragraph 5(b) of the draft order.

Where a panel concludes that the associate's fitness to practise is impaired, it can impose an appropriate measure including applying conditions to an associate's practice, suspending their registration, or removing the associate from the register. The maximum period for which a condition or suspension order can be applied is 12 months, although this could be extended by review. A final measure cannot be imposed unless the associate affected has been given an opportunity to make a representation to the panel. This is set out in article 9(1)(d)(ii)(bb) of the draft order.

Do you agree or disagree that the powers in the draft order enable the GMC to implement a 3-stage fitness to practise process for AAs and PAs proportionately and sufficiently?

- Agree

- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you agree or disagree that the powers in the draft order enable case examiners to carry out their roles appropriately and that the powers help to ensure the safe and effective regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you agree or disagree that the powers in the draft order enable panels to carry out their roles appropriately and that the powers help to ensure the safe and effective regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Review of interim measures and imposition of further interim measures by a court

Article 10 sets out that a case examiner must review an interim measure before 6 months and again before 12 months. However, where the case examiner fails to review an interim measure, it does not affect its validity.

If the GMC wishes to extend an interim measure beyond its initial term it will be required to make an application to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland for an extension. Our intention is to include a time

limit to that extension which will be a maximum of 12 months before the interim measure expires. We consider this time limit, which is shorter than the period that an interim measure can initially be imposed for, is appropriate given that it is intended to be 'interim' and provides for a maximum of 30 months from the initial imposition for the GMC to conclude an investigation. The order does not currently provide for that time limit, but we would welcome your views on that intention. The court may, before the expiry of the interim measure, impose a new interim measure on an associate.

Do you agree or disagree that the powers in the draft order on reviewing interim measures are proportionate and sufficient for the safe and effective regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on 'part 4: fitness to practise' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

Part 5: revisions and appeals

Revision of decisions

Article 11 sets out the GMC's powers in relation to revising decisions.

Article 11(1) sets out that the GMC will be able to revise the following decisions if the decision was based on an error of fact or law or there has been a material change of circumstances since it was made:

- education and training approval and refusal decisions made under article 4(1)
- decisions on restoring to the register. There is an exception at article 6(1)(a)(ii) which relates to the element of the 2-part

restoration decision where the applicant must satisfy a panel that their fitness to practise is not impaired. As this relates to fitness to practise, any determination relating to this aspect of the decision would follow the fitness to practise appeals model, so the next step for this stage of the restoration process would be for the person to appeal to the courts. Accordingly, there is no power to revise that decision

- registration (except where it relates to registration under emergency registration provisions)
- conditions on registration (except where it relates to registration under emergency registration provisions)
- removal from the register
- a decision by a case examiner to impose a final measure (this includes where a case examiner has found an associate's fitness to practise to be impaired and an associate has accepted the proposed outcome and measure), that an associate's fitness to practise is not impaired or to issue a warning to an associate whose fitness to practise is found not to be impaired or to revise a decision under this article

Anyone will be able to make a request to the GMC for it to revise a case examiner's decision. However, the request needs to show that the case examiner's decision was based on an error of fact or law or that there has been a material change of circumstances since the case examiner's decision was made. As set out in schedule 5, paragraph 4, we will amend the National Health Service Reform and Health and Care Professions Act 2002 so that the Professional Standards Authority for Health and Social Care will be able to make a request to the GMC for a case examiner's decision to be revised.

Article 11(2) sets out that where a panel or court has imposed an interim measure on an associate, the GMC will be able to revise the decision if there has been a material change of circumstances since the decision was made. However, the GMC will not be able to revise the period specified in an interim measure as to make it longer. The GMC may choose to review an interim measure at any time and an associate will also be able to ask the GMC to review an imposed interim measure at any time.

Where a panel has imposed a final measure on an associate, the GMC may revise the decision on the ground that there has been a

material change of circumstances since it was made subject to an associate been given an opportunity to make a written representation. Where a time period is specified in the final measure the GMC cannot make the time period longer.

As set out at schedule 4 paragraph 11(a), the GMC may prescribe in rules cases or circumstances in which a revision may not be made under article 11.

Do you agree or disagree that the powers in the draft order provide the GMC with proportionate and sufficient powers in relation to the revision of decisions concerning the regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Appeals

Article 12(1)(a) to (d) sets out that a person (for example an associate or applicant for registration) prescribed in rules, under schedule 4 paragraph 11(b) of the draft order, may appeal to a panel against the following education and training and registration decisions:

- education and training approval and refusal decisions made under article 4(1). Article 12(5) sets out that the person for the purposes of 12(1)(a) is the person who applied for approval
- registration and restoration decisions made under article 6(1). With the exception of a decision at article 6(1)(a)(ii) which relates to the element of the 2-part restoration decision where the applicant must satisfy a panel that their fitness to practise is not impaired. Article 12(5) sets out that the person for the purposes of article 12(1)(b) is the applicant
- conditions on registration decisions (for associates registered under the non-emergency powers) made under article 7(a). Article 12(5) sets out that the person for the purposes of article 12(1)(c) is the person who is subject to the condition

- removal from the register decisions (in relation to those decisions where the GMC has discretion to remove an entry) made under article 8(2). Article 12(5) sets out that the person for the purposes of article 12(1)(d) is the person to whom the entry relates

There are 2 exceptions to this where there is no right of appeal for the following decisions:

- where the decision was based solely on the fact that a fee has not been paid in accordance with rules made under paragraph 7 of schedule 4
- where the decision was based solely on the fact that the person has not applied for registration in accordance with rules made under paragraph 3(1) of schedule 4

In our consultation, [Regulating healthcare professionals, protecting the public](#), we proposed that there would be no right of appeal against a regulator's decision not to remove a person from the register at their own request and that such a decision would need to be challenged by Judicial Review (question 38). However, regulators have a discretionary power to retain a person on the register, the intention being that this will be used proportionately by regulators while they conclude or commence a fitness to practise investigation. As set out in [our consultation response](#), we believe it is proportionate to allow an appeal against the refusal to remove someone from the register. This is also supported by powers for regulators to revise a decision on voluntary removal in article 11 of the draft order.

The GMC will be able to set out in rules the timeframe within which a person prescribed in rules can appeal a decision to a panel.

Associates will also have a subsequent right of appeal against a panel's decision in relation to registration, restoration, and removal decisions to the County Court.

The exceptions to this are:

- where an associate is removed from the GMC's register following a conviction for a listed offence as set out in schedule 2 of the draft order, the associate will have a direct appeal route to the High Court in England and Wales, the

Court of Session in Scotland, or the High Court in Northern Ireland against the removal. This is set out in article 12(2)(b)(i) of the draft order

- where a panel makes a finding that fitness to practise is impaired in respect of an application for restoration from an associate who was previously removed by a final measure, the associate will have a direct appeal route to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland in respect of this element of the 2-stage restoration decision process. This is set out in article 12(2)(b)(i) of the draft order

Article 12(1)(e) sets out that a person prescribed in rules, under schedule 4 paragraph 11(b) of the draft order, may also appeal to a panel against the following fitness to practise decisions made under article 9 where a case examiner:

- imposes a final measure on an associate who has not submitted a reasoned response to a case examiner's offer of an accepted outcome within the GMC's prescribed timeframe
- has found an associate's fitness to practise to be impaired and the associate has accepted the proposed outcome and measure
- has found that an associate's fitness to practise is not impaired and closed a case
- has found that an associate's fitness to practise is not impaired but has issued a warning

Article 12(5) sets out that the person for the purposes of article (12)(1)(e) is the person in respect of whom a final measure or warning is given.

In addition, where a panel has found an associate's fitness to practise to be impaired and has imposed a final or interim measure on an associate, the associate will have 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 only on the ground of error of law as set out in article 12(2)(b)(ii). This is a change from [section 40 of the Medical Act 1983](#), as section 40 does not restrict a medical practitioner's right of appeal against a Fitness to Practise Panel's decision to this ground alone.

Where an associate wishes to appeal to the court, they will be required to do this within 28 days of the decision being served on them.

Article 12(1)(f) sets out that an associate may also appeal to a panel against the revision of a decision made under article 11(1) or (2).

As set out at schedule 4 paragraph 4 of the draft order the GMC must prescribe in rules the procedure for appeals under article 12(1), which can include the timeframe for submitting an appeal.

Do you agree or disagree that the powers in the draft order provide individuals with proportionate and sufficient appeal rights in respect of decisions made by the GMC and its independent panels relating to the regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

As set out at article 12(3)(a)(i) to (iv), following an appeal, a panel, the County Court or High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland may:

- quash the decision under appeal
- dismiss the appeal
- substitute for the decision under appeal a decision that could have been made
- remit the matter to be disposed of in accordance with its directions

In addition, the County Court, the High Court in England and Wales, the Court of Session in Scotland or the High Court in Northern Ireland make any order as to costs as it thinks fit.

Do you have any additional comments on 'part 5: revision and appeals' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

Part 6: miscellaneous

This part contains additional provisions that are required for effective regulation.

Opportunity to make representations

Article 13 (1)(a) sets out that the GMC may not attach a condition or withdraw an education and training approval or qualification unless the person to whom the approval has been given under article 4(1)(a) has been given an opportunity to make representations.

Article 13(1)(b) sets out that a removal of an entry from the register under article 8(2)(a), (b)(ii)(aa) or (ee) of the draft order, or a revision to a decision under article 11(1) or (2) and a final measure may not be imposed on an associate unless the associate affected has been given an opportunity to make representations.

Article 13(2) sets out that the representation made under article 13(1) (b) may be in writing or made orally, if the associate so chooses, except that they must be in writing where:

- the GMC revises an interim measure
- a case examiner imposes a final measure

Article 13(3) sets out that a case examiner may not refer a case under article 9(1)(d) of the draft order unless the person whose fitness to practise is in question has been given an opportunity to make a written representation beforehand.

Article 13(4) sets out that a panel may not impose an interim measure on an associate unless, where practicable, the associate has been given an opportunity to make representations beforehand in writing or, if the associate chooses, orally.

Article 13(5) states that representations made under article 13(2) and (4) may, if the associate chooses, be made by a representative.

Offence relating to registration etc.

Article 14 sets out the offences created by the draft order in relation to use of protected titles, registration and the content of the register with

intent to deceive. It also sets out the penalty on conviction for these offences.

As outlined in other parts of this document, the offence relating to the use of the titles 'anaesthesia associate' and 'physician associate' will not take effect until 3 years after the order is made.

Do you agree or disagree that the offences set out in the draft order are sufficient to ensure public protection and to maintain public confidence in the integrity of the AA and PA professions?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on 'part 6: miscellaneous' in relation to the drafting approach as it would apply to any regulated healthcare professionals?

Schedule 1: the regulator

Schedule 1 provides powers and duties in relation to the regulator and sets the basic framework for the way the GMC will operate to regulate AAs and PAs. The GMC's overall governance framework will continue as under the Medical Act 1983 after the draft order comes into effect.

Appointment of registrar and others

This paragraph enables the GMC to appoint a registrar and panel members as well as any other appointments it deems appropriate.

Delegation

This paragraph gives the GMC the power to delegate a function to another person within the organisation or another healthcare regulator

or third party where it is likely to lead to an improvement in the exercise of the function (subject to paragraph 8 of schedule 3 to the Health Act 1999). Functions may be delegated wholly or partly, generally, or only in specific circumstances, unconditionally or with conditions.

If any function is delegated the GMC will retain responsibility for its delivery. The GMC may still exercise any function it has delegated elsewhere. Through incidental powers, the GMC may also discharge a function, or part of a function, which is delegated to it by another regulator. It also sets out that the power to delegate and the rule-making function cannot be delegated.

Since the coming into force of the Health and Care Act 2022, the Health Act 1999 enables the functions of keeping a register, determining standards of education and training, advising about standards of conduct and performance, or administering procedures relating to misconduct and fitness to practise, to be delegated under section 60, however they can only be delegated to another health and care professional regulatory body or Social Work England.

Objective, matters to which the regulator must have regard and co-operation

This paragraph sets out the regulator's objectives for AAs and PAs (promoting and maintaining public confidence in the professions and the professional standards and conduct of AAs and PAs) and brings them into line with medical practitioners. The objective 'to protect, promote and maintain the health, safety and well-being of the public' under paragraph (1B)(a) of section 1 of the Medical Act 1983 will continue to apply to all professions regulated by the GMC.

It also sets out that the GMC must have regard, when carrying out its functions, to the interests of persons using or needing the services of associates in the UK, any differing interests of different categories of AAs and PAs, and the principle that regulatory activity should be targeted only at cases in which action is needed. The GMC must discharge its functions in a transparent, accountable, proportionate, and consistent manner.

The GMC must also co-operate with those concerned with the employment (whether or not under a contract of service), education or training of associates or the services they provide. This will be in addition to the co-operation requirements included in the Medical Act 1983 which will still apply. The GMC must also have regard to any differing considerations relating to practising as an AA or PA which apply in England, Scotland, Wales, or Northern Ireland.

Default powers of the Privy Council

The Privy Council currently has default powers (under section 50 of the Medical Act 1983) which can be used if it is of the opinion that the GMC has failed to carry out its functions in relation to medical practitioners. This paragraph widens these powers to incorporate the regulation of AAs and PAs.

Incidental powers

The powers set out in this paragraph enable the GMC to do anything which appears to it to be incidental or conducive for the purpose of, or in connection with, the performance of the GMC's functions in relation to the regulation of AAs and PAs. This includes paying members and staff remuneration, pensions, expenses, allowances, or gratuities and borrowing. The GMC may also make arrangements for the provision of advice, assistance, accommodation, services, and other facilities for a panel, including those with the Medical Practitioners Tribunal Service established under the Medical Act 1983.

Grant making power

This new power enables grant funding to be provided to the GMC, by the Secretary of State, Scottish Ministers, Welsh Ministers, or the Department of Health in Northern Ireland, and which may be subject to a condition. Funding can already be provided to regulators however a grant making power provides an easier mechanism to do this and would not undermine the operational independence of the GMC.

Do you agree or disagree with the proposed powers and duties included in schedule 1 the regulator in relation to AAs and PAs?

- Agree
- Disagree

- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on schedule 1, the regulator, in relation to the drafting approach as it would apply to all regulated healthcare professionals?

Schedule 2: listed offences

Listed offences

This schedule lists the offences that would lead to automatic removal from the register.

The listed offences we consulted on mirrored those set out in [schedule 3 of the Social Workers Regulations 2018](#).

The schedule also includes 2 additional offences which we identified following consultation. These are section 1 and section 2 of the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#).

As part of the government's consultation, [Changes to Social Work England's regulatory framework](#), it was proposed that the listed offences within schedule 3 of the Social Workers Regulations 2018 should be extended to include these 2 additional offences. In August 2022, the government published [Changes to the regulatory framework for Social Work England: Government consultation response](#) which set out our intention to include these 2 offences within schedule 3 of the Social Workers Regulations 2018. We have therefore included these offences in this schedule.

Do you have any comments on schedule 2, listed offences?

Schedule 3: evidence gathering, notifications, publication and data

Schedule 3 provides powers and duties in relation to information and data.

Disclosure of information

Paragraph 1(1) allows the GMC to disclose information about any matter relating to its functions under this draft order, subject to paragraph 1(2). These powers are broad, however only relevant information may be disclosed.

These provisions do not exempt the GMC from complying with existing data legislation.

Notifications

Paragraph 2 sets out the duties for the GMC to notify prescribed persons of the outcome of decisions and any onward rights of revision or appeal relating to approvals, registration, removal of an entry and fitness to practise proceedings.

It places a duty on the GMC to notify a person of an education and training approval given under article 4(1) of the draft order, and of a decision to attach a condition to that approval. Where an approval is withdrawn the GMC must also notify the relevant person. In addition, the GMC must notify a person that they can apply for a revision of a decision made under article 4(1) and make an appeal to a panel against a decision under article 4(1).

The GMC must notify an associate, their employers, other regulators (where the associate is dually registered) and complainants of a fitness to practise final measure by a case examiner or panel, an interim measure imposed by panel and any subsequent revisions to decisions. The GMC must notify the associate of the reason for the final fitness to practise decision and it must also inform the associate that they may apply for a revision of the final decision or appeal the decision to the relevant court.

In addition, where an associate is removed from the GMC's register, the GMC will have a duty to notify the associate, their employers, and other regulators (where the associate is dual registered) once the removal is made.

The draft order also includes a duty on the GMC to notify an associate that they can appeal to the relevant court (as set out in Part 1, article 2 of this draft order) where a decision has been made to remove them from the register due to a conviction for a listed offence.

Power to publish

Paragraph 3 sets out the powers available to the GMC to publish information from the content of the register, guidance and other information outlined below.

The GMC has powers to publish information related to fitness to practise of associates, or associates of a particular class, if it considers it to be in the public interest. This article also allows the GMC to publish the findings of an education and training approval investigation and any warning given in consequence of its findings. In addition, the GMC will have powers to publish information relating to the removal of entries from its register and may also publish historical information from the register, where this information has previously been published by the regulator. The GMC may also publish guidance about the exercise of its functions under this draft order.

Duty to publish registration information and certain decisions

Paragraph 4 sets out the GMC's duties to publish information from the content of the register.

It specifies the core data held on the register that must be published and sets out a duty for the GMC to publish information relating to a person's practice as an associate, which the regulator is satisfied serves the purpose of protection of the public.

Paragraph 4(2) sets out that the GMC must publish the following information as soon as practicable:

- a removal from the register for a conviction for a listed offence
- a warning issued by a case examiner or panel

- an interim measure or a final measure
- a decision made on appeal by a panel or the courts

The information must remain published for as long as the GMC is satisfied that its publication serves the purpose of protection of the public.

Our consultation [Regulating healthcare professionals, protecting the public](#) set out that regulators should be required to publish warnings for a period of 2 years. However, after considering the small number of comments on the publication of warnings we are now of the view that regulators should maintain a discretion as to how long they publish warnings for, subject to the publication of the warning serving the purpose of public protection.

Duty to publish other matters

Paragraph 5 lists information that the regulator must publish and includes:

- rules made under the order
- standards and approvals in relation to education and training, and any condition or withdrawal of approval, with the exclusion of information about an approval which relates to education or training provided only for a particular individual

It sets a duty for the GMC to publish guidance as to what amounts to impairment of fitness to practise and requires the GMC to keep such guidance under review.

Information to be included in a report under section 52A of the Medical Act 1983

Paragraph 6 sets out that the GMC must include the anaesthesia associate and physician associate professions in its current reporting requirements (annual reports, statistical reports and strategic plans) under the Medical Act 1983 and include the arrangements which it has put in place to protect members of the public from registered associates whose fitness to practise is impaired, together with its observations on the report.

The GMC must also include in its annual report the evidence it considered of the likely impact of any fee change, particularly in relation to:

- the workforce of the health service in the UK
- anaesthesia associates and physician associates
- the GMC

Evidence gathering

Paragraph 7 sets out the powers available to the GMC to obtain information to enable it to fulfil its duties in respect of provisions in the draft order. It also sets out the enforcement powers available to the GMC.

Paragraph 7(1)(a) sets out the GMC's duty to take necessary steps to evaluate whether an associate, other person or provider meets standards set by the regulator under article 3(1), which includes the standards of registration. Paragraph 7(2) sets out that the steps under paragraph 7(1)(a) may include setting exams.

Paragraph 7(1)(b) sets out that the GMC must take such steps as it considers necessary for the purpose of evaluating whether a person's fitness to practise as an associate is impaired. This power extends to non-registrants and would, for example, enable the GMC to undertake an assessment of the fitness to practise an associate removed by a final measure seeking to be readmitted to the register. The GMC may prescribe in rules the procedure for an evaluation under this power and, in particular, for an assessment of a person's physical or mental health.

The GMC must establish a periodic system of assurance that requires associates or other people to provide information that the GMC thinks is necessary for the purpose of checking that associates are meeting the GMC's standards for the professions it regulates, and to enable the periodic review of approvals given under Article 4. This provision has been included to meet the government's commitment that all regulators must operate a proportionate process of checking that associates are continuing to meet the requirements set by regulators for safe and effective care. The GMC is not required to replicate the system it operates for doctors' revalidation in respect of associates.

Paragraph 7(4) gives the GMC powers to require the supply of information or documents relevant to its functions under this draft order. This power is intentionally broad to capture the range of individuals and organisations that the GMC may need to require information from to effectively discharge its statutory duties in relation to the regulation of AAs and PAs.

Paragraph 7(5) prohibits the GMC, for the purposes of fitness to practise proceedings, from asking an associate to provide material produced for the purposes of professional development or in the course of reflecting on their professional practice in order to improve it. However, the legislation does allow an associate to disclose reflective material to the GMC if they choose to do this. This article implements recommendation 5.3 of Professor Sir Norman Williams's report, [Gross negligence manslaughter in healthcare](#).

Paragraph 7(6) sets out that if a person fails to supply any information or produce any document within 14 days of being required to do so, the GMC may seek an order of the County Court or, in Scotland, the sheriff in whose sheriffdom requiring the information to be supplied or the document to be produced.

Further provision as to disclosure

Paragraph 8 provides that the GMC's data powers do not allow it to do anything prohibited by information law, including UK General Data Protection Regulation (GDPR), and the GMC can only require persons to provide documents or information that they could be required to supply in court proceedings.

Do you agree or disagree that the powers in the draft order enabling the GMC to gather, hold, process, disclose and assure information in relation to the regulation of AAs and PAs are necessary and proportionate for meeting its overarching objective of protecting the public?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on schedule 3, evidence gathering, notifications, publication and data, in relation to the drafting approach as it would apply to any regulated healthcare professionals?

Schedule 4: rule-making powers

Schedule 4 provides the GMC with further rule-making powers.

Rules as to the register

Paragraph one allows the GMC to prescribe in rules the form and keeping of the register. This includes powers to make rules about the entry, alteration, and removal of information in the register, including where the GMC determines information should be included to aid protection of the public.

The GMC must make rules about which contact details, including addresses must be recorded against an entry.

Rules prescribing persons etc. for the purposes of articles 6 and 7

Paragraph 2 permits the GMC to set rules relating to restoration. This includes powers to set a time period that must have elapsed, and a limitation on the number of applications a person may make where they are applying for restoration following their removal due to a final measure.

It also gives the GMC the power to prescribe in rules the type of circumstances when an associate applying for restoration must satisfy the regulator that their fitness to practise is not impaired, and to whom the above limitations may also apply.

Paragraph (2)(d) gives the GMC powers to set the criteria for associates whose scope of registration may be subject to conditions at article 7(a).

Procedural rules other than for appeals

Paragraph 3 places a duty on the GMC to prescribe in rules the procedure for:

- approvals, registration, case examiners' and panels' function, review of interim measures and revision of decisions
- removing an entry for conviction of a listed offence, in particular, the time within which any step must be taken

The GMC may prescribe in rules the procedure for:

- all other removal of entries in the register, other than where removal results from a conviction for a listed offence or a final measure
- an evaluation under paragraph 7 of schedule 3 and, in particular, for an assessment of a person's physical or mental health

Do you agree or disagree that the draft order provides the GMC with sufficient and proportionate rule making powers to enable it to effectively maintain a register of AAs and PAs who are safe to practise?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Procedural rules for appeals

Paragraph 4 places a duty on the GMC to prescribe in rules the procedure for appeals under article 12(1) of the draft order which must in particular specify:

- the timescales within which any steps in an appeal are to be taken
- the content of a notice of appeal
- the information to be provided with such a notice of appeal

- how and when service of a notice is deemed to have been made

The rules must provide that a panel may dispose of an appeal with or without a hearing, but with the proviso that a panel must hold a hearing if the appellant so requests.

The rules must permit, in relation to any hearing, the appellant to:

- attend and be represented
- make oral representations and
- call witnesses

Rules as to panels

Paragraph 5 places a duty on the GMC to set out the constitution of a panel in rules and sets out that the GMC may choose to provide that a panel may consider more than one referral in relation to an individual at the same time.

Rules as to non-compliance

Paragraph 6 places a duty on the GMC to set out in rules the consequences of non-compliance with an interim measure, or a final measure involving the imposition of a condition or a suspension from practice for example, removal from the register (see sub-paragraph (2)).

The GMC may prescribe in rules the consequences of non-compliance with:

- rules under paragraph 3(2)(b) relating to an assessment of the meeting of standards and/or a finding of impaired fitness to practise
- a direction under rules under paragraph 10(4) of the draft order relating to an interim measure

In addition, the GMC may prescribe in rules for a panel to draw adverse inferences in circumstances prescribed in the rules.

Paragraph 6(5) sets out that the GMC may set out in rules the circumstances in which costs may be awarded by a Fitness to

Practise Panel to either an associate or the GMC, the factors which need to be taken into account in awarding costs, the assessment or taxation of costs, or in Scotland taxation of expenses and the enforcement of an award of costs or expenses by the Fitness to Practise Panel.

Do you agree or disagree that the draft order provides the GMC with proportionate and sufficient rule making powers to address non-compliance of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Rules as to fees

Paragraph 7 sets out that rules may be made by the GMC in relation to the setting, charging, collection and recovery of fees relating to the GMC's functions under this draft order. This includes:

- the various fees in relation to registration
- an appeal under article 12(1)
- work carried out by the regulator that powers allow it to charge for, including for activity outside of the UK

In relation to registration fees, the GMC may also make rules to determine a longer-term approach, for example, a framework. The existing requirement to consult will also apply to any longer-term approach to fee setting. There is no provision for the GMC to charge for appeals against Fitness to Practise Panel decisions.

Sub-paragraph (2) states the rules must require the level of any fees to be set with a view to ensuring that, so far as practicable, the regulator's fee income does not exceed its expenses (taking one year with another). We recognise it is difficult for the GMC to predict its annual income and expenditure given fluctuations in the number of registrants and fitness to practise cases, in addition to holding sufficient reserves and meeting regulator's financial obligations. We

would expect that the GMC takes a pragmatic approach by setting its fees at a level which allows for, and smooths out, year on year variations in its income and expenditure. Where, over time, there is divergence between income received and expenditure incurred, the GMC will need to adjust its fees accordingly to bring these back into alignment.

As required by schedule 3 paragraph 6(b), the GMC must include in its annual report the evidence it considered of the likely impact of any registration fee change, particularly in relation to the workforce of the health service in the UK, anaesthesia associates and physician associates, and the GMC.

Do you agree or disagree with the provisions set out in the draft order for the setting and charging of fees in relation to the regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Rules as to notifications

Paragraph 8 places a duty on the GMC to make rules as to notifications to be given under article 13 and paragraph 2 of schedule 3, which include provision as to:

- their content
- any information to be provided with them
- the period within which they must be given
- their service
- the date on which they are to be treated as having been received

The rules must guarantee that any notification ensures that the recipient is aware of:

- the nature of the proceedings to which it refers

- the timescale within which any response to it is required and the method for making such a response
- any consequences of failing to respond to a notification or to comply with the fitness to practise procedure, and in particular any decisions that may be taken in the absence of the person and any action that may be taken for failure to comply with the fitness to practise procedure
- any right to be represented and to make representations

Rules as to panel appointments

Paragraph 9 places a duty on the GMC to make rules specifically in relation to the appointment of panels. The GMC will be able to set out in rules:

- the process for appointment, suspension and removal
- the term of appointment
- remuneration

Rules as to fitness to practise

Paragraph 10 places a duty on the GMC to prescribe in rules a period for a reasoned response to a notification of a proposed final measure from a case examiner.

It also sets out that the GMC must set out in rules the quorum of a panel and that a panel in fitness to practise proceedings must consist of at least one person who:

- has been registered
- has an approved qualification
- is a registrant member (within the meaning of paragraph 1(1) of schedule 1 to the Medical Act 1983)
- one person who does not satisfy any of the above 3 requirements

The GMC will be expected to hold Fitness to Practise Panel proceedings in public. However, it must set out in its rules the circumstances in which fitness to practise proceedings may be required to be held in private.

The GMC will also be able to make rules on the functions of case examiners and panels, including:

- case management of cases
- admissibility of evidence
- administration of oaths
- requiring persons to attend and give evidence or to produce documents

In addition, the GMC may prescribe in rules the procedural directions that may be given in fitness to practise proceedings.

Rules as to revision and appeal

Paragraph 11 allows the GMC to prescribe in rules cases or circumstances in which a revision may not be made under article 11.

It allows the GMC to prescribe in rules a person, other than itself, for the purposes of article 12. For example, an associate or an individual applying for registration with the GMC may be a person prescribed in the GMC's rules.

Rules as to when decisions take effect

Paragraph 12 allows the GMC to make rules setting out the date from which a removal from the register for a conviction for a listed offence, a revision of a decision, an interim measure or a final measure takes effect.

Rules for the purpose of paragraph 7 of schedule 3

Paragraph 13 sets out that the GMC must prescribe in rules persons, information, an interval, and a manner for the purpose of paragraph 7 (evidence gathering) of schedule 3. This relates to the duty for the GMC to have a periodic process of assurance for registrants.

General provision about rules

Paragraph 14 provides general information in relation to making rules, including a requirement to consult on draft rules and to consider those who are likely to be impacted.

Do you agree or disagree that the rule making powers set out in the draft order will enable the GMC to deliver the safe and effective regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

Do you have any additional comments on schedule 4, rules in relation to the drafting approach, as it would apply to all regulated healthcare professionals?

Schedule 5: consequential amendments

Schedule 5 sets out the consequential amendments necessary to other primary and secondary legislation as a result of the draft order. Further information can be found in the 'Legislation and consequential amendments' section.

In relation to schedule 5, consequential amendments, do you have any comments on how the draft order delivers the policy intention in relation to AAs and PAs?

Would you like to provide any further comments on the draft order?

Costs, benefits and equalities analysis

Throughout this project we have looked to consider any potential impacts of the introduction of regulation for AAs and PAs under a reformed system of legislation.

We have considered the potential impact on business and impacts (positive and negative) on protected characteristics under the public sector equality duty.

We have sought further information through 3 public consultations:

- [Promoting professionalism, reforming regulation](#)
- [The Regulation of Medical Associate Professions in the UK](#)
- [Regulating healthcare professionals, protecting the public](#)

and used these to inform our approach in refining the draft legislation.

Our analysis shows that, while there will be a small number of costs to business, these will be limited and outweighed by the benefits of introducing regulation. In addition, in our assessment of potential costs over a 10-year period, the costings are based upon an assumed cohort of self-employed AAs and PAs, however the numbers in this category currently are negligible.

For example, costs to business could include:

- small costs to higher education institutions (HEIs) - there are currently 2 universities offering AA courses with PA courses being offered by 37 universities. Under statutory regulation, HEIs offering AA and PA courses will be subject to the GMC's education and training standards and may have to adjust working practices, revise course content and facilitate inspections. However, based on their initial scrutiny and discussions with the HEIs, the GMC do not anticipate that any course provider will need to make significant or costly changes in order to meet the required standards
- small cost to private sector employers - the GMC has advised that there is unlikely to be any working time lost due to AAs and PAs having to apply for registration. One exception would be where a private sector employer has a PA who has not passed the PA national exam and therefore needs to take time off to prepare and sit it. However, based on information from the voluntary registers and a 2020 survey by the GMC, it is understood that only around 1.8% of AAs and PAs work solely in the private sector and it is unlikely that any are self-employed currently

Possible benefits of introducing regulation for AAs and PAs could include:

- increased scope of responsibility: statutory regulation may, in time, following further policy development, allow AAs and PAs to make a greater contribution to patient care. This will benefit patients and reduce pressure on other professionals
- improved professional accountability: statutory regulation protects job titles in law, meaning professionals practising in the UK must be registered and practise in accordance with regulator standards. Those with substandard practice can have development mandated in order to remain practising or be prevented from practising entirely by law
- introduce patient redress: having a formal fitness-to-practise procedure external to the employer enables patients who have concerns about an individual's ability to practise safely and effectively to have their case heard by the regulator
- reduced burden on employers: statutory regulation reduces the burden of employment checks for employers as they can be confident that those registered have the required qualifications and are eligible to work in the UK
- improved training standards: regulation of education and training provision ensures a consistent standard of training across the UK and across education providers. This provides certainty of competence for employers regardless of where AAs and PAs are trained

In terms of equalities considerations, the public sector equality duty sets out that we must consider how our policies will:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not

The general duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race (includes ethnic or national origins, colour, or nationality)
- religion or belief (includes lack of belief)
- sex
- sexual orientation

As set out above, the information we collected from respondents as part of the 3 previous consultations has been used to inform our policy thinking as we have developed the provisions of the draft order to bring AAs and PAs into regulation.

The legislation that the department is putting in place is a high-level framework that will give the GMC the power to develop, and set out in rules and guidance, the details of how AAs and PAs will be regulated.

The introduction of statutory regulation for AAs and PAs will mean that the GMC will have a legal requirement to consider the impacts on protected characteristics as part of its policy development relating to the regulation of these groups. These 2 roles will also be regulated under a reformed legislative framework which will give the GMC more flexibility than it currently has with medical practitioners to adapt its processes and operations to make them more effective and responsive to individuals' needs.

The 3 previous consultations referenced at the start of this section all sought respondent's views on the potential impact on protected characteristics of these changes.

Of those that felt that there would be a positive impact on protected characteristics if statutory regulation was introduced, common themes included:

- it would facilitate more robust monitoring of adherence to the duties and increase commitment to them
- it would increase the diversity of entrants to the MAPs roles as it would enable professions to establish direct entry routes

A small number commented that there may be a negative impact if statutory regulation was introduced in terms of the financial burden of registrant fees, especially on lower-paid or part-time registrants. While the department has considered the impact of the powers being given to the GMC, the GMC is also a designated public authority under the Equality Act 2010 and is therefore required to consider the impact its policies and processes may have on protected characteristics and take action to ensure that there are no disproportionate impacts. This is particularly important due to the discretionary nature of some of the powers being given to them. The GMC is in the process of developing the policies and procedures that will apply to the regulation of AAs and PAs. As part of this work, the GMC has been carrying out its own equalities assessment and identifying any potential issues in each policy workstream and implementing mitigating actions where appropriate.

Our assessment is that we do not expect there to be any disproportionate impacts on protected characteristics as a consequence to the introduction of statutory regulation for AAs and PAs and that, alongside the requirements of the GMC under the Equality Act 2010, the flexibility provided by the new legal framework will ensure that the GMC is able to adapt to the requirements of the professions' demographics.

Do you think there are any further impacts (including on protected characteristics covered by the public sector equality duty as set out in the Equality Act 2010 or by section 75 of the Northern Ireland Act 1998) from the legislation as currently drafted?

1. Do you have any comments relating to 'part 1: general' of the consultation?

In relation to Article 2(2)(a) we consider that Health should be a ground for action in relation to impairment of fitness to practise. It is important that regulators can act in circumstances where harm or misconduct has not yet occurred, but where a registrant's health causes a significant risk to patients and the public. It is unclear as to whether the two grounds for action, as written, will appropriately allow for this approach. There is also an argument that retaining health as a ground for action allows regulators to deal with such issues in a more sensitive and appropriate way.

In relation to 2(1) Final Measure and Interim Measure, we would seek assurance that the definitions as written provide adequate explanation that an interim measure relates to a different test than a final measure. I.e. one will be based on a fitness to practise test and one will be on a risk assessment test. This is not appropriately grounded in the proposed Order.

2. Do you agree or disagree that the powers outlined in 'part 2: standards and approvals' are sufficient to enable the GMC to fulfil its role safely and effectively in relation to the education and training of AAs and PAs?

Note: This question does not relate to the GMC's powers for setting the standards for registration contained in Part 3.

- **Agree**
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

No further comment

3. Do you have any additional comments on 'part 2: standards and approvals' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

The PSNI regulates both pharmacists and pharmacies and this section will need to ensure that pharmacy premises can be registered, when developed for us.

We note that Article 3(b) states that the Regulator may determine other standards in relation to associates. We think there should be a bolstered and standalone provision for the setting and maintaining of Standards of Conduct and Performance for healthcare professionals. This is one of the 4 core tenets of the Regulators' work, and we consider that a standalone provision is necessary to give the requisite authority. It will also be closely linked to the grounds for action in the provision relating to the inability to provide care to a sufficient standard.

4. Do you agree or disagree that the draft order provides the GMC with the necessary powers to determine the standards and procedural requirements for registration?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

No future comment

5. Do you agree or disagree that the draft order provides the GMC with proportionate powers for restoring AAs and PAs to the register where they have previously been removed due to a final measure?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

See response to next question.

6. Do you agree or disagree that the draft order provides the GMC with proportionate powers for restoring AAs and PAs to the register where the regulator identifies in rules that it is necessary for the applicant to satisfy the regulator that their fitness to practise is not impaired?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

We consider restoration relates to those who are being restored to the register after being removed for FtP purposes. Everyone else is re-joining the register (registration). Restoring, which requires a different test of suitability, related to fitness to practise history and maintaining public confidence, and re-joining, because you meet all the eligibility criteria, should be within separate provisions as they are telling the public different things related to public confidence in the profession and individual professionals.

We welcome the inclusion of making registration/restoration subject to conditions under Article 7, however, we are unsure of how this will link to a determination of an FtP panel which has considered an applicant's restoration after removal by Final Measure. The FtP panel should decide the Conditions related to a restoration. As in other areas of the proposed legislation there is a lack of

clarity on who has the appropriate legal authority to make decisions. Suggest that if a panel decides an individual is fit to be restored and the Regulator then decides to make that subject to Conditions, this will be the basis for an appeal.

If the purpose of the legislation is to ensure greater consistency across the regulators in terms of outcomes, it might also be sensible to state on the face of the Order the length of time all registrants must be 'struck off' for before they can reapply, rather than place it in Rules. Possible that registrants from different regulators, involved in the same incident being struck off, but one being restored to their register years before the other.

7. Do you agree or disagree that the powers in the draft order relating to the content of the register and its publication will enable the GMC to effectively maintain a register of AAs and PAs who meet the standards required to practise in the UK?

- Agree
- Disagree
- Neither agree nor disagree
- **I don't know**

Please explain your answer.

See response to previous question related to link between an FtP panel's decision to restore after a Final Measure and a Regulator imposing Conditions.

The language in Article 7 relating to Conditions is confusing. Historically Conditions on registration has been clearly defined as to relate to Fitness to Practise. 'Conditions' under Article 7 appears to relate to defining scope of practice, this is confusing and needs to be clarified. There is no provision and principles relating to annotating the register with regards scope of practice – this provision and the principles/rational behind it should be improved.

8. Do you agree or disagree that the draft order provides the GMC with the necessary and proportionate powers to reflect different categories of registration and any conditions that apply to the registration of people in those categories?

- Agree
- Disagree
- Neither agree nor disagree
- **I don't know**

Please explain your answer.

See response to previous questions.

9. Do you agree or disagree that the draft order provides the GMC with proportionate and necessary powers in relation to the removal of AA and PA entries from the register which will enable it to operate a safe and fair system of regulation that protects the public?

- Agree
- Disagree
- **Neither agree nor disagree**
- I don't know

Please explain your answer.

We have some concerns about the proportionality of 8(2)(b)(aa). This relates to not having health as a ground for action in Fitness to Practise. 8(2)(b)(aa), suggests that an individual who has health issues, and has previously engaged with the regulator or an FtP panel, suddenly disengages and stops getting the required medical test, could be administratively removed from the Register. We consider that this would not be proportionate or in the individual's best interests. Regulators have a duty of care to their registrants. Health should be a separate ground for FtP action and once this has been identified, a Registrant should only be removed after an appropriate process of support to restore health is undertaken, whilst protecting the public.

10. Do you have any additional comments on 'part 3: the register' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

No

11. Do you agree or disagree that the draft order provides the necessary powers to enable the GMC to implement an efficient and safe system of temporary registration for AAs and PAs during a period of emergency as declared by the Secretary of State?

- **Agree**
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

12. Do you agree or disagree that the powers in the draft order enable the GMC to implement a 3-stage fitness to practise process for AAs and PAs proportionately and sufficiently?

- Agree
- **Disagree**
- Neither agree nor disagree
- I don't know

Please explain your answer.

We have reservations about Part 4 in general. There is a need to provide a legislative basis for the early stages of the Fitness to Practise investigations. This should cover such areas as carrying out a jurisdictional test, power to carry out an investigation and apply some form of threshold before a case is referred to a CE.

This is necessary to clearly delineate the scope of CEs' activities and their ability to fairly and proportionately carry out their role. For example, at this stage it is unclear as to whether a CE will oversee the investigation, the framing of allegations and then proposing of an agreed final measure. CEs should be considered as an independent decision maker based on the investigations and framing of allegations carried out by others – this is not to suggest a CE cannot request further investigations or information prior to engaging with the issues. There is a danger that Regulators may also take markedly different approaches to early stages if it is not defined in legislation.

The basis upon which a CE is making decisions needs to be clarified in the draft Order. Current full FtP decisions are based on three stages. Agreed or established facts of the case. Agreed or established impairment of Fitness to Practise and Sanction. As the powers are set out in Article 9(2)(a) for CEs it remains unclear as to whether they will establish the facts of a case. This brings into question the basis upon which any appeal revision would take place. The legislation should clearly state that the registrant should agree to the facts of the case, that their FtP is impaired and the CE's findings in that respect, and the final measure.

13. Do you agree or disagree that the powers in the draft order enable case examiners to carry out their roles appropriately and that the powers help to ensure the safe and effective regulation of AAs and PAs?

- Agree
- **Disagree**
- Neither agree nor disagree
- I don't know

Please explain your answer.

Please see response to previous question, without an early stage being legislated for the remit and responsibilities of CEs remains unclear. We retain concerns related to the ability of a CE to impose a Final Measure when a registrant does not engage with the process. This is linked to the need to find facts in these cases. In the interests of transparency, proportionality and fairness, cases where a registrant is non-compliant, should be referred to an FtP panel for consideration.

14. Do you agree or disagree that the powers in the draft order enable panels to carry out their roles appropriately and that the powers help to ensure the safe and effective regulation of AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- **I don't know**

Please explain your answer.

As outlined on feedback concerning Part 1, We retain concerns that an FtP panel will not have the power to give a 'Warning' after a finding of impairment. We recognise that not all regulators currently have this power, but the PSNI does and consider it a beneficial power. Not having the power to give a 'Warning' with impairment may impact cases where a panel considers that a Registrant has shown appropriate insight and remediation in relation to their misconduct, but their misconduct was of a nature that a finding of impairment is necessary to ensure public confidence in the profession. If the only options available to a panel are suspension or striking off, (conditions are usually not workable in these types of cases) then the panel may be more minded to make a finding of no -impairment. We do not consider this to be in the wider public interest nor in the interests of regulated professions and we have seen no clear articulation/rationale as to why a Warning with impairment is not included.

Please also see response to questions relating to Part 5 on Revisions and Appeals.

15. Do you agree or disagree that the powers in the draft order on reviewing interim measures are proportionate and sufficient for the safe and effective regulation of AAs and PAs?

- **Agree**
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

16. Do you have any additional comments on 'part 4: fitness to practise' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

There is no mention of Public Protection within Part 4 of the proposed Order and this reflects the limited clarity within Part 4 and Part 5 as to what the objectives are in relation to Impairment, Interim Measures and Final Measures and reviewing/revising them. Parts 4 and Part 5 together are not clear enough in relation to the purpose, and related powers of CEs and Panels.

17. Do you agree or disagree that the powers in the draft order provide the GMC with proportionate and sufficient powers in relation to the revision of decisions concerning the regulation of AAs and PAs?

- Agree
- **Disagree**
- Neither agree nor disagree
- I don't know

Please explain your answer.

Part 5 is hard to follow and seems overly complex- FtP appeals and appeals/revisions against education accreditation and registration decisions should be separated.

There appears to be no automatic review power for when a CE or Panel imposes Conditions or Suspension. This is different to revising based on an error as outlined or a material change of

circumstances as outlined in 11(2), but is closely linked to the public protection role, to ensure that a registrant either remains impaired and requires further sanction or is now fit to practise.

The ground to revise and appeal decisions relating to case examiners makes no reference to a decision being inadequate to protect the public, the revision/appeal provisions being related to administrative error.

The process for appealing restoration decisions appears problematic and overly complex – what is the rationale for the inclusion of the County Court?

18. Do you have any additional comments on 'part 5: revision and appeals' in relation to the drafting approach as it would apply to all regulated healthcare professionals?

See response to previous question.

19. Do you agree or disagree that the offences set out in the draft order are sufficient to ensure public protection and to maintain public confidence in the integrity of the AA and PA professions?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

20. Do you have any additional comments on 'part 6: miscellaneous' in relation to the drafting approach as it would apply to any regulated healthcare professionals?

The style of drafting, i.e. having the rights to make representations in FtP proceedings outlined in a separate Part of the draft Order under Miscellaneous, does not lend itself to an intuitive understanding of the proposed law and rights associated with FtP procedures and powers.

21. Do you agree or disagree with the proposed powers and duties included in schedule 1 the regulator in relation to AAs and PAs?

- Agree
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

22. Do you have any additional comments on schedule 1, the regulator, in relation to the drafting approach as it would apply to all regulated healthcare professionals?

The Pharmaceutical Society NI is a devolved regulator, which is overseen by the Northern Ireland Assembly. The Privy Council plays no role in this regard. We also have a different relationship with the Department of Health in Northern Ireland, under the Pharmacy (Northern Ireland) Order 1976, by comparison to other Regulators' current relationship with DHSC. Careful consideration will have to be given as to how these reforms will work in the devolved setting within which we operate.

23. Do you have any comments on schedule 2, listed offences?

No

24. Do you agree or disagree that the powers in the draft order enabling the GMC to gather, hold, process, disclose and assure information in relation to the regulation of AAs and PAs are necessary and proportionate for meeting its overarching objective of protecting the public?

- **Agree**
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

25. Do you have any additional comments on schedule 3, evidence gathering, notifications, publication and data, in relation to the drafting approach as it would apply to any regulated healthcare professionals?

No

26. Do you agree or disagree that the draft order provides the GMC with sufficient and proportionate rule making powers to enable it to effectively maintain a register of AAs and PAs who are safe to practise?

- **Agree**
- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

27. Do you agree or disagree that the draft order provides the GMC with proportionate and sufficient rule making powers to address non-compliance of AAs and PAs?

- **Agree**

- Disagree
- Neither agree nor disagree
- I don't know

Please explain your answer.

28. Do you agree or disagree with the provisions set out in the draft order for the setting and charging of fees in relation to the regulation of AAs and PAs?

- Agree
- **Disagree**
- Neither agree nor disagree
- I don't know

Please explain your answer.

We are concerned that Paragraph 7(2) as written will limit the ability of regulators to hold appropriate reserves and therefore function appropriately. The provision does not reflect unpredictability of income and expenditure, such as the number and complexity of FtP cases and variation in the number of registrants.

29. Do you agree or disagree that the rule making powers set out in the draft order will enable the GMC to deliver the safe and effective regulation of AAs and PAs?

- Agree
- Disagree
- **Neither agree nor disagree**
- I don't know

Please explain your answer.

See response in relation to fee setting Rules.

30. Do you have any additional comments on schedule 4, rules in relation to the drafting approach, as it would apply to all regulated healthcare professionals?

No

31. In relation to schedule 5, consequential amendments, do you have any comments on how the draft order delivers the policy intention in relation to AAs and PAs?

No

32. Would you like to provide any further comments on the draft order?

Whilst we acknowledge that legislation is often complex, the draft Order is extremely hard to follow and lacks basic readability, which is important for the public and regulators alike, as they attempt to understand the intentions of Government and how the regulation of healthcare professions works and will work in the future.

The core purpose of regulation, public protection, is not adequately imbedded throughout the legislation, which leaves too many provisions open to interpretation as why certain powers have been provided.

The draft Order conflates too many important and foundational powers, such as registration and restoration, reviews, revisions and appeals.

The initial stage of Fitness to Practise needs to be set out in the Order and this has implications for the rule making powers.

There is no specific provision for Continuing Professional Development/revalidation which we consider needs a separate legal footing, over and above registration requirements.