

## General Dental Council consultation on changes to the GDC's Fitness to Practise Rules 2006

### Faculty of Dental Surgery response

#### 1. Do you think that the GDC should introduce the role of Case Examiners?

The Faculty strongly supports this proposal which should increase the efficiency of the process and bring the dental sector in line with the GMC. The suggestion of two examiners, with one being a lay individual is welcomed, however, we have concerns that if the availability of the examiners is restricted to officers of the Council, as suggested in paragraph 2, this could delay the process. Furthermore, if the registrant is a specialist, we recommend the dentist member should be a specialist from the same specialty. We also suggest greater clarity is required as to the selection process and what criteria are applied in the process. We support the need for a robust training programme with performance monitoring and review to ensure a consistent approach.

#### 2. Do you think that we should introduce a power for the GDC to agree undertakings with dental professionals as part of our fitness to practise process?

The Faculty would support this proposal. The use of case examiners should speed up the process and where appropriate obviate the need for more protracted and costly hearings which must be better for all concerned. Equally, we consider it important to recognise and state clearly those situations where it would not be appropriate for case examiners to agree undertakings in order to protect both the public and the registrant.

#### 3. Do you agree that the Case Examiners should, in certain circumstances, be able to invite a dental professional to comply with undertakings instead of referring the case to a Practice Committee for a hearing?

Yes, we agree for the reasons stated in 2 above.

#### 4. Do you have any comments about how rules 6A and 8A are drafted?

We feel the wording is appropriate and clear to understand.

#### 5. Do you have any comments on the circumstances where you think undertakings may or not be appropriate?

The Faculty believes it is important that the guidelines for the case examiners stating situations where it would not be appropriate to consider undertakings are made public. The consultation document suggests three general areas under each of the headings listed A and B. Under A, it would appear that the matter under consideration must conform to all three. We would suggest that undertakings would not be appropriate in relation to any one of the listed areas.

#### 6. Do you agree with the intended process for agreeing undertakings with a dental professional and what should happen if the dental professional does not agree?

Yes, the Faculty would agree with the intended process as listed.

**7. What are your views on the information that should be made publicly available about undertakings? For how long do you think that undertakings should be published?**

The Faculty believes that any restriction on patient treatment or activity should be noted and annotated to the dental professional's details on the Register held by the GDC. These details should remain for the duration of the undertakings and be removed when they are no longer in force.

**8. Do you have any comments on how rules 6A(3) and 8A(3), or 6A(4) and 8A(4) are drafted?**

It is the Faculty's view that the rules are clear as written.

**9. Do you agree with how we intend to deal with dental professionals who do not comply with undertakings?**

Overall, the Faculty would agree with the suggestions. However, in situations where the Registrar decides that the dental professional has failed to comply with undertakings, and there is a consideration that the failure amounts to a separate allegation of impaired fitness to practice, the compounded situation should not be referred to the case examiners but rather directly to a Practice Committee for further consideration. In our view this would lead to greater protection of the public and greater confidence in the profession and its regulator.

**10. Do you have any comments on how rules 6AB and 8AB are drafted?**

It is the Faculty's view that the rules are clear as written.

**11. Do you have any suggestions about how we might ensure the openness and transparency of the process for agreeing undertakings with dental professionals?**

No we do not have any suggestions about how to ensure the openness and transparency of the process for agreeing undertakings with dental professionals.

**12. Do you agree that if the Case Examiners are minded to issue a dental professional with a warning, that we should notify the dental professional of this and seek their representations before the warning is confirmed?**

The Faculty believes that this would be an appropriate course of action and would give the dental professional the opportunity to make representations and against any failure of the case examiners in respect of the conduct of the fitness to practise process. This would not affect the outcome of the case.

**13. Do you have any suggestions about how we might ensure that the issuing of warnings by the GDC is open and transparent?**

The Faculty believes that any warnings should be supported by specific details as to the exact conduct that formed the basis of the warnings.

**14. Do you have any suggestions about the approach we should take to the publication of warnings?**

It is not clear whether case examiner investigations will be recorded on the GDC website or whether the website will only record the proceedings of the Interim Order and Practice Committees. We would favour the online recording of case examiner proceedings where warnings are issued but not where cases are dismissed.

**15. Do you think that the Registrar should be able to refer a matter to the Interim Orders Committee at any point between referring the allegation to the Case Examiners, and it being considered by the Case Examiners?**

Yes we agree this will enhance patient protection and public confidence in the regulatory system.

**16. Do you think that the Case Examiners should be able to refer an allegation to the Interim Orders Committee at any point before it is considered by a Practice Committee?**

We agree that in order to protect the public, the option of referring the case to the IOC should be extended to include case examiners.

**17. Do you have any comments about how rules 3(2)(b), 5(5) and 7(1)(5) are drafted?**

It is the Faculty's view that the rules are clear as written

**18. Do you think that it should be possible to a review a decision by the Registrar that a complaint or information does not amount to an allegation of impaired fitness to practise?**

Whilst we agree that this would be particularly important in cases where new evidence comes to light, greater clarity is required as this could potentially undermine the whole regulatory process. We also feel that a two year period for review would be too long and instead favour one year.

**19. Do you think that it should be possible to review a decision by the Case Examiners / Investigating Committee that a case ought not to be considered by a Practice Committee, including a decision to close the case with a warning or to issue advice?**

Yes, for the same reasons as in 18 above.

**20. Do you think that the review process, as set out in the draft rules, is appropriate?**

Yes, the proposed review process seems appropriate.

**21. Do you have any comments on how rule 9 has been drafted?**

It is the Faculty's view that the rules are clear as written.

**22. Do you think that it should be possible to a review a decision by the Case Examiners and the Investigating Committee to issue a warning?**

Yes, whilst we support the ability of the registrant to ask for the warning to be reviewed, there is then the associated risk that this could lead to reviews in nearly all cases as the registrant has virtually nothing to lose. We suggest reviews should be limited as noted below.

**23. Do you think that the review process, as set out in the draft rules, is appropriate?**

We propose that the registrant should only have one opportunity to apply for a review in order to avoid repeated applications.

**24. Do you have any comments on how rules 10 and 10A have been drafted?**

No we do not have any comments on how rules 10 and 10A have been drafted.

**25. Do you think that the changes described about are likely to cause disadvantage to any dental professionals or members of the public as a result of one or any of the above characteristics?**

No we do not think the changes described are likely to cause disadvantage to any dental professionals or members of the public as a result of one or any of the above characteristics.