

Response to Department of Health and Social Care consultation on provisional registration for overseas-qualified dentists

May 2024

1. Introduction

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

2. General comments

- 2.1 We welcome the opportunity to provide comments on the Department of Health and Social Care's (DHSC's) consultation on provisional registration for overseas-qualified dentists.
- 2.2 There is a severe shortfall in the number of dentists practising (particularly NHS) dentistry in the UK, and we welcome efforts to increase supply of the dental workforce. In our 2022 report *Safer care for all*¹ we drew attention to the risk presented by staff shortages and advocated for regulatory approaches to be adapted to allow more people into the workforce without compromising patient safety. This represented a change in position for the PSA, from our previous view that professional regulation should not be drawn into addressing workforce issues, to a recognition that some of the shortages are so great that the lack of workers may pose a significant risk to patient safety.
- 2.3 While we support new and innovative approaches to increasing workforce supply in principle, as we outlined in *Safer care for all*, any changes in policy

¹ Professional Standards Authority, 2022, *Safer care for all*: [Safer care for all. Solutions from professional regulation and beyond \(professionalstandards.org.uk\)](http://www.professionalstandards.org.uk)

need to keep people safe and be *“implemented with extreme caution, and on the basis of robust risk-modelling.”*²

- 2.4 The proposal to introduce provisional registration for dentists has the potential to increase the dental workforce and improve access to dentistry. A system of provisional registration may also help to facilitate overseas-qualified dentists to adapt to UK practice. The proposals also carry risks which will need to be mitigated and carefully managed. While the public rightly expects access to dental care, they also expect dental professionals to have the knowledge, skills, competencies and conduct required to practise safely, and to have met standards set out by the regulator. It is important that these proposals do not result in unacceptable risks to patient safety.
- 2.5 The General Dental Council (GDC), as the body responsible for developing and implementing the scheme of provisional registration, will have to strike the balance between access and safe practice. There are risks and complexities associated with the scheme which will require detailed work to resolve. The requirements for joining the provisional register, and the subsequent supervision model, will be key to managing the inherent risk of the scheme. The GDC will require time to fully develop and test the new model, including through consultation with patients, the public, and dental professionals (including those who may be responsible for supervising provisional registrants). It is vital that the GDC thoroughly explores and analyses the options for developing the scheme in a way that prioritises safety and public protection.
- 2.6 More broadly, we recommend that it would be beneficial for the Government to develop a regulatory strategy to sit alongside national health and care workforce strategies. A regulatory strategy would provide a clear pathway for deciding which regulatory controls are appropriate for new or evolving roles.
- 2.7 Our responses to the specific questions outlined in the consultation are detailed below.

3. Responses to consultation questions

Q1. Do you agree or disagree that the draft order provides GDC with the necessary powers to provisionally register overseas-qualified dentists?

- ***Neither agree nor disagree***
- 3.1 We have not undertaken a detailed analysis or legal review of the draft order and are therefore unable to comment on whether it provides the GDC with the necessary powers.

² Professional Standards Authority, 2022, *Safer care for all: Safer care for all. Solutions from professional regulation and beyond* (professionalstandards.org.uk)

Q2. Do you agree or disagree that the draft order provides GDC with the necessary powers to design, implement and oversee a provisional registration system for overseas-qualified dentists?

- **Neither agree nor disagree**
- 3.2 We have not undertaken a detailed analysis or legal review of the draft order and are therefore unable to comment on whether it provides the GDC with the necessary powers.
- 3.3 We were pleased to see within the draft order at 3(7) the stipulation that guidance must cover the steps that a provisional registrant is expected to take to inform a patient of their registration status. We also welcome the requirement for the guidance to require provisional registrants to inform patients of the role of the person supervising them.

Q3. Do you agree or disagree that the draft order provides appropriate safeguards for patient safety?

- **Neither agree nor disagree**
- 3.4 We agree, insofar as the order appears to provide the GDC with the powers it needs to safeguard patient safety. As DHSC has outlined, the order sets out a high-level framework and the GDC will be responsible for setting out in rules the detail of how provisional registration will operate. Developing and implementing this system will be a significant and complex task for the GDC.
- 3.5 Whilst we support the use of high-level legislation which transfers powers to regulators to set and amend their own rules, such a system inevitably places a high level of responsibility onto the regulator. The GDC will be required to strike a balance between patient safety and the practicality and workability of the provisional registration system.
- 3.6 The proposal to introduce a system of provisional registration for overseas-qualified dentists has the potential to impact on patient safety, both positively and negatively. Negative impacts may occur if provisional registrants do not have the knowledge, skills and competencies to provide dental treatments to the required standard. Whether any such risks materialise will be determined by the rules put in place by the GDC and their subsequent implementation, rather than any specific provision in the draft order.
- 3.7 Setting the requirements necessary to join the provisional register is likely to involve a complex trade-off of risks and benefits. While the draft order sets out that entitlement to join a provisional register is dependent on holding an overseas diploma in dentistry, we know that this alone is not enough to guarantee that candidates have the necessary skills and competencies to practise dentistry in the UK. This is evidenced by the fact that the failure rate for the GDC's overseas registration exam is 28% for Part 1³ and 37% for Part 2⁴. Without an assessment of the learning outcomes of the overseas qualification

³ General Dental Council, Overseas Registration Examination Part 1 Results for August 2023: [part-1-results-august-2023.pdf \(gdc-uk.org\)](https://www.gdc-uk.org/part-1-results-august-2023.pdf)

⁴ General Dental Council, Part 2 ORE results November 2023: [part-2-ore-results-november-202348c08bd8-773b-4075-8376-bd719b9837cb.pdf \(gdc-uk.org\)](https://www.gdc-uk.org/part-2-ore-results-november-202348c08bd8-773b-4075-8376-bd719b9837cb.pdf)

undertaken, the regulator may have little idea of the skill level of the potential registrant. It would seem likely that some form of further assessment will need to be put in place, beyond the qualification, to allow an adequate level of assurance that the potential registrant is safe to practise.

- 3.8 The model of supervision is also likely to be a key challenge. If the supervision arrangements are too onerous they are unlikely to prove cost-effective or to result in much, if any, additional net capacity. Conversely, if they are not stringent enough they may result in harm to patients as a result of poor or inadequate dental treatment. Putting supervision arrangements in place is likely to prove even more complex where the supervisor is unclear about the level of competency of the provisional registrant. This may also deter potential supervisors from participating in the scheme.
- 3.9 Further issues the GDC will need to closely consider include: how they will be assured about provisional registrants' English language skills; how a registrant may progress from provisional to full registration; and how fitness to practise proceedings will operate for those on a provisional register. The GDC may further wish to consider how to mitigate any risk to patient safety that may arise due to the dynamic between the provisional registrant and their supervisor. This arrangement may carry risk because provisional registrants are likely to be reliant for their registration (and potentially their career prospects and/or their right to remain in the UK) on their supervisor. Such an arrangement may make it more challenging for them to raise concerns, and potentially also to admit mistakes where things have gone wrong.
- 3.10 We are confident that in developing rules for provisional registration the GDC will be mindful of its overarching objective to protect the public. It is important that the GDC is permitted the time it needs to thoroughly explore and analyse the options for developing a system of provisional registration and to fully consult on its proposals. There are a great number of risks and complexities associated with the scheme which will require detailed work to resolve. It is an important regulatory principle that regulators control entry to their register, and that their autonomy in such matters is protected.
- 3.11 If the public are to have confidence in provisionally registered dentists it is vital that they can be assured that such individuals meet the standards set by the regulator, and that those standards are sufficiently robust. In the case of provisionally registered dentists, patients will need to be clear about their status, including the supervision arrangements, and how they can contact the supervisor should any concerns arise.
- 3.12 Finally, we note that the consultation refers to the PSA's role in undertaking annual performance reviews of the GDC as part of the accountability mechanisms in place. We welcome this reference, however, as the DHSC is aware, it is not our role to intervene directly to help manage the additional risk to the public arising from these proposals, nor do we have any oversight of regulators' rulemaking procedures. Our performance reviews hold regulators to account for their performance and help them improve. Whilst we can and do escalate concerns to government and Parliament where necessary, we can take no enforcement action and nor can we direct the regulators in the approach they take to exercising their powers.

Q4. Do you think there are any other costs or benefits to business from the legislation as currently drafted?

- 3.13 In our 2022 publication *Safer care for all*⁵ we drew attention to the significant workforce shortages across health and social care in the UK. We acknowledged the contribution that international recruitment can make to addressing these shortages, at least in the short term (with growing our own workforce being the more sustainable long-term option). In light of the workforce shortages in dentistry, we agree with the DHSC's assessment that provisional registration has the potential to benefit the public by increasing workforce supply.
- 3.14 However, the nature of this new model of registration, which includes a requirement for all those provisionally registered to be supervised by a dentist holding full GDC registration, means that employing provisional registrants is likely to be resource intensive. Whilst the nature of the supervision arrangements is yet to be set out, it seems likely that supervision will require a time commitment from the supervising dentist. This may mean that supervising dentists have less time available for patient care and result in a net loss of dental activity carried out by fully qualified dentists.
- 3.15 In terms of NHS provision, revisions to the NHS dental contract may be required to take account of time devoted to supervision.
- 3.16 The proposals could also result in significant cost to the General Dental Council, which will be responsible for developing and implementing the new system of provisional registration. It seems likely that these costs will, at least initially, be borne by registered members of the dental team through their annual retention fees. It may be that in the longer term the GDC will aim to ensure that provisional registration is self-funding, although this may not be possible at the development stage.

Q5. Do you think the legislation as currently drafted could impact (positively or negatively) on any persons, including those with 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?

- 3.17 The provisional registration scheme is for people who hold overseas dental qualifications; therefore, it is particularly relevant to consider the protected characteristics of race (including colour, nationality, ethnic or national origin). Whilst we do not yet know the exact nature of the supervision arrangements, it seems likely that provisional registrants will be reliant for their registration (and potentially their career prospects and/or their right to remain in the UK) on their supervisor. This dynamic, coupled with the fact that provisional registrants may be new to the UK, presents risks which may require mitigation.

⁵ Professional Standards Authority, 2022, *Safer care for all*: [Safer care for all. Solutions from professional regulation and beyond \(professionalstandards.org.uk\)](https://www.professionalstandards.org.uk)

4. Further information

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

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