



Department of Health & Social Care

*From the Rt Hon Victoria Atkins MP
Secretary of State for Health and Social Care*

Steve Brine MP
Chair, Health and Social Care Select Committee
House of Commons
SW1A 0AA
By email only

8 May 2024

Dear Steve,

At the Health and Social Care Committee on 25th March, I said I would come back to you on the query you raised regarding the General Medical Council's (GMC) powers on the regulation of physician associates and the level of Parliamentary oversight.

As you know, Previous Orders mean that the GMC already has a reasonable degree of autonomy. For example, the GMC already has the power to set its registration fees and to change them without Parliamentary oversight. Similarly, the GMC is able to set out its rules and guidance for Fitness to Practise processes without agreement from Parliament. The duties of consultation on such changes and the understanding of the regulators of their accountability to Parliament means that to date the regulators have discharged their functions in a way that has not been a cause of concern in either House.

It is important that regulators are able to respond nimbly to emerging workforce trends and concerns. That is why the Anaesthesia Associates and Physician Associates Order 2024 (AAPAO) follows the principles recommended by the Law Commission in 2014. This was done because, for a majority of healthcare regulators, the requirement for Parliamentary approval of changes to rules means that they are less able to respond quickly to amend their processes to reflect emerging workforce trends or concerns.

The AAPAO increases the number of areas that the GMC has autonomy over in respect of its day-to-day functions. Whilst there are new powers and duties to make rules, some of these are necessary in light of the new way in which regulation will function e.g. a new three-part fitness to practise process that requires new rule making powers for processes that don't currently exist. In addition, we have increased the rule-making powers that the GMC will have, to include setting rules for registration processes, reflecting the expertise of the GMC in running these processes and allowing for proactive improvement of them where the GMC considers it necessary to do so.

We must however ensure we maintain and strengthen a system of checks and balances in place to ensure regulators continue to act in accordance with the needs of their registrants, patients and the wider healthcare sector.

That is why the Government has introduced a number of duties on the GMC (and, in future, for other regulators) to ensure that new powers are used reasonably and proportionately. This includes: (1) a duty to consult with relevant parties on changes to rules (including rules on fees); (2) a duty to co-operate with other parts of the healthcare sector as a means of preventing divergent practices that would negatively impact other stakeholders; and (3) a duty to produce annual reports (a report on the exercise of its functions, a statistical report and a strategic plan) to the Privy Council who will lay copies of the reports and plan before each House of Parliament, which will enable Peers and MPs to scrutinise the regulator's activity and raise any issues in the House.

We are also clear that the legislation does not give the GMC (or, in the future, any other regulators) *carte blanche* to introduce new regulatory functions where this would not be appropriate. For example, the GMC will not be able to create new registers for different physician associate status (e.g. a student register). Similarly, the GMC will not be able to increase the number of professions that it regulates or make decisions on wider questions about the professional regulation landscape, which rightly continue to be reserved to Parliament.

I want to assure you that the Health and Social Care Select Committee can continue to hold regulators to account and has held hearings with the professional regulatory bodies on a number of occasions to oversee their work. In addition, the Professional Standards Authority for Health and Social Care (PSA) oversees the 10 health and care professional regulators. The PSA is an independent organisation, accountable to the UK Parliament. The PSA carries out performance reviews on all of the regulators, which is a check on how well the regulators have been protecting the public and promoting confidence in health and care professionals and themselves.

For each review, the PSA will gather and analyse evidence for each regulator to see if they have met their Standards of Good Regulation. The Standards describe the outcomes it expects regulators to achieve for their four regulatory functions: guidance and standards, education and training, registration, and fitness to practise, as well as a set of general standards. The PSA publishes the reports that state how well the regulators are doing and helps the regulators improve, as the PSA identifies strengths and areas to improve and recommend changes.

In 2020 the PSA introduced an escalation policy that would allow it to escalate serious or intractable concerns to others, particularly Government and Parliament. This includes where a regulator has not met the same Standard for three years, or where it had concerns so significant that it considered they needed escalating even if they were new. There are several actions the PSA may take as part of the escalation process, including writing to the regulator's Chair, the Secretary of State for Health and Social Care, and/or the Chair of the Health and Social Care Committee. The PSA may also introduce closer monitoring of the issue with the regulator. A copy of the PSA's Escalation of performance review concerns can be found here: [Professional Standards Authority process for escalating performance review concerns](#)

Finally, a further safeguard is that the Privy Council has a power to direct the GMC where it has failed to carry out its statutory functions. These powers provide a mechanism *in extremis* to ensure public protection by directing the regulator, or someone on behalf of the regulator.

I hope this reply is helpful.

Yours ever,

A handwritten signature in blue ink, reading 'Victoria Atkins'.

RT HON VICTORIA ATKINS MP
SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE