June 2026

HCPC response to the Department of Health and Social Care consultation on reforming the General Medical Council legislative framework

About us

The Health and Care Professions Council (HCPC) is a statutory regulator of 15 health and care professions in the United Kingdom. Our role and remit are set out in the Health Professions Order 2001 (HPO 2001). We maintain a register of professionals, set standards for entry to our Register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our role is to protect the public.

Introduction

We welcome the opportunity to respond to the Department of Health and Social Care's (DHSC) consultation on Reforming the General Medical Council legislative framework, which represents an important milestone in the reform of professional healthcare regulation. Although the consultation focuses primarily on the General Medical Council (GMC), draft General Medical Council Order 2026 ('the draft order'), it will also provide an important template for the reform of other regulators' legislative frameworks. This is particularly significant given the DHSC's commitment to delivering legislative reform for the HCPC during this parliamentary period.

We have framed our response to the consultation questions around the principles of the legislation in the context of wider regulatory reform, rather than responding only to provisions specific to the GMC. HCPC's comments are intended to support the future development of a revised legislative framework for the HCPC.

As set out in the consultation document, regulatory reform is essential for delivering a more flexible approach to regulation in order to support regulators in taking timely action to protect the public. The draft order lays important groundwork for the broader reform of the legislative frameworks of healthcare professional regulators in the UK. In welcoming this milestone, we also welcome the DHSC's acknowledgement that there will need to be bespoke

measures to account for the nuances of the context and the professions each regulator regulates.

We are broadly supportive of the draft order and welcome many of the new structures, powers, and duties set out within it. We particularly welcome the benefits that the proposed changes will bring, including:

- simplifying our governance arrangements;
- adopting a more flexible and proportionate approach to the approval and quality assurance of education and training
- streamlining and strengthen the registration framework; and
- modernising fitness to practise processes.

We appreciate the time, effort and collaboration that has gone into the regulatory reform process to date, and we welcome the inclusion of a number of HCPC's suggestions in this draft order. While the draft order broadly reflects the outcomes of this collaborative work and we strongly support the overall direction of travel, our response identifies a number of areas where greater clarity is required or where we have concerns about the proposed policy approach.

We have remained neutral in some instances, either because the issues fall outside our remit or because, although we support the underlying policy intent, we do not consider that the draft provisions fully give effect to that intent. We have proposed amendments in other areas that we believe would better align the final order with the overarching objectives of regulatory reform.

Where we have disagreed with the overall question, our concerns are summarised below.

- **Commencement**: We do not support including a fixed 'coming into force' date in the final order. Although a fixed date could provide clarity, it would reduce flexibility and create operational risks for regulators. We request that the DHSC retain a more flexible commencement mechanism so regulators can implement reform safely and effectively.

- **PSA evidence gathering**: We support measures that strengthen the PSA's oversight role and recognise the existing duty of cooperation between regulators and the PSA. However, we are concerned that the draft order gives the PSA broad powers to compel information without sufficient safeguards or clear limits, including in relation to sensitive material such as private board papers or legally privileged information. We request that the drafting be amended so the PSA's

powers are clearly defined, proportionate, subject to appropriate safeguards, and aligned with comparable powers available to regulators.

- **Fitness to practise – grounds for action**: We support the overall intention of the grounds for action but are concerned that Article 49(1) treats conduct, competence and health as separate standalone grounds for impairment. As drafted, a registrant could be found impaired solely because they have a physical or mental health condition, even where this has no impact on their practice. In our view, a registrant's health should only give rise to regulatory action where it affects their ability to provide safe and effective care. We request that Article 49(1)(c) be amended so any action relating to health is clearly linked to the functional impact of a condition, either by tying it to the other grounds of impairment or by explicitly requiring that the condition affects the registrant's ability to provide safe and effective care.

We have set out our full response to the consultation below and have raised further points in the course of our response. Given that the draft order will be used as a template for other regulators, we have answered the questions as they would apply to the HCPC.

HCPC's response to the consultation questions

Part 1: Commencement

Question 1: Do you agree or disagree that a specific 'coming into force' date should be included in article 2(2)(b) of the final General Medical Council Order 2026?

We disagree.

We disagree that a specific 'coming into force' date should be included in the final order, and we understand that some other regulators, including the GMC, share these concerns. While we can appreciate the potential for a 'coming into force date' to provide clarity in the order, having a specific date set out on the face of the legislation presents a number of risks for the regulator. Commencement dates are not ordinarily set out in secondary legislation to provide flexibility in relation to implementation and to allow phased implementation and transitional provisions to be applied where appropriate. This is the case in the HCPC's own legislation, the Health Professions Order (HPO) 2001.

Having a fixed date set out in the legislation could present operational challenges for the regulator. The benefit of a fixed commencement date would be providing clarity, but we are of the view that this is far outweighed by the risks set out above. Therefore, we do not agree that a coming into force date should be set out in the legislation.

Question 2: If you have any further comments regarding the commencement of the General Medical Council Order 2026 and the transition to GMC's new legislation, please set them out here. Do not include any personal information in your response.

As stated above, we believe that it is important to provide clarity for registrants, potential registrants, service users/patients and stakeholders

However, we note there are practical benefits of retaining flexibility for transition from the current framework to the new legislative regime. A fixed date could introduce risks if key operational, procedural, or systems changes are not fully in place, potentially leading to disruption or unintended regulatory gaps.

Part 2: Governance

Question 3: Separate to annual report requirements relating to equality and diversity, the draft order contains the following for GMC relating to equality, diversity and inclusion:

- **a duty to ensure that, in the exercise of its functions, it applies good practice in relation to equality and diversity**
- **where it considers that an improvement may be required, a duty to take such steps as it considers appropriate to make that improvement**
- **a duty to have regard to any current or future principles set by PSA regarding equality, diversity and inclusion**

Do you agree or disagree with the inclusion of these requirements in the order?

We agree.

We are generally supportive of the inclusion of equality, diversity and inclusion (EDI) protections in legislation and welcome the duties requiring regulators to apply good practice in relation to equality and diversity. Regulators already have a strong and

constructive relationship with the PSA and are already subject to a statutory duty to co-operate with it, including by meeting its standards.

We would, however, welcome further clarity on the intention behind Article 15(3), in particular, the reference to 'principles' set by the PSA related to EDI. If 'principles' in this context are intended to refer to the PSA's standards, we do not agree with its inclusion on the face of the legislation. We consider that existing duties on regulators to meet those standards should already be sufficient to achieve the policy intent underpinning this provision.

We would be concerned if the provision were interpreted as creating a separate or additional legal obligation beyond existing duties to meet PSA standards. Such an interpretation could lead to overlapping requirements and unnecessary duplication, increase dependency on PSA standards, and constrain the ability of both regulators and the PSA to adapt their approaches over time. This, in turn, could inadvertently result in a less flexible and responsive framework, contrary to the intention of the regulatory reform programme.

In light of this, we suggest amending the proposal to make clear that regulators should have regard to 'current or future PSA guidance' rather than 'principles'.

Question 4: Do you agree or disagree that the provisions set out in parts 2 to 4 of the draft order enable GMC to carry out its governance and operating framework functions appropriately? (Optional)

We agree.

We generally agree with the framework set out here and are particularly supportive of the new unitary board structure which will strengthen strategic decision-making for the regulator.

However, we note that the proposal would require the regulator to publish a strategic plan within 6 months of the order coming into force (Article 18(4)(a)(i)). We suggest that existing corporate strategies in place at the point of commencement should be capable of remaining in force for an appropriate transitional period. This would help ensure continuity and allow the regulator sufficient time to align its strategic planning with the new governance arrangements.

We consider that a requirement to develop new strategic plans within 6 months of commencement would likely present practical challenges. In particular, the proposed timeframe may not allow sufficient opportunity to develop a robust and meaningful strategy that fully reflects the new governance structure and associated priorities.

Therefore, we would recommend that consideration be given to providing greater flexibility in the transitional arrangements, either by extending the timeframe or by expressly allowing existing strategic plans to remain in force for a defined period following commencement.

Question 5: Do you agree or disagree that the powers and duties in schedule 1 on constitution of the regulator are sufficient to enable GMC and MPTS to carry out their functions appropriately and proportionately?

We agree.

We consider that the powers set out in Schedule 1 appear sufficient to enable the GMC and MPTS to carry out their functions appropriately and proportionately. We also welcome the flexibility provided to the regulator to establish committees under the new governance structure.

However, we request further clarity in the drafting on the interaction between internal HR processes and the role of the Privy Council in relation to the appointment and removal of executive members to the Board as set out in Schedule 1 Article 5.

In particular, it is not clear whether an executive member's appointment to the Board is intended to be contingent on their continued employment by the regulator. To address this, we would suggest that the legislation or accompanying guidance explicitly clarify the respective roles of the regulator and the Privy Council, and how they are intended to operate together in practice. Without such clarification, there could be the unintended scenario in which an individual ceases to be employed by the regulator through internal HR processes but technically remains a member of the Board until removed by the Privy Council. We consider that this scenario could create potential uncertainty regarding the respective roles of the regulator and the Privy Council as well as unnecessary legal complications.

Greater clarity on this point would help ensure that the provisions operate as intended and support effective and proportionate governance arrangements.

Question 6: Do you agree or disagree that the powers and duties in the draft order in relation to the Privy Council are sufficient to support GMC to carry out its functions appropriately?

We agree.

We welcome the added flexibility that the draft order provides in relation to rule-making and amendments. We consider that the provisions in the draft order provide the Privy Council with sufficient oversight of the regulator's functions, while also enabling sufficient operational flexibility and avoiding overly burdensome bureaucratic processes.

Part 3: PSA evidence gathering

Question 7: Do you agree or disagree that the draft order provides PSA with sufficient and proportionate evidence-gathering powers?

We disagree.

The GMC and other healthcare regulators, including the HCPC, already have a duty to co-operate with the PSA, insofar as is appropriate and reasonable. We are of the view that the existing framework generally supports an effective and proportionate relationship between the PSA and regulators.

We are broadly supportive of the measures that strengthen PSA's ability to carry out its oversight role, including appropriate evidence-gathering powers, where these are clearly defined and proportionate.

However, we have some concerns about the impact of the PSA's broad powers in the draft order to compel any information from the regulator without clear limitations. We understand that the PSA may wish to request a wide range of material, including internal audit reports, case bundles, sensitive information, and private board papers. While we generally have no objections to sharing information with the PSA for the purpose of discharging its functions, the current drafting is so broad that it provides limited safeguards to ensure that only information that is absolutely necessary is subject to being compelled.

In the case of private board papers, for example, we are concerned that the proposed power could have a chilling effect on the regulator's ability to engage in candid, exploratory, and constructive discussions intended in private to support open and transparent decision-making generally undertaken in public meetings of the Council. Additionally, we have concerns that the broad powers set out in the draft order could create a disproportionate regulatory burden that regulators would be unable to anticipate or plan for, potentially having an impact on other operational decisions or capacity.

We further note that the proposed power appears broader and less qualified than the equivalent information gathering powers applicable to other regulators elsewhere in

the draft order. For example, the GMC's own draft powers to obtain information (see Article 61 and 63 of the draft order) includes safeguards relating to information which is privileged or might not be otherwise disclosable in legal proceedings.

We would welcome further consideration of the implications of PSA's broad power to compel information. It would be helpful to ensure that the scope of any compellable material is clearly defined so that it does not unintentionally affect a regulator's ability to have frank and constructive discussions in private, where appropriate.

Therefore, we request that the drafting be amended to ensure that the PSA's powers to compel information from the regulator are proportionate, appropriately balanced with safeguards applied, and reflect equivalent powers of the regulator to compel information from regulated professionals.

Part 4: Education and training

Question 8: Do you agree or disagree that GMC should be able to approve overseas undergraduate, foundation and postgraduate education and training programmes? This does not mean that people who take part in such overseas programmes would be given priority for places on the UK foundation programme or for speciality training in the UK, subject to a few limited exceptions in the Medical Training (Prioritisation) Act 2026.

We agree.

We agree with the proposal that the GMC maintain their power to approve overseas undergraduate, foundation and postgraduate education and training programmes under Article 26(3) and to charge fees under Article 19(4). This flexibility supports more effective regulation, enables better global collaboration and helps ensure consistent standards across medical education.

However, we have some reservations regarding the drafting of Article 26(5) and (6). Article 26(5) provides that the regulator may vary or revoke an approval or determination while Articles 26(6) sets out the procedural requirements, including notification and consideration of representations before such decisions are taken.

In particular, where a programme has previously been approved, learners may have a reasonable expectation that they can complete their training and progress to registration. We do not suggest overly prescriptive provisions, however, it would be helpful for the legislation to make provision to require regulators to explicitly consider the position of current learners when withdrawing approval, and to make proactive decisions about how withdrawal should apply to different learner groups. While there

will be circumstances, particularly relating to public safety, where continuation is not appropriate, we believe that this consideration should be built into the regulatory framework.

We would support the draft order setting out expectations regarding the treatment of students and graduates affected by withdrawal of approval to be established through rules.

We note that similar provisions are set out in our current regulatory framework under the Health and Care Professions Order 2001 in Articles 18(8) and (9).

Question 9: Do you agree or disagree that the powers and duties set out in the draft order enable GMC to carry out its education and training functions sufficiently and proportionately?

We agree.

We agree and welcome the intention behind Part 5 of the draft order to enable more flexibility in education and training. In our view, the powers and duties set out in Part 5 broadly enable the GMC to carry out its education and training functions sufficiently and proportionately. However, we recommend that certain provisions are clarified in the final draft to avoid potential ambiguity.

We suggest that 'person who provides education' in Article 25(2), for example, is clarified. In the context of Part 5 of the draft order, this refers to 'provider of education' as subsequently used in Article 26(2) and (7) and defined in 27(4). For consistency with the person(s) terminology used elsewhere in the draft order, it may be clearer to refer explicitly to 'provider of education' throughout Part 5 instead. This would reduce potential ambiguity, particularly as the term 'person' is used in a range of contexts throughout the draft order (see also Articles 24 and 26).

We also note that the draft order refers to individuals meeting the 'standards of education and training', which is used in this context to refer to 'standards required for registration' (see Article 36(1)(a)). While this terminology may be appropriate for the GMC, we have concerns that this could create confusion when it comes to implementing our own legislation since the HCPC's Standards for Education and Training relate to the approval of education programmes and are distinct from the standards applied to assess individuals.

We therefore suggest the language be changed to 'standards relevant to education and training' or similar wording throughout the order. This would provide greater clarity and avoid potential ambiguity across regulatory frameworks. We understand that the NMC has identified a similar issue and would also support a change in

terminology. If the current wording is retained to meet the specific needs of the GMC, we would propose that the suggested language above, or similar, is applied when updating the legislation governing the HCPC.

Finally, we would like to request clarity on why offences related to education and training (Article 29) are timebound to the period that the qualification is approved. The proposed wording would allow a person to claim they hold a qualification which includes one of the HCPC's protected titles and from a provider which was at one time approved by the HCPC, but which no longer is. We note that no such time reference is included in the HPO 2001(Article 39), and therefore, this would be a significant deviation from our current legislation.

Part 5: Postgraduate Medical Education and Training Order of Council 2010

Question 10: Do you agree or disagree that the PMET Order should be revoked and the categories of speciality in practice should be set out in a new order of council?

We neither agree nor disagree.

This particular issue sits outside of the remit of the HCPC, and therefore, we do not have a view.

Part 6: Registration

Question 11: Do you agree or disagree that doctors should be able to be registered with a complete restriction on registration?

We neither agree nor disagree.

We understand this is a bespoke measure for the GMC to replicate the 'license to practise' scheme. Therefore, it sits outside of the remit of the HCPC to comment on. We would expect this provision not to be included in the HCPC's new legislation when the time comes.

Question12: Do you agree or disagree that the draft order enables GMC to carry out its functions relating to registration sufficiently? (Optional)

We agree.

We generally welcome the provisions in the draft order allowing the GMC to carry out functions relating to registration.

With regard to the enhancements and restrictions section in Article 37 of the draft order, the HCPC has an annotations process that is quite distinct to the GMC's processes. Therefore, we would want to ensure this difference is reflected in our own legislation.

Part 7: Protection of title

Question13: Do you agree or disagree that the titles of 'apothecary', 'licentiate in medicine and surgery' and 'bachelor of medicine' should no longer be protected in legislation?

We neither agree nor disagree.

We are neutral on this point as this sits outside of the remit of the HCPC. However, we would caution that removing titles such as 'apothecary' and 'licentiate in medicine and surgery' from protection may create a gap in public protection if the titles begin to be used again in the future or in rare circumstances.

Question 14: Do you agree or disagree that 'registered medical practitioner' should become a protected title?

We neither agree nor disagree.

We are neutral on this point as this sits outside of the remit of the HCPC.

Question 15: Do you agree or disagree that the title of 'physician associate' should be changed to 'physician assistant' and protected in law? (Optional)

We neither agree nor disagree.

We are neutral on this point as this sits outside of the remit of the HCPC.

Question 16: Do you agree or disagree that the title of 'anaesthesia associate' should be changed to 'physician assistant in anaesthesia' and protected in law?

We neither agree nor disagree. We are neutral on this point as this sits outside of the remit of the HCPC.

Question 17: Do you agree or disagree that there should be a transition period in relation to moving from the associate titles to the assistant titles? (Optional)

We neither agree nor disagree.

We are neutral on this point as this sits outside of the remit of the HCPC.

Question 18: Should there be any protection of the 'physician associate' and 'anaesthesia associate' titles alongside the proposed new titles?

Don't know.

We are neutral on this point as this sits outside of the remit of the HCPC. However, we would caution that removing titles from protection may create a gap in public protection, particularly where titles are already used and accepted in the sector.

Part 8: Fitness to practise - mandatory removal from the register

Question 19: Do you agree or disagree with the listed offences set out in schedule 4 of the draft order?

We agree.

We support the inclusion of all of the offences listed. However, the current listed offences are quite narrow and do not reflect the most serious convictions that our fitness to practise teams encounter most commonly.

We are of the view that there are other criminal convictions that are also fundamentally incompatible with registration (e.g. offences related to terrorism, manslaughter, child neglect or abuse). We strongly suggest that the legislation also make reference to the list of specified offences which will always be disclosed on a Standard DBS certificate and to the relevant equivalent in Scotland (Disclosure Scotland) and Northern Ireland (AccessNI). This would help ensure consistency across the UK and provide greater assurance that the legislation captures offences of a seriousness that may call into question an individual's suitability for registration.

Furthermore, the HCPC recognises that Article 48 of the draft order is intended to support the proposed automatic removal process for serious offences. However, we believe the language could imply that a registrant 'is impaired if' they have been convicted of a listed offence. This could read as implying that impairment in relation to convictions arises only where the conviction falls within Part 1 or Part 2 of Schedule 4. We do not consider this to reflect the policy intention.

A registrant's fitness to practise may also be impaired as a result of other criminal convictions, where this is determined by a Case Examiner or a Fitness to Practise panel under the broader grounds set out elsewhere in the order (for example, misconduct).

To avoid any risk of misinterpretation, we suggest that the drafting of Article 48 is clarified to make explicit that:

- it establishes a category of automatic impairment for specified offences, rather than an exhaustive definition of conviction-related impairment; and

- other criminal convictions may still give rise to a finding of impairment through the standard fitness to practise processes.

This clarification would help ensure that the provision is interpreted consistently with the wider scheme of the order.

Question 20: Do you agree or disagree that former registrants who have been mandatorily removed from the register following conviction for a listed offence should not be able to apply for re-entry to the register, save for in the limited exceptional circumstances prescribed in the draft order?

We agree.

We agree with the proposal that former registrants who have been mandatorily removed from the register following conviction for a listed offence should not be able to apply for re-entry to the register unless their conviction is quashed.

Where the conviction is quashed, the individual should be able to make an application to be restored to the register following consideration and approval by an FTP panel, who will need to determine whether there are any other FTP concerns arising from the circumstances that gave rise to the original conviction that need to be explored.

We do, however, have concerns about the exceptional circumstance prescribed in the draft order where a conviction has been overturned and a non-custodial

sentence imposed for a custodial sentence. Given that a sentence is not an assessment of the severity of the offense, we do not think it is proportionate to allow exceptions to mandatory strike off. These offences indicate behaviour which is fundamentally incompatible with continued registration, and which are for example serious, persistent, deliberate or reckless. The nature and gravity of these offences are such that any lesser sanction (i.e. other than removal) would be insufficient to protect the public, public confidence in the profession and public confidence in the regulatory process.

In our view either an offense is so serious that it mandates automatic strike off, regardless of sentence, or a panel should have the discretion to determine if strike off is proportionate in that instance. Where a registrant believes they have been automatically removed by error or unlawfully, they should exercise their appeal right through the relevant court to raise the exceptional circumstances rather than these being set out in the order.

Therefore, we recommend the exceptional circumstance prescribed in the draft order where a conviction has been overturned and a non-custodial sentence imposed for a custodial sentence, is removed for reasons indicated above.

Part 9: Fitness to practise - grounds for action

Question 21: Do you agree or disagree with the grounds for action set out in the draft order?

We disagree.

While we generally support the intention of the grounds for action, we do not believe that the current drafting of three separate and standalone grounds for action in Article 49(1) is in line with the policy intention of the draft order. In our view, a panel should only find a registrant's fitness to practise impaired because of their conduct and/or if they are unable to provide care to a sufficient standard.

We believe a registrant's health should only raise a concern for regulators where the registrant's health condition makes them unable to provide care to a sufficient standard.

Under the proposed drafting, the grounds of impairment operate as standalone grounds. Therefore, even with a regulator's best intentions, it is possible that a registrant who lives with a health condition which adversely affects them may be found to be impaired. As grounds are separate, this could be the case under the proposed draft order, even where the adverse health effects do not have an impact

on the registrant's ability to provide care to a sufficient standard. We note that EDI has been a key priority within the regulatory reform process as reflected in the draft order (see Articles 13(2)(a), 15, and 16(2)(a)) which we strongly support. However, we are of the view that the grounds for action as drafted are a step backwards for equality and inclusion of registrants who are unwell and/or have disabilities.

We would therefore suggest that consideration be given to amending Article 49(1)(c) in one of two ways.

Option 1: Link the third ground of impairment in Article 49 (1) (c) to the first two grounds so that a registrant's fitness to practise is impaired where they are adversely affected by a physical or mental health condition to the extent that paragraph (a) or (b) applies. Article 49(1)(c) could therefore be amended to read: *'is adversely affected by a physical or mental health condition to the extent that paragraph (a) or (b) applies',* or similar wording.

Option 2: Retain Article 49(1)(c) as a standalone ground but amend it capture the policy intention. Article 49(1)(c) could therefore be amended to read: '*is adversely affected by a physical or mental health condition in a way that impacts the regulated professional's ability to provide care to a sufficient standard', or similar wording.*

We consider that either approach would ensure that regulatory action is clearly linked to the functional impact of a condition, rather than the mere existence of a physical or mental health condition.

Part 10: Fitness to practise - proceedings

Question 22: Do you agree or disagree that the fitness to practise powers and duties set out in the draft order for GMC and MTS are sufficient and proportionate for the safe and effective regulation of the professions GMC regulates?

We neither agree nor disagree with the overall question.

We agree that the fitness to practise model outlined in the draft order represents a positive step towards making proceedings swifter, fairer and less adversarial, and we consider that, in general, the proposed powers and duties for the GMC and the MTS are sufficient and proportionate for the safe and effective regulation of the professions.

In particular, we support the removal of the five-year rule. We agree that removing the time bar will help ensure a robust and ongoing ability to address concerns about fitness to practise, thereby strengthening public protection. This approach is

consistent with the recommendations of the Mann Review and aligns with our own legislative framework, which does not impose a time limit on bringing fitness to practise cases.

However, we do have some concerns. In particular, we have concerns regarding Article 53(2)(b), which requires that a condition on registration or suspension must be set for a period not exceeding 12 months. Drawing on our experience of cases considered by fitness to practise panels, we do not consider this provision to be workable in practice, particularly in cases involving longer-term impairment or complex remediation pathways. We also do not consider that it fully reflects the policy intent set out in the consultation.

While we recognise and support DHSC's aim of ensuring that registrants are not subject to conditions of practice for a disproportionate length of time, we do not believe that a strict 12-month maximum achieves this aim in practice. The HCPC's current legislation allows for conditions of practice of up to three years. Although many conditions are imposed for around 12 months, retaining the flexibility to extend beyond this period is important to ensure fairness and proportionality for registrants. Conditions exceeding 12 months are only used where there is clear evidence that a registrant requires additional time to remediate or address impairment, for example in cases involving health conditions or more complex remediation.

We believe that a rigid 12-month limit may, in some cases, be restrictive or even punitive. For instance, registrants managing ongoing health conditions or undertaking substantial remediation may require longer to demonstrate sustained improvement. In addition, the procedural requirements associated with conditions of practice, including compliance monitoring, review processes and hearing timetables, mean that a 12-month order may in reality allow only 10 to 11 months for meaningful compliance. This risks undermining the effectiveness and proportionality of the measure.

More importantly, we also note that registrants are able to apply for an early review of conditions at any time. We consider that this safeguard already addresses the concern that conditions might otherwise remain in place for longer than necessary.

For these reasons, we do not support this proposal in Article 53(2)(b). Instead, we would suggest amendment of the proposed 12-month maximum period to allow greater flexibility, supported by clear rules on when longer periods may be appropriate. In line with the HPO 2001 and the Medical Act 1983, a three-year maximum period for conditions of practice orders would be more proportionate and workable.

We also do not agree that regulators must publish case examiner or panel decisions of impairment where no further action is taken (Article 54(3)(a) and 54(4)). We do not understand the rationale or how this supports proportionality. In our view, mandatory publication in cases where a registrant has been found impaired but poses no ongoing risk to the public does not clearly advance public protection. On the contrary, it may be detrimental to registrants who have already been assessed by a case examiner or panel as not requiring any sanction. In such circumstances, publication risks creating unnecessary concern without a corresponding regulatory benefit. The FTP process can be distressing for many registrants, and we are of the view that this duty does not align with the policy intention of the regulatory reform process to reduce the adversarial nature of the FTP process.

We note that most fitness to practise hearings are held in public, but panels have the discretion to exclude the press or the public from all or part of a hearing as set out in our Conducting hearings in private practice notes. Therefore, information about these cases is already accessible and the process remains transparent. This further calls into question the added value of a mandatory publication requirement in all cases. We consider it important that regulators retain discretion in deciding whether to publish such outcomes, based on a clear assessment of whether publication is necessary and proportionate in the interests of public protection. A discretionary approach would better enable regulators to balance transparency with fairness to registrants.

Part 11: Interim registration measures

Question 23: Do you agree or disagree that a fitness to practise panel's power should be extended so that it can impose an interim registration measure during registration proceedings as well as fitness to practise proceedings?

We agree.

We agree that a fitness to practise panel's powers should be extended to enable the imposition of interim registration measures during registration proceedings, as well as during a fitness to practise process. This appears proportionate, particularly in circumstances where there are concerns such as potentially fraudulent register entries and where early risk mitigation may be necessary to protect the public.

We would also welcome further clarification on Article 57(6)(b)(ii), which requires notification of an interim registration measure (also see similar provision in Article 59(6)(b)(ii)) to *'any other person with whom the regulated professional has entered into an arrangement to provide services as a regulated professional.'* If this is

intended to extend to patients or service users, we have concerns about the proportionality and practicality of this requirement, particularly in cases where a professional may have a large and/or transient service user base. We suggest that consideration is given to refining this provision to ensure it is proportionate and operationally deliverable.

Part 12: Evidence gathering

Question 24: Do you agree or disagree that the draft order provides GMC with sufficient and proportionate evidence-gathering powers?

We agree.

We agree the powers set out here are sufficient and proportionate for the GMC. The proposal aligns with our existing evidence-gathering powers, and we generally welcome the cross-regulator alignment.

The current drafting of the GMC order sets the route for summoning witnesses or producing evidence through the High Court. However, we have concerns about this route if this were to be applied to the HCPC's legislation. Under the HPO 2001, the Health and Care Professions Tribunal Service (HCPTS) panels have the power to issue production orders for documents or witness summonses, and we find these powers sufficient and proportionate for our needs.

We appreciate that the GMC currently has this route for summoning witnesses or producing evidence being through the High Court, and we support them retaining it. If applied to our own legislation, we would find this route to be more adversarial and resource intensive than our current route which we would want to retain. We also believe it could be a disproportionate escalation, particularly for witnesses who are unlikely to have legal representation and may be vulnerable.

Part 13: Rule-making powers

Question 25: Do you agree or disagree that the rule-making powers in the draft order are sufficient and proportionate for the regulation of the professions GMC regulates?

We agree.

We generally welcome the rule-making powers set out here, and we look forward to ensuring that the rule making powers align with our current procedures during the HCPC's own regulatory reform process.

Part 14: Revision of decisions

Question 26: Do you agree or disagree that the draft order provides GMC with sufficient and proportionate powers and duties in relation to revision of decisions?

We agree.

We welcome what would be a new power to revise decisions. Alongside other measures, this would enable regulators to have streamlined and practical FTP processes.

Part 15: Appeals

Question 27: Do you agree or disagree that the powers in the draft order provide individuals with sufficient and proportionate appeal rights?

We agree.

While we generally agree with the appeal rights set out in the draft order, we have concerns regarding the appeal route in Article 73(3), which provides a right to appeal against non-fitness to practise registration re-entry decisions to the High Court. Under our current legislation, such appeals are made to the County Court, which we consider to be a proportionate route.

We would therefore recommend that this appeal route be reconsidered with a view to amending the appeal route so that it falls to the County Court, in the interests of proportionality and consistency with existing arrangements (see Medical Act 1983 Schedule 3A(3) and AAPAO 2024 Article 17(1)).

Question 28: Do you agree or disagree that GMC should have a right of appeal to these courts against specific interim registration measure and fitness to practise decisions made by a fitness to practise panel?

We neither agree nor disagree.

We note the recommendation of Lord Mann's review on antisemitism and other forms of racism in the NHS to consult on the GMC retaining the power to appeal certain decisions to the courts in the new legislation.

The HCPC does not currently have an equivalent power to appeal decisions of the HCPTS. In circumstances where we think a panel's decision is insufficient to protect the public, we are able to effectively collaborate with the PSA under their Section 29 powers to request that they appeal cases. We will work with the Department to consider further whether this power would be necessary for the HCPC when it comes to updating our own legislation in due course.

Question 29: Do you agree or disagree that PSA should be able to appeal specific fitness to practise decisions and interim registration measure decisions made by a fitness to practise panel to these courts?

We neither agree nor disagree.

While we generally support the PSA's power to appeal FTP decisions, we do have logistical concerns about appealing interim orders given the pace at which interim order decisions often move. We would welcome an impact assessment or equivalent on how the PSA would practically execute this power.

Moreover, we welcome clarity on the Department's intention of the proposed power of the PSA to appeal an interim order which has been imposed. Where interim orders have been imposed, risk to the public has been mitigated.

We think a more practical option for interim orders would be for the PSA to use their new power to request that the regulator revise an interim order decision if the PSA thought an interim order was necessary in a case where the regulator did not impose one.

Question 30: Do you agree or disagree that the draft order provides GMC with sufficient and proportionate powers and duties to administer its appeals function?

We neither agree nor disagree.

While we are neutral on whether the draft order provides the GMC with sufficient powers and duties to administer its appeals function, we have some concerns about the introduction of internal appeals panels, particularly if this function was applied to the HCPC in our upcoming legislation. We are of the view that introducing an

additional internal appeal stage would create a more complex, resource-intensive process for the regulators and would require a significant amount of resource to develop, implement and operate.

There is a strong likelihood that this change would increase the overall volume of appeals received by the regulators, as decisions would first be challenged internally before any court proceedings. Appealing to the regulator would likely be seen as a more approachable and accessible appeal route than the courts, which may result in a significant number of appeals to the regulator that are unsuccessful and continue no further. We would welcome an impact assessment on how this change might shift the fitness to practise and appeals process for healthcare regulators.

This could also create a 'two-step' appeals pathway (internal appeal followed by court appeal), prolonging resolution times and potentially increasing uncertainty for all parties involved. We are further concerned about consistency and fairness across the system. Introducing a two-tier appeal route for case decisions made by different decision makers could potentially undermine perceptions of parity and coherence in regulatory decision-making.

Furthermore, we do not believe that case examiner decisions (CE) should be appealable to an internal appeal panel. These decisions should be appealable to the High Court in the first instance as CE decisions have the same outcome and impact as panel decisions for registrants.

If an internal appeal model is introduced, we would recommend simplifying the overall appeals process to ensure it does not duplicate the existing routes of appeal.

Finally, in our view, there is an appeal gap for internal appeal panel decisions. We consider that, for appropriate and proportionate oversight, the PSA should have the power to appeal decisions made by internal appeal panels. This would help maintain consistency, safeguard public protection, and ensure appropriate independent oversight.