



Department
of Health

General Osteopathic Council (Constitution) (Amendment) Order 2015

Consultation Report

November 2015

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General Osteopathic Council (Constitution) (Amendment) Order 2015
Consultation Report

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Consultation Response

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Target Audience:

- GPs,
- Nurses,
- Clinicians,
- Managers,
- Pharmacists,
- Doctors,
- Chiropodists/ podiatrists,
- Occupational therapists,
- Orthotists,
- Physiotherapists,
- Regulatory body,
- Members of the public ,
- Patients,
- Patients

Interests:

- Physical health,
- Health improvement,
- Physical activity,
- Primary care,
- Accountability,
- Clinical Governance,
- Regulation

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Contents

<i>Consultation Report</i>	1
Contents	5
Introduction	6
Executive summary	7
Background.....	8
PSA Report Findings.....	9
Consultation process	10
Conclusion	14
Annex A	15

Introduction

Following recent reductions in the constitution of council memberships for the General Medical Council (GMC), General Dental Council (GDC), the Nursing and Midwifery Council (NMC), and the Health Care Professions Council (HCPC), the General Osteopathic Council (GOsC) currently has the largest council membership amongst UK professional regulatory bodies.

To bring the GOsC council membership into line with the reductions in those other councils and to take account of the recommendations in the Professional Standards Authority report, 'Board size and effectiveness: advice to the Department of Health regarding health professional regulators' (The PSA Report), on 31 July 2015 the Department of Health published a consultation paper 'General Osteopathic Council (Constitution) (Amendment) Order: *A paper for consultation*' (*The Consultation*) accompanied by a draft order setting out proposed amendments to the constitution of the GOsC.

The proposed amendment order provided for a reduction in the size of the GOsC's governing council's membership from 14 to between 8 and 12 members and a change to the council's quorum from eight to six.

The consultation paper was available on the Gov.uk website and Department of Health's Citizens Space website and comments were invited over an 8 week period between 31 July 2015 and 25 September 2015.

Executive summary

The Consultation ran for a period of 8 weeks and a total of ten responses were received. However only nine responses provided answers to the questions in the consultation document. The responses were from health and social care professionals, the education sector, and Osteopaths. In the main all agreed with the proposals put forward by the Department. A response was also received by the GOsC itself.

The Department is grateful to the individual professionals and the GOsC that took the time to respond. The Department has considered carefully the views they have each expressed alongside the advice given in the PSA Report, Board size and effectiveness: advice to the Department of Health regarding health professional regulators¹, this document is available from the PSA website at www.professionalstandards.org.uk/

Having conducted an analysis of the Consultation exercise, the Department continues in its belief that the role of a governing council is not to represent all relevant constituencies, registrants, stakeholders or interested parties, but rather to possess the knowledge, expertise, understanding and awareness to enable it to take into account all relevant interests.

This document sets out the responses the Department has received to its questions and explains the rationale behind the decision to continue with the proposed reduction in council size.

¹ Board and size and effectiveness: advice to the Department of Health regarding health professional regulators, Council for Healthcare Regulatory Excellence, 2011

Background

In February 2011, the Government published the Command Paper *Enabling Excellence: Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers*² (*The Command Paper*) which set out the Government's vision for the future of workforce regulation including increasing the independence and accountability of the regulatory bodies.

Following publication of the Command Paper, the Council for Healthcare Regulatory Excellence (CHRE), now known as the Professional Standards Authority for Health and Social Care (PSA) was commissioned to lead a sector wide review of the cost-efficiency and effectiveness of each regulator within its remit. An initial element of the commission was to establish whether there was a case for reducing the size of the regulators' governing councils.

The PSA responded by examining and reflecting upon a number of studies and proceeded to highlight what it considered to be the most important characteristics of an effective board. The PSA published its interim report, *Board size and effectiveness: advice to the Department of Health regarding health professional regulators*³, in September 2011. The full PSA Report was published in November 2012 and is available at: www.professionalstandards.org.uk.

² *Enabling Excellence: Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers*, Department of Health, 2011

³ *Board and size and effectiveness: advice to the Department of Health regarding health professional regulators*, Council for Healthcare Regulatory Excellence, 2011

PSA Report Findings

Size of the governing council

Based on a literature review and its own experiences in overseeing the regulators, the PSA found a number of benefits to having smaller membership to governing councils. These included the following:

- Larger boards struggle to involve themselves in operational management issues that should be delegated to the executive, therefore a smaller council membership helps it to focus its efforts on core governance issues;
- Governing councils cannot operate in a ‘board-like’ manner if they are too large; and
- Smaller sized groups are able to communicate more effectively and reach decisions more quickly than larger ones.

In developing those conclusions, the PSA took into account the average board size of organisations in other sectors including the private sector and found that in recent years there was a similar trend towards smaller boards.

Similarly, the Eversheds Board Report in 2011⁴ found that ‘better performing companies tended to have fewer directors’ and that ‘directors interviewed were largely unsurprised by this finding, noting the benefits of smaller boards as; greater focus on the key issues; better management from the Chair; quicker decision making; and better overall dynamics between board members’. The report can be found at: www.eversheds.com

The PSA Report therefore concluded and the Department supports this conclusion, that ‘a council of around 8 to 12 members is likely to be most conducive to effectiveness’.

⁴ The Eversheds Board Report: Measuring the impact of board composition on company performance, Eversheds Press Release, 8 July 2011

Consultation process

The consultation was made publically available for comment on Gov.UK and the Department of Health's Citizen Space website over an 8 week period between 31 July 2015 and 25 September 2015.

Ten responses in total were received, with only nine answering the questions to consultation. Of the nine, the majority of respondents answered all the questions asked with some also providing general comments.

Annex A to this document sets out the number of responses to each question in the consultation document.

A high level summary of the consultation responses received and the Department's position is set out below.

Responses were received from the education sector the health and social care sector and a professional body.

Q1 Do you agree that a smaller council will be able to provide the necessary expertise in organisational governance?

- All respondents agreed that smaller councils are able to provide the necessary expertise in organisational governance.
- Generally it was thought that smaller councils provide greater efficiency
- One respondent suggested that there is no specific benefit to large councils if the skillsets are well defined and managed, and consultation is part of the general information feed.
- One respondent also commented that the size of the council should not impact on the quality of governance provided by the council.
- One respondent suggested that, providing a robust competency recruitment process is implemented to identify suitable candidates who will as a group bring the necessary knowledge and experience to Council, organisational governance will not be an issue.
- The GOsC said its review of governance in 2012 supported the recommendations that Councils should become smaller and more 'board-like'. It also recognised that it is not necessary that all the required expertise sits within the Council but that the Council recognises where additional expertise is required to support its work.

DH View

The Department's view is that the role of the general council of a professional regulator is to have a strategic oversight of the work of the Council. The Department therefore shares the PSA's view that governing councils are not there to be representative of registrants, stakeholders or interested parties, but rather to demonstrate knowledge, understanding and awareness in order to properly take into account relevant interests.

Q2 Do you agree that the size of the governing council of the GOsC should be between 8 and 12 members?

- All respondents to the consultation agreed that the size of the governing council of the GOsC should be between 8 and 12 members
- Respondents generally felt that reducing the size of the council will enable it to become more efficient and effective
- The GOsC agreed that the governing council of the GOsC should be between 8-12. It recognises that many other regulators have settled on a council size of 12 members but the GOsC believes that for a small organisation 10 is appropriate.

DH View

The responses to the consultation support the evidence in the PSA Report that smaller councils (between 8 and 12 members) are more effective in terms of strategic oversight and holding the executive to account.

Q3 Do you agree with the proposal to reduce the GOsC's governing council to 10? If not, what size do you believe the governing council of the GOsC should be, and why?

- Seven respondents agreed with the proposal to reduce the GOsC's governing council to 10, while one respondent disagreed and two respondents did not answer.
- The respondent who disagreed felt that reducing the GOsC's council to 10 is a move in the right direction but ultimately its council should be reduced to 8.
- The GOsC's response says it was agreed at its internal governance review to reduce its governing council to 10 members.

DH View

The responses to this consultation exercise support the conclusion of the PSA Report and the GOsC's Council view that reducing the size of council is the right approach.

Q4 Do you agree that the quorum of a council should be 50% of the total board membership plus one?

- Five respondents agreed that the quorum of the council should be 50% of the total plus one, while one respondent disagreed, suggesting the quorum should be 60% with at least 20% being professional members. Two were unsure and one did not answer.
- The GOsC agreed the quorum should be 50% of the total plus one.

DH View

As the suggested size of the GOsC's council is ten, it is considered that the appropriate quorum should be six. There was not sufficient evidence in the consultation responses to suggest a different approach.

Q5 Do you agree with the proposal for the transitional provisions in relation to the Chair of Council?

- Six respondents agreed with the proposal for the transitional provisions for the Chair of the council to continue in post. Two respondents were not sure and one did not answer.
- It was generally felt that there needed to be a degree of continuity within the council and retaining the chair would bring this.
- The GOsC said the Chair will play an important role in appointing the new Council and her input to this, as well as a degree of continuity will be helpful for smooth running of Council.

DH View

As the majority of the respondents recognised that continuity at a strategic level needs to be maintained, with those that were unsure offering no alternative option, retaining the current Chair will provide for this.

Q6 Do you think there are any additional equalities issues that need to be considered? - Please indicate as appropriate.

- Five respondents did not feel there were any additional equalities issues. One respondent was unsure and one respondent did not answer. Two respondents felt there were additional equality issues.
- One respondent felt the male/female ratio of the board needed to be considered. As this is a matter for the GOsC to consider in the implementation phase, this comment has been shared with its Council.
- One respondent felt that a competency based framework would be a barrier to those that were not used to such a process.

- The GOsC said the reconstitution of the Council gives a fresh opportunity to consider diversity of appointments.

DH View

The comments made relate to the delivery of the policy rather than the policy itself, therefore it is a matter for the GOsC who carry out the appointments process. The GOsC has identified in its own equality and diversity policy the particular need to consider the protected characteristics of disability, sex, race and age in its appointments. The PSA have also issued guidance on good practice to ensure compliance with equalities law.

Q7 Do you have views or evidence as to the likely effect on costs or the administrative burden of the proposed changes?

- Four respondents said no, one respondent was unsure, three respondents said yes and one other respondent did not answer this question.
- Two respondents felt the changes to a smaller council would lead to small savings. Whereas one respondent felt the changes to a smaller council would not make any significant savings.
- The GOsC say this change is likely to result in a small saving to the GOsC which militates against future increases in registration fees.

DH View

In addition to the benefits of smaller councils being more strategically focus there is evidence to show that a smaller council may also provide minor cost savings for the organisation.

Q8 Do you think there are any benefits that are not already discussed relating to the proposed changes?

- Two respondents said yes, three respondents said no, three respondents were not sure and one respondent didn't answer.
- One respondent said, A smaller Council should deliver an even more effective and efficient discharge of Council duties.
- The GOsC said, it sees itself as a forward-thinking and innovative regulator. This proposal will put the GOsC in the lead among its peers in terms of establishing the norm of smaller councils.

Q9 Do you have any comments on the draft order itself?

- No respondents had any comments about the draft order itself.

Conclusion

The Department of Health is grateful to those individuals and to the GOsC for taking the time to respond to the consultation.

The PSA Report highlighted a need for a further shift in thinking around the concept of the 'representativeness' of governing councils. The PSA highlighted in its report that the main functions of a governing council should be strategic leadership and decision making, holding the executive to account, external relations and board maintenance.

The Department agrees with that view and that the role of a governing council is not to represent all relevant constituencies, registrants, stakeholders or interested parties, but to ensure that it possess the knowledge, expertise, understanding and awareness to enable it to take into account all relevant interests.

The Department has taken into account the views provided by respondents to the consultation and the fact that the majority of respondents agreed with the proposals. There is also overriding evidence that a smaller council size enables the council to focus on its core functions of strategic oversight, leadership and holding the executive to account. Having considered the evidence provided in the PSA Report alongside the consultation responses we received, the Department considers that reducing the council size of the GOsC to 10 members, with a quorum of six will help to improve the effectiveness and efficiency of the GOsC. The Department also considers it to be the right approach to allow the incumbent chair to remain in office to provide continuity.

The GOsC has agreed that 10 council members would be sufficient to enable it to continue to satisfy the statutory requirements of its Constitution which govern the operation of the council and enable it to recruit an effective council with the breadth of skills and knowledge required.

Reducing the size of the GOsC's council is in line with the recommendations of the PSA's report into board size and effectiveness and will also align the GOsC's council membership with its other health and social care regulatory bodies the GMC, the GDC the NMC and the HCPC who have all reduced the size of their council membership.

Annex A

Set out below are the questions that were asked in the consultation together with a summary of responses.

Q1 Do you agree that a smaller council will be able to provide the necessary expertise in organisational governance?

Option	Total	Per cent of all
Agree	9	90%
Disagree	0	0%
Unsure	0	0%
Not Answered	1	10%

Q2 Do you agree that the size of the governing council of the GOsC should be between 8 and 12 members?

Option	Total	Per cent of all
Agree	8	80%
Disagree	0	0%
Unsure	0	0%
Not Answered	2	20%

Q3 Do you agree with the proposal to reduce the GOsC's governing council to 10? If not, what size do you believe the governing council of the GOsC should be, and why?

Option	Total	Per cent of all
Agree	7	70%
Disagree	1	10%
Unsure	0	0%
Not Answered	2	20%

Q4 Do you agree that the quorum of the council should be 50% of the total board membership plus one?

Option	Total	Per cent of all
Agree	5	50%
Disagree	1	10%
Unsure	2	20%
Not Answered	2	20%

Q5 Do you agree with the proposal for the transitional provisions in relation to the Chair of the Council?

Option	Total	Per cent of all
Agree	6	60%
Disagree	0	0%
Unsure	2	20%
Not Answered	2	20%

Q6 Do you think there are any additional equalities issues that need to be considered?

There were 8 responses to this part of the consultation.

Q7 Do you have views or evidence as to the likely effect on costs or the administrative burden of the proposed changes?

There were 8 responses to this part of the question

Q8 Do you think there are any benefits that are not already discussed relating to the proposed changes?

There were 8 responses to this part of the question

Q9 Do you have any comments on the draft order itself?

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There were 8 responses to this part of the question.