



Department
of Health

Equality Analysis

The General Dental Council (Fitness to Practise etc.) Order 2015

November 2015

The General Dental Council (Fitness to Practise etc.) Order 2015
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Equality Analysis

The General Dental Council (Fitness to Practise etc.) Order 2015

Professional Standards

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Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help Department of Health staff members to comply with the general duty.

Equality Analysis

Title: The General Dental Council (Fitness to Practise etc.) Order 2015

What are the intended outcomes of this work? *Include outline of objectives and function aims*

Purpose of the Order

This Order, made under section 60 of the Health Act 1999 ("section 60 Order") will make a small number of amendments to the Dentists Act 1984, which is the legislation that established the GDC and sets out its powers and responsibilities. The changes to the Act are designed to improve the efficiency and effectiveness of the GDC's fitness to practise processes. The amendments to the legislation should reduce the length of time it takes to deal with the fitness to practise cases, whilst improving the consistency of decision making. It will also promote increased patient protection and public confidence in dental regulation, through the removal of potential gaps in the Interim Orders Committee referral process.

Scope

The scope of the order is to:

- a. enable the GDC to delegate the decision-making functions currently exercised by its Investigating Committee to officers of the GDC, known as Case Examiners;
- b. enable both case examiners and the Investigating Committee, in certain cases, to address concerns about a registrant's practice by agreeing appropriate undertakings with that registrant instead of referring them to a Practice Committee;
- c. introduce a power to review cases closed following an investigation (rules to be made under this power will provide that a review can be undertaken by the registrar if he considers that the decision is materially flawed or new information has come to light which may have altered that decision and a review is in the public interest);
- d. introduce a power to enable a review of the registrar's decision that a complaint or information received did not amount to an allegation of impairment of fitness to practise;
- e. introduce a power to enable the Investigating Committee and the Case Examiners to review their determination to issue a warning; and
- f. ensure registrants can be referred to an Interim Orders Committee at any time during the fitness to practise process.

The amendments to the Dentists Act effected by this section 60 Order will apply to England, Wales, Scotland and Northern Ireland.

The consultation paper raised 7 proposals and a detailed analysis of the impacts has been undertaken and is attached at annex A. The 7 proposals are detailed below:

1. The GDC should be provided with the power to introduce case examiners, who have the ability to exercise the functions of the Investigating Committee;
2. The Investigating Committee should have the power to agree undertakings with a registrant;
3. The GDC should be provided with a power to review decisions of the registrar not to refer to the Investigating Committee or case examiners and of the Investigating Committee not to refer to a Practice Committee;
4. Upon the imposition of a warning, there should be the ability to review the decision taken;
5. A limit be placed on the number of applications a person can make within the period to have the determination to issue a warning reviewed (this has not been proceeded with);
6. Permitting the Registrar to refer an allegation to the IOC at any time provided that, in cases which are referred to the Investigating Committee, the Investigating Committee has not yet commenced its consideration of the allegation; and
7. The Investigating Committee should be able to refer an allegation to the Interim Orders Committee at any time, provided that, in cases which are referred by the Investigating Committee to a Practice Committee, that Practice Committee has not yet begun its consideration of the case.

The proposals will have a number of positive impacts on groups of persons who share protected characteristics and affect one or more of the aims set out in the public sector equality duty. These for example, include:

- a. Introducing case examiners to make decisions at the end of the investigation stage will ensure timelier decision-making. This will provide reassurance to persons from all groups with (or without) a protected characteristic (both regulated professionals who may become subject to the fitness to practise procedures and members of the public who may be complainants) that the system for regulating dentists and Dental care Practitioners (“DCPs”) DCPs is able to act in the interests of public protection or to conclude cases where no action is required more swiftly and will therefore have a positive impact on all groups affected.
- b. Introducing the ability to agree undertakings provides for a more proportionate mechanism to protect the public, primarily in cases where the impairment of fitness to practise is due to a registrant’s physical or mental health or deficient professional performance. Where the GDC believe that issues around a dentist’s or DCP’s fitness to practise can be managed appropriately, without compromising public safety, without a full practice committee hearing. This will provide reassurance to persons from all groups with a protected characteristic (both regulated professionals who may become subject to the fitness to practise procedures and members of the public who may be complainants) that the system for regulating dentists and DCPs is acting in the interests of public protection more swiftly and proportionately. Evidence suggests that hearings are stressful for all parties involved and enabling a consensual resolution, without

compromising public safety, reduces this.

- c. The introduction of a power to allow the GDC to review cases closed at the investigation stage of fitness to practise proceedings, will strengthen confidence in the system of dental regulation by providing that investigations can be re-opened in circumstances to be specified in rules (where the determination is materially flawed or where there is new information which may result in a different determination and where a review is necessary for the protection of the public, to prevent injustice to a respondent or is otherwise in the public interest) where the circumstances would require it to ensure public protection such as where there is a change in material facts or a mistake. The introduction of this proposal will help to ensure confidence in the system as where a dentist or DCP is not observing acceptable standards in relation to equality and diversity there will be an option available so that a case can be reopened and the individual subject to effective regulatory action. There will be protections for the dentists and DCPs in that the ability to review a closed case will be time-limited i.e. except in exceptional circumstances, a review cannot be commenced more than 2 years after the decision in question was taken.
- d. This proposal (request for a review of the decision taken to impose a warning) will provide for greater confidence in the fairness of the fitness to practise procedures, by ensuring that there is a route to remedy for a dentist or DCP who has been issued with warning inappropriately to be able to have that decision reconsidered in a proportionate way.
- e. Enabling the GDC to refer a dentist or DCP to the Interim Orders Committee at any point during the investigation stages of the fitness to practise process to consider whether an interim order is necessary for the protection of the public while the allegation is investigated will provide reassurance to persons from all groups with a protected characteristic (primarily members of the public who may be complainants) that the system for regulating dentists and DCPs is able to act in the interests of public protection.

Who will be affected? *e.g. staff, patients, service users etc*

- The General Dental Council (GDC)
- Practitioners who are the subject to Fitness to Practice proceedings
- Practising regulated health care professionals
- The Professional Standards Authority for Health and Social Care
- Patients and other members of the public

Evidence

The Government's commitment to transparency requires public bodies to be open about the information on which they base their decisions and the results. You must understand your responsibilities under the transparency agenda before completing this section of the assessment. For more information, see the current [DH Transparency Plan](#).

What evidence have you considered? *List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.*

We have considered the following evidence:

- ONS, 2011, *Disability in England and Wales, 2011 and Comparison with 2001*
- GDC equality impact assessment following 2011 consultation *Modernisation of the GDC's fitness to practise procedures*
- Ipsos MORI, 2012, *Modernisation of the GDC fitness to practise procedures: report for the General Dental Council*
- Research works, 2013, *Public response to alternatives to final panel hearings in fitness to practise complaints*
- *The General Dental Council, Annual Report and Accounts 2013*
- *General Dental Council Equality and Diversity Strategy*
- *General Dental Council Equality Action Plan 2011-2014*
- *GDC: Looking Ahead – changes to dental provision in the UK and the implications for the General Dental Council*
- Responses to the 2014 consultation on *The General Dental Council – proposed amendments to enhance the effectiveness and efficiency of its fitness to practise processes*

Disability *Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.*

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

There are also a number of specific positive impacts that will affect this group for example in so far as dentists and DCPs may have a fitness to practise concern raised about a health issue which may arise from their disability. We have identified specific impacts in relation to this group in relation to proposals 1, 2, 6 and 7; the detail of our analysis of these impacts can be found at annex A.

There are also a number of specific beneficial impacts that will affect this group for example in so far as persons with a disability, which may be a learning disability, may have more difficulty in accessing dental regulation. We have identified specific impacts in relation to this group in relation to proposals 1 and 3, the detail of our analysis of these impacts can be found at annex A.

For further details of any other impacts related to this group please see the table at annex A.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database on the disability protected characteristic, who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC.

Sex Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).

The evidence suggests that more women will enter the workforce as dentists over the coming years, although the proportion at present is weighted towards more male dentists (79% - GDC's Annual Reports and Accounts 2013). Currently most DCP's are female – 76% (GDC's Annual Reports and Accounts 2013), with overall most of those regulated by the GDC (dentists and DCPs totalled) being female – 73%.

Whilst all registrants will be affected we have been unable to identify whether more females or males will be affected by the proposals. Although given that 73% of the GDC's registrant population is female we have made the assumption that this part of the workforce will be more affected by the proposals.

Within the evidence and research available the Department has been unable to identify any specific impacts on this group, however, those proposals identified in annex A as having an equality impact for all protected characteristics will impact on this group.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database on the gender protected characteristic, who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC.

Race Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.

The evidence suggests that the UK is a net importer of dentists, with 28% (GDC's Annual Report and Accounts) of this part of the workforce being from another country within the EEA or from overseas. Whilst all registrants will be affected, the Department has made the assumption that it will mainly be UK qualified registrants who will be more affected by the proposals. We have also been unable to locate specific statistical information on the race of those who have been investigated through the fitness to practise procedures. Either through public consultation or through discussion with the GDC. Nor does the Department have access to details in respect of the origin of those who have submitted a complaint to the GDC.

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

There are also a number of specific impacts that will affect this group for example in so far as dentists and DCPs may have a fitness to practise concern raised about a communication issue which may arise from English not being that individual's first language. We have identified specific impacts in relation to this group in relation to proposals 1, 2, 4, 6 and 7; the detail of our analysis of these impacts can be found at annex A.

There are also a number of specific impacts that will affect individuals who may or may not be registrants that fall within this protected characteristic. For example in so far as persons whose first language is not English may have more difficulty in accessing or understanding the system

of dental regulation in the UK, or misunderstand the purposes of the new measures. We have identified specific impacts in relation to this group in relation to proposals 2, 3 and 4, the detail of our analysis of these impacts can be found at annex A.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database on the race protected characteristic, who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC.

Age *Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.*

The evidence considered (Looking Ahead – changes to dental provision in the UK and the implications for the General Dental Council) suggests that older adults are likely to need different or more dental treatment than younger people. Therefore those who might raise a complaint of impairment of fitness to practise with the GDC will directly benefit from these proposals through more efficient processes and the reduction in stress brought about through a reduction in hearings.

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

There is also a specific positive impact in connection with the proposal enabling a review of a decision to issue a warning that will affect this group for example, in so far as a dentist beginning their career (usually younger professionals) will be unlikely, in the absence of such a review power, to be able to afford to bring judicial review proceedings to challenge a decision to issue a warning. We have identified specific positive impacts in relation to this group in relation to proposal 4; the detail of our analysis of these impacts can be found at annex A.

There is also a specific impact that will affect this group for example in so far as a those vulnerable individuals at the younger and older spectrum of this group may find it difficult to access regulation. Proposals 6 and 7 will ensure this group is better protected.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database on the age protected characteristic, who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC.

Gender reassignment (including transgender) *Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.*

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database.

Sexual orientation *Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.*

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database on the sexual orientation protected characteristic, who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC.

Religion or belief *Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.*

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database on the religion or belief protected characteristic, who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC.

Pregnancy and maternity *Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.*

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

Due to the changing dental health through the stages of pregnancy and maternity this group may be more likely to seek the help of a dental professional and therefore there is an increased likelihood this group could be exposed to poor practise. We have therefore identified a specific positive impact on this group at proposal 1. A reduced need to provide evidence at a hearing will also positively benefit this group and a specific positive impact on this group has been identified at proposal 2.

The Department has been unable to locate any specific statistical information on the number of

the GDC's registrants that appear within the pregnancy and maternity characteristic who have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC, either through public consultation or through discussion with the GDC. However, action is planned in this regard, see "Action Planning for Improvement" at pages 14 and 15 of this document.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database.

Carers *Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.*

The specific impacts relevant to this group can be found at annex A. In addition there are proposals identified in annex A that will have an equality impact for all protected characteristics and therefore these will also impact on this group.

There is also a specific positive impact that will affect this group for example in so far as a reduction in the need to provide evidence at a hearing will positively benefit this group and is detailed at proposal 2.

The Department has been unable to locate any specific statistical information on the number of the GDC's registrants who are carers and have been investigated through the fitness to practise procedures. Or those who appear within this group and have submitted a complaint to the GDC, either through public consultation or through discussion with the GDC. However, action is planned in this regard, see "Action Planning for Improvement" at pages 14 and 15 of this document.

In addition as part of its analysis following the closure of its consultation on the associated fitness to practise rules the GDC will undertake a separate equality analysis. This will take in to consideration trends and equality data available to the GDC from its internal database.

Other identified groups *Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.*

No other groups have been identified, through public consultation or within the research available.

Engagement and involvement

Was this work subject to the requirements of the cross-government [Code of Practice on Consultation](#)? Yes

How have you engaged stakeholders in gathering evidence or testing the evidence available?

Through public consultation.

The Department consulted on a UK-wide basis, on behalf of the four UK Health Departments for an eight week period on the draft section 60 order to make the necessary amendments to introduce case examiners to make decisions at the end of the GDC's investigation stage and other changes. The consultation invited respondents to provide information and views in order to test them.

As the proposals will affect professions for whom responsibility is devolved in Scotland, the consultation was undertaken jointly with Scottish Ministers.

The consultation included a specific question to help inform the government's assessment in relation to its public sector equality duty.

How have you engaged stakeholders in testing the policy or programme proposals?

The General Dental Council – proposed amendments to enhance the effectiveness and efficiency of its fitness to practise processes consultation ran for 8 weeks from 26 September 2014 – 21 November 2014.

The General Dental Council – proposed amendments to enhance the effectiveness and efficiency of its fitness to practise processes – a paper for consultation; asked the following questions as part of the consultation exercise in order to establish whether there were any concerns surrounding Equality;

Q 9: Do you think that any of the proposals would help achieve any of the following aims:

- 1. eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010?*
- 2. advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?*
- 3. fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?*

If yes, could the proposals be changed so that they are more effective in doing so?

If not, please explain what effect you think the proposals will have and whether you think the proposals should be changed so that they would help achieve those aims?

Link to the consultation below:

<https://www.gov.uk/government/consultations/measures-to-improve-the-gdcs-processes-on-fitness-to-practice>

Department of Health officials also had regular communication and engagement with the GDC and Devolved Administrations, to discuss, and test the policy amendments proposed in the section 60 order including issues around equality.

Department of Health officials updated the other regulatory bodies for health and care professionals, on the proposals at regular regulatory body group meetings.

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:

The Department's UK wide, eight week consultation received 43 replies who identified themselves as:

Category	Number of respondents	Percentage
Dentists / health professionals	21	49%
Member of the Public	2	5%
Legal profession / defence organisation	4	9%
Dentist organisation	5	12%
Royal college	4	9%
Regulatory body	4	9%
Education establishment	3	7%
Total	43	100%

NOTE: Where percentages of respondents have been given, these figures have been rounded in order to total 100%.

To ensure we received the views of key stakeholders, on the amendments proposed in the section 60 order including issues around equality, as part of the consultation launch approximately 50 stakeholders were identified and proactively notified directly by email, and asked to take part in the consultation. These included regulatory bodies, Royal Colleges, defence organisations and patient representation groups.

The consultation response will be published on the GOV.UK website and key stakeholders notified: <https://www.gov.uk/government/consultations/measures-to-improve-the-gdcs-processes-on-fitness-to-practice>

The proportion of answers to the questions on quality set out above was as follows:

Yes	No	Unsure	No comment
11	12	15	5
26%	28%	35%	11%

28% of consultation respondents did not think that the proposals would help achieve the aims set out in the public sector equality duty. One respondent stated that because these proposals are related to the fitness to practise processes the majority of complaints will be received by the GDC due to deficits in the care received, which are not related to the disability or other protected characteristic that may be connected with a dentist or dental care professional. A comment was also made that the proposal to introduce the case examiner model, which replaces the 3 member Investigating Committee may increase inequality. However, the Department is confident that the GDC (which is also subject to the provisions of the Equality Act 2010) will introduce robust measures to mitigate any risk of biased decision making. These will be applied during recruitment, training, audit and reporting and performance management of decision making.

26% of respondents said that the proposals would help to achieve the aims of the public sector equality duty. One respondent commented that the introduction of case examiners could have the effect of increasing the range of backgrounds of those involved in the decision making process. Though went on to state that this should not be actively sought and should not be a consideration or an aim but may be a long term effect. Another respondent stated that the proposals should not be changed in anyway but there should be a robust communications of the changes that will be brought about through this Section 60 Order, in order to raise awareness. A further comment was made that the proposed changes may make low level fitness to practise cases less daunting for the individual and would therefore lead to a positive impact on all of the protected groups.

35% of respondents were unsure whether the proposals would help to achieve the aims of the duty. One respondent commented that registrants will be given an opportunity to question decisions and this may lead to a fairer process, but was keen to see local resolution procedures utilised more.

The GDC also made a submission in respect of the equality duty and stated that the modifications of this Order will improve the timeliness of case handling and consistency of its decision making. The GDC further believes the changes will work to the mutual benefit of registrants, informants, third parties involved in cases, professional organisations and the wider public – including groups protected by the Equality Act 2010. As set out above (and at annex A) the GDC will have in place robust measures to counteract any risk of biased decision making, in addition the Registrar will be provided with a power to initiate a review of a decision in certain circumstances, which is an added safeguard should a suspected biased decision have occurred. As part of package of changes the GDC will be receiving it will also undertake a revised equality assessment to ensure any changes made to its business processes have taken in to account any potential impact on the protected groups.

A point was made that by asking this question it turned meeting equality and diversity provisions in to a box ticking exercise. This was not our intention, which was to ensure that respondents to the consultation had been provided with a fair opportunity to comment on and shape the Department's analysis of this important area.

Summary of Analysis *Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.*

We have considered the impact of the proposed legislation on each of the protected characteristics. They will have neutral or positive impacts on the aims mentioned in the public sector equality duty for the reasons set out in Annex A.

Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.

Eliminate discrimination, harassment and victimisation *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

Our view is that the proposals are neutral or will have a positive benefit in relation to the elimination of unlawful discrimination, harassment and victimisation

A number of the proposals may help to eliminate discrimination, harassment and victimisation and our analysis of these can be found at annex A. The relevant proposals are 1, 4, 6 and 7.

Advance equality of opportunity *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

Our view is that our proposals will not be detrimental to equality of opportunity and are likely to advance it to some extent.

The proposals which may help to advance the equality of opportunity and our analysis of these can be found at annex A. The relevant proposals are 3, 6 and 7.

Promote good relations between groups *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

Our view is that our proposals are either neutral or will help to promote good relations between those involved in regulatory action by the GDC.

The proposals which may help to good relations and our analysis of these can be found at annex A. The relevant proposals are

What is the overall impact? *Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?*

These proposals will strengthen the GDC's regulatory and investigation function for continued public protection through proportionate measures which will be likely to have either a neutral

impact on the aims set out in the public sector equality duty or a positive impact.

Addressing the impact on equalities *Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.*

Where appropriate this is discussed in the analysis at annex A.

Action planning for improvement *Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.*

The consultation requested evidence and rationale from respondents and their answers to consultation have been fed into the final policy position and equality impact. An Action Plan is set out below.

Please give an outline of your next steps based on the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

- *Plans already under way or in development to address the **challenges** and **priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.*

1. Subject to Parliamentary approval being received for the proposed changes we are informed by the GDC that the Regulation Operational Excellence team within the GDC will assist the Fitness to Practise management team to carry out the operational implementation of the case examiners system. This will ensure that robust measures are in place to mitigate any risk of biased decision making in connection with the implementation of the case examiner model. These measures will be introduced at the training, audit and reporting, and the performance management stages. Guidance will also be provided to the case examiners, including on equality issues.
2. In addition to the above measures the GDC intend to complete an impact assessment following the conclusion of its own consultation on the rules associated with the introduction of these measures. This will ensure that any changes made to the GDC's business processes will have been evaluated and will have factored in any potential impacts on the protected groups. In addition the GDC will identify whether any additional data should be collected to monitor impacts on groups with protected characteristics and to address any additional impacts which are identified as a result of its consultation on its Fitness to Practise rules
3. The Professional Standards Authority for Health and Social Care (PSA) will continue to undertake its periodic audit of investigation stage decisions as well as its yearly performance review. This will take in to account equality and diversity considerations.
4. The Department will continue to monitor the equality implications through these routes, in order to maintain a watching brief. Should any concerns arise these will be fed in to

internal policy development processes.

For the record

Name of person(s) who carried out this assessment:

James Ewing

Kelly Craig

Professional Standards – Fitness to Practise Team

Date assessment completed:

December 2014

Name of responsible Director/Director General:

Gavin Larner

Director - Quality

Date assessment was signed:

16 December 2014

Ser	Proposal	Potential equality impacts for all protected characteristics	Potential positive impacts for specific protected characteristics (or other specified groups)	Potential negative impacts for specific protected characteristics (or other specified groups)	Reason for concluding no negative impact and/or justification	Achieve the aims of 1) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010? 2) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it? 3) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?
(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	The GDC should be provided with the power to introduce case examiners, who have the ability to exercise the functions of the Investigating Committee.	Introducing case examiners to make decisions at the end of the investigation stage will ensure more timely decision-making. This will provide reassurance to persons from all groups with a protected characteristic (both regulated professionals who may become subject to the fitness to practise procedures and members of the public who may be complainants) that the system for regulating dentists and DCPs is able to act in the interests of public protection or to conclude cases where no action is required more swiftly.	<p>In addition to the general benefits to all persons with protected characteristics relating to the speed of decision making, there is a specific benefit in relation to persons who have a disability (such as a learning disability) which may make it difficult for them to understand the system of dental regulation in the UK and therefore gain access to it. An informant with learning difficulties may currently be more likely to experience delays in their case being dealt with if insufficient information has been provided to the Investigating Committee, resulting in an adjournment until the next available Committee date. Instead, Case examiners would be able to identify the missing information quickly upon initial review, guide the caseworker on what is needed and this could be presented to the case examiner as soon as received.</p> <p>There may be a similar benefit to persons whose first language is not English (and this group is likely to contain persons who share the protected characteristic of race).</p> <p>A benefit will also be seen for women who are in the stages of pregnancy or early maternity. This group undergo changes in their dental health throughout pregnancy and into maternity. This could lead to this particular group being more exposed to dental professionals. The introduction of case examiners will benefit this group as any complaint made will be dealt with more quickly, reducing anxiety at what can be a stressful time.</p> <p>Dentists and DCPs who have a disability who may be subject to the fitness to practise procedures due to impairment of fitness to practise concerns arising as a result of health issues may also experience similar benefits.</p>	A comment was made during the consultation that the proposal to replace the 3 member Investigating Committee with the 2 person case examiner model, may have the effect of increasing inequality for those who fall within one or more of the protected characteristics. However, conversely one respondent commented that this proposal may have the effect of increasing the range of backgrounds of those undertaking the role.	<p>Both the Department and the GDC recognise that the case examiner model places a significant decision making capacity within a small number of individuals, but the GDC has submitted to the Department that it intends to introduce robust measures to mitigate any risk of biased decision making. These will be applied during recruitment, training, audit and reporting and performance management of decision making.</p> <p>In addition the GDC do not allow decision makers, or others involved in the fitness to practise process, access to the part of its case management system, which contains equality datasets.</p> <p>The GDC are also subject the provisions contained within the Equality Act 2010 and will therefore complete a revised Equality Assessment in light of the consultations in respect of the Order and its associated rules. This will ensure the potential impacts on the protected groups has been factored in to the GDC's business processes.</p>	Introducing the case examiner model should also increase the consistency of decision making at the end of the investigation stage. This will help to eliminate discrimination, harassment and victimisation as it will be possible to review all decisions against the criteria ensuring that objective conclusions are reached on the available evidence and in accordance with the requirements of the Equality Act 2010. It should also foster good relations between persons who share a relevant characteristic and persons who do not share relevant characteristics as greater consistency in decision making will limit the possibility for bias and prejudice providing greater confidence amongst and between persons with protected characteristics.

Annex A to proposed amendments to enhance the effectiveness and efficiency of its fitness to practise processes equality analysis

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2	The Investigating Committee should have the power to agree undertakings with a registrant	Introducing the ability to agree undertakings provides for a more proportionate mechanism to put in place measures to protect the public primarily in health and performance cases where the GDC believe that concerns about a dentist's or DCP's fitness to practise can be managed safely as long as there is compliance with the undertakings without a practice committee hearing. This will provide reassurance to persons from all groups with a protected characteristic (both regulated professionals who may become subject to the fitness to practise procedures and members of the public who may be complainants) that the system for regulating dentists and DCPs is able to act in the interests of public protection more swiftly and proportionately. Evidence suggests that hearings are stressful for all parties involved and enabling a consensual resolution, without compromising public safety, reduces this. With one respondent to the consultation suggesting that the introduction of these changes would make low level fitness to practise cases less daunting for the individual being investigated as there may not be a need to proceed to a full Practice Committee hearing.	This proposal will have a specific benefit for dentists and DCPs who are subject to proceedings due to allegations of impairment of fitness to practise arising from a disability.. Enabling a consensual resolution without the stress associated with a public hearing will be beneficial to dentists and DCPs who share this protected characteristic. It will also avoid the stress associated with a public hearing on persons acting as witnesses who share the protected characteristic of disability. Persons who share the protected characteristic of pregnancy and maternity or are carers will also receive the benefit of not being required to provide evidence at a hearing with associated stress and disruption that may cause.	Registrants with a protected characteristic undergoing an investigation might decide that rather than face a full hearing, they will prefer to accept the undertakings at the end of the investigation stage. Therefore, arguably they are implicitly accepting that their fitness to practise is impaired. If that person had gone to a full hearing of a Practice Committee, where they could be represented and give evidence etc., it is possible that the case could conclude without any conditions being imposed on their practise.	Whilst a registrant with a protected characteristic may decide to accept undertakings that person is not compelled to agree to them and can instead opt to go to a full hearing. Also before the case examiners or Investigating Committee conclude that an allegation ought to be referred to a Practice Committee, they will have received representation from interested parties. Additionally, the GDC will seek to provide balanced and clear non-legalistic guidance to its registrants to help them decide whether undertakings may be a desirable option where these are suitable for the circumstance and to explain how undertakings would work in practise.	This proposal will help to foster good relations between persons who share a relevant protected characteristic and persons who do not by enabling matters to be resolved consensually rather than in a potentially confrontational manner during a full fitness to practise hearing before a Practice Committee.. This is likely to be particularly relevant to dentists and DCP's with a health condition.
3	The GDC should be provided with a power to review decisions of the registrar not to refer to the Investigating Committee or case examiners and of the Investigating Committee not to refer to a Practice Committee.	This proposal will strengthen confidence in the system of dental regulation by continuing to provide that investigations can be re-opened where the circumstances would require it to ensure public protection such as where there is a change in material facts or a mistake. This helps to ensure that dentists and DCPs who are not observing acceptable standards in relation to equality and diversity can be subject to effective regulatory action.				The proposal should help to advance equality of opportunity between persons who share a protected characteristic such as a disability which affected their ability to make a complaint by ensuring that any decisions can be reviewed if they had relevant information that had not previously been submitted because they did not find the regulatory system accessible.

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4	Upon the imposition of a warning, there should be the ability to review the decision taken.	This proposal will provide for greater confidence in the fairness of the fitness to practise procedures by ensuring that there is a route to remedy for a dentist or DCP who has been issued with warning to be able to have that decision reconsidered in a proportionate way.	<p>This proposal will be of direct benefit for those that are at the early stages of their career, which in most cases are younger professionals. At present the only way to challenge the imposition of a warning is through a judicial review, which can be costly for all concerned. This option will most likely be out of the question for those beginning their careers, due to a lack of funding. The introduction of an appeal mechanism will allow for a more proportionate reconsideration of the decision to issue a warning.</p> <p>This will also be a benefit for those who trained overseas and do not speak English as their first language (who share the protected characteristic of race). The current system of Judicial Review is complex and access to it is through the legal system which can be difficult to understand. The changes in this area will lead to a more accessible and proportionate review mechanism.</p>			This proposal should help to eliminate discrimination, harassment or victimisation by ensuring that where a warning has been imposed inappropriately (for example as a result of prejudice or bias) there is a proportionate route for that decision to be reviewed.
5	A limit be placed on the number of applications a person can make within the period to have the determination to issue a warning reviewed.					Although consulted upon the Department has taken the decision not to proceed with this proposal.

Annex A to proposed amendments to enhance the effectiveness and efficiency of its fitness to practise processes equality analysis

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6	Permitting the Registrar to refer an allegation to the IOC at any time provided that, in cases which are referred to the IC, the IC has not yet commenced its consideration of the allegation.	Enabling the GDC to refer a dentist or DCP to the Interim Orders Committee to consider whether an interim order is necessary for the protection of the public while the allegation is investigated will provide reassurance to persons from all groups with a protected characteristic (primarily members of the public who may be complainants) that the system for regulating dentists and DCPs is able to act in the interests of public protection.	This proposal will be of direct benefit to those patients, who may be disabled, those whose first language is not English (and may fall within the race characteristic), and age (both young and older) protected groups. Individuals within these groups may feel less able to raise a concern or know how to complain to the GDC. So where a complaint has been received by the GDC it will ensure those who may pose a risk to patient safety can have appropriate restrictions added to their registration at any point in the fitness to practise process, and will ensure these individuals are better protected and will provide more confidence in dental regulation.		The Department has no evidence to suggest that an interim order may be more likely to be applied to any group in particular. Due to the GDC's database systems and data collection methods it has also not been in a position to provide any data in this regard. As part of the action plan set out at pages 17 and 18 the GDC will seek to collect this data.	To the extent that this proposal will help to protect the public against dentists and DCPs who have failed to observe acceptable standards in relation to equality and diversity, it will help in relation to all three aims. To the extent that will benefit groups with protected characteristics who are more likely to be adversely affected by the actions and omission of dentists and DCPs who are not fit to practise, it may help to foster good relations. In other respects, we consider that it will be neutral in impact as its main aim is proportionate public protection.
7	The IC should be able to refer an allegation to the Interim Orders Committee at any time, provided that, in cases which are referred by the IC to a Practice Committee, that Practice Committee has not yet begun its consideration of the case.	Enabling the GDC to refer a dentist or DCP to the Interim Orders Committee to consider whether an interim order is necessary for the protection of the public while the allegation is investigated will provide reassurance to persons from all groups with a protected characteristic (primarily members of the public who may be complainants) that the system for regulating dentists and DCPs is able to act in the interests of public protection.	This proposal will be of direct benefit to those patients, appearing in the disability, those whose first language is not English (and may fall within the race characteristic), and age (both young and older) protected groups. Individuals within these groups may feel less able to raise a concern or know how to complain to the GDC. So where a complaint has been received by the GDC it will ensure those who may pose a risk to patient safety can have appropriate restrictions added to their registration at any point in the fitness to practise process, and will ensure these individuals are better protected and will provide more confidence in dental regulation.		The Department has no evidence to suggest that an interim order may be more likely to be applied to any group in particular. Due to the GDC's database systems and data collection methods has also not been in a position to provide any data in this regard. As part of the action plan set out at pages 14 and 15 the GDC will seek to collect this data.	To the extent that this proposal will help to protect the public against dentists and DCPs who have failed to observe acceptable standards in relation to equality and diversity, it will help in relation to all three aims. To the extent that will benefit groups with protected characteristics who are more likely to be adversely affected by the actions and omission of dentists and DCPs who are not fit to practise, it may help to foster good relations. In other respects, we consider that it will be neutral in impact as its main aim is proportionate public protection.