

## Professional Regulation Committee ARM 2023 Report

The Professional Regulation Committee is chaired Dr Mark Corcoran and supported by the Regulation, Education and Training policy team. It seeks to reflect the profession's views on all aspects of professional regulation including matters relating to the GMC's fitness to practise process, its professional standards, registration and revalidation, and its oversight of UK medical education and training. The Committee works closely with key stakeholders to drive improvements in professional regulation, in line with its overarching aims to make professional regulation fairer, less burdensome, and more efficient. A summary of the key areas on which the Committee has worked during the 2022/23 session is outlined below.

The Committee oversaw the BMA's comprehensive response to the Department of Health and Social Care (DHSC) consultation on '*Regulating Anaesthesia Associates and Physician Associates*' and its associated Draft Order. The proposed legal framework is significant as it provides the template for future changes to the statutory regulation of doctors (as well as other healthcare professionals).

While the BMA supports the statutory regulation of Anaesthesia Associates and Physician Associates it remains opposed to the GMC undertaking this task. Compared to the current regulatory framework for doctors, the proposed provisions are less prescriptive, less adversarial, will result in earlier resolutions, and will be more responsive to the clinical landscape in which regulated health professionals operate. However, not all the proposed reforms were supported. As set out in our response, we continue to oppose a reduction in fitness to practise grounds for action by removing 'health' and English language' as grounds in their own right, the removal of the five-year rule (that no allegation against a doctor should proceed further if more than five years have elapsed unless in the public interest), and the significant dilution of the procedural rights and protections currently provided by the Medical Act.

The Committee, through its Chair and along with the Chair of Council, also called on the DHSC Minister of State to revert to the use of the criminal standard of proof in fitness to practise proceedings, following the 2021 case of *Byrne v GMC* which confirmed that the civil standard of proof should not be applied on a '*sliding scale*' when considering evidence in fitness to practise proceedings. When the civil standard was first adopted by the GMC in 2008 it was on the basis that in more serious cases application of the civil standard (with the flexibility appropriate to the seriousness of the allegation and of the consequences for the practitioner) should lead to the same result as would application of the criminal standard. This is clearly no longer the case and is undoubtedly resulting in more doctors receiving sanctions that would otherwise not have been issued.

The Minister was also called upon to implement Section 28 of the NHS Reform and Health Care Professions Act 2002 to allow the Professional Standards Authority (PSA) to investigate complaints made to it about the way in which the GMC exercises its functions. Separately, the Committee responded to the PSA consultation on its revised strategy.

During the 2022/3 session, the Committee continued to raise with the GMC its serious concerns about the disproportionate number of black and ethnic minority doctors who face fitness to practise proceedings and who feel routinely discriminated by the GMC process. It assisted with the BMA's response to the Dr Arora case and the GMC's internal review of its case management. It also engaged, through its chair, with the Professional Standards Authority and the Medical Practitioner Tribunal Service on the wider implications of this case. The Committee remains committed to holding the GMC to account, and ensuring its processes are free from bias and discrimination. It continued to push for a wholesale independent review of the GMC's processes and procedures to help bring about consistent and long-term change.

Working with the Medical Ethics Committee and staff, the Committee oversaw the BMA's response to the GMC consultation on *Good medical practice*. It warned against the cumulative impact of increasing regulation in a health service under unprecedented pressure. The revised version of *Good medical practice* proposed a significant number of new and strengthened duties, which when viewed together could prove extremely challenging to fulfil. The new duties also attempt to place additional responsibilities on individuals that should, to a far greater extent, fall to service providers and employers. It noted that doctors will be rightly concerned that this will create opportunities for individuals to be scapegoated when under-resourced or poorly managed services fail to meet the needs of patients. The response called on *Good medical practice* to better address the contextual issues that severely impact doctors' ability to provide safe care – and that the proposals continue to assume, unfairly, that doctors have a greater level of control over outcomes than they often do in practice.

It has considered suggested amendments to the Responsible Officer regulations, revised GMC fitness to practise guidance, a proposed change in policy on how the GMC handles fitness to practise referrals arising from an investigation conducted by a third party. The Committee also continues to lobby for an 'opt-in' system where doctors can choose to be informed of any complaint or referral made against them and has called for the GMC to introduce anonymisation of protected characteristics prior to fitness to practise triage.

Following lobbying by the Professional Regulation Committee, the GMC agreed to dramatically reduce the cost of registration fees for newly qualified doctors from 1 April 2023 to help ease the financial pressure. This saw the amount paid by doctors seeking to start their F1 year more than halved, from £53 to £25. The decision followed discussions between the GMC and the BMA in which the growing crisis of medical student debt was highlighted.

In relation to the GMC's role overseeing education and training standards, the Committee has continued to monitor developments and engage with the GMC on the UK Medical Licensing Assessment, the introduction of GMC-regulated credentials, amendments to the regulations governing access to the GP and Specialist registers, and the GMC's role relating to the proposed medical degree apprenticeship programmes due to start in September 2024.