

**General
Dental
Council**

GDC consultation

Consultation on revisions to the guidance and conditions bank for practice committees

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Consultation on revisions to the guidance and conditions bank for practice committees

Overview

The General Dental Council (GDC) is the UK-wide statutory regulator of dental professionals. Our overarching objective is the protection of the public. One of the ways we pursue this objective is through the investigation of concerns raised about dental professionals' fitness to practise.

We are committed to improving our fitness to practise processes wherever possible. One of the ways we intend to meet this objective is through a comprehensive review of our guidance for decision makers at each stage of the fitness to practise process. In addition to ensuring the guidance is up to date, for example, by having regard for relevant case law developments and research findings, our review aims to support consistency of approach, transparency and proportionality in decision making by practice committees.

When a concern about a dental professional's fitness to practise is raised, the Registrar must investigate and determine whether that concern amounts to an allegation of impaired fitness to practise. Where it does, the Registrar must refer the allegation to case examiners for consideration. Where the [case examiners determine](#) that the allegation ought to be considered by a practice committee, and undertakings are not agreed to or viable, they must refer the allegation to a practice committee.

There are three practice committees, these are:

- Professional Conduct Committee.
- Health Committee.
- Professional Performance Committee.

We are consulting on proposed revisions to the guidance and conditions bank for practice committees due to the extent of the changes proposed. In future, we anticipate further iterative changes to these resources will be required from time to time, but we do not consider it will be necessary to consult again in all instances.

You will find the proposed revised drafts for consultation online:

- [Proposed guidance for practice committees.](#)
- [Proposed conditions bank for practice committees.](#)

The current versions remain in effect and are available on our website:

- [Current Guidance for Practice Committees including Indicative Sanctions Guidance.](#)
- [Current Conditions Bank for Practice Committees.](#)

Consultation period and deadline for responses

This 12-week consultation exercise opened on 3 September 2024.

It will close at 23.59 on 26 November 2024.

We will be unable to consider responses submitted after that date.

Ways to respond

Please respond to this consultation using the [online form](#).

You can also submit your response by [email](#). When doing so please include the name of the consultation in the subject line, or something similar that helps it to be identified easily.

When submitting by email, please reference your responses using the paragraph or question numbers used in the guidance or this consultation document.

For details of how your data will be processed and stored, please see our [Privacy Notice](#). Information held by the GDC is subject to Freedom of Information requests, so please do not provide any information you would not want to be disclosed.

Response to your views

We will consider all views raised during the consultation, and produce a consultation outcome report detailing our consideration. The report will be published on our [consultations and responses](#) webpage.

Contact us

If you have any questions about this consultation:

Email: stakeholder@gdc-uk.org

Phone: 020 7167 6330

Consultation questions

Section A: Your response

1. Please tell us if you are responding as an individual or on behalf of an organisation:
 - Responding as an individual
 - Responding on behalf of an organisation
2. If you are responding as an individual, please tell us if you are a:
 - Registered dental professional
 - Dental student or trainee
 - Patient or member of the public
 - Other
3. If you selected 'other' at question 2, please specify.
4. If you selected 'registered dental professional' at question 2, please tell us your registered title and if you are on a specialist list (choose all that apply):
 - Dentist
 - Dental nurse
 - Dental hygienist
 - Dental therapist
 - Dental technician
 - Orthodontic therapist
 - Clinical dental technician
 - Specialist list
5. If you are responding on behalf of an organisation, please tell us the name of your organisation. If you are responding on behalf of a membership organisation, please tell us how many members you have. We would be grateful if you could also provide contact details – we will only use these details if we have a question about your response (the need to do this is rare):

Section B: Broadly applied revisions to the guidance

The structure of the guidance

Revised [guidance for practice committees](#) is proposed.

A review of the structure of the current guidance, led to the conclusion that practice committee decision making considerations would be more clearly defined by structuring the guidance chronologically around the four stages of a practice committee hearing, which are established by the GDC's fitness to practise rules¹. This allows for the provision of guidance on the various practice committee decisions, which may be needed at each stage.

The four stages are set out at paragraph 20, these are:

- the preliminary stage
- the factual enquiry stage
- submissions by the parties, and
- the determination of the case.

A new section on resumed hearings follows the four stages of hearing from paragraph 283. A resumed hearing takes place when a practice committee convenes to review an order of suspension, or conditions applied by a previous practice committee. While this type of hearing is briefly referenced in the current guidance (at paragraphs 6.15-6.26), it is our view that decision making considerations for resumed hearings are more clearly set out in a dedicated section.

A section on restoration following erasure follows from paragraph 304, which largely mirrors section 9 of the current guidance.

An appendix on considerations in particular categories of cases concludes the guidance. While this section has been considerably developed, it draws on the appendix in the current guidance.

6. To what extent do you agree that the updated structure more clearly defines the practice committee decision making considerations which take place at the various stages/functions of a hearing?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

7. Please provide reasons for your response (including any suggestions for where and how the structure of the guidance could and/or should be improved).

¹ Rule 14 of the General Dental Council (Fitness to Practise) Rules 2006 (as amended).

Clarity of meaning and language

We have scrutinised each paragraph of the guidance to ensure it is clear. We have tried to use clear and commonly understood language, free of technical terminology, wherever possible.

8. To what extent do you agree that the proposed updated guidance makes its points clearly and, in doing so, uses clear and commonly understood language wherever possible?
 - Strongly agree
 - Somewhat agree
 - Neither agree nor disagree
 - Somewhat disagree
 - Strongly disagree
 - Not sure

9. Please provide reasons for your response (including any suggestions for where and how the clarity of meaning or language in the guidance could and/or should be improved).

Section C: New aspects of the guidance

In addition to the revisions referred to above, in the interests of supporting consistent decision making, the proposed guidance provides a more comprehensive description of practice committee considerations than what is set out in the current guidance. As such, a number of new individual points of guidance, and new subsections, have been introduced. These new aspects of the guidance are listed below, by section.

Practice committee hearings: the preliminary stage (paragraphs 21-134)

New individual points of guidance and new subsections in this section include:

- Paragraph 21, introducing the issues which may be addressed at the start of a hearing as preliminary matters.
- Paragraphs 22-25, addressing referral to a different practice committee.
- Paragraphs 26-28, addressing referral back to case examiners.
- Some aspects of the subsection on postponements and adjournments, which in total runs from paragraphs 34-51. Specifically, paragraphs 34, 35-39, and 41-42, are new.
- Some aspects of the subsection on proceeding in public/private, which in total runs from paragraphs 52-57. Specifically, paragraphs 54, and 56-57, are new.
- Paragraphs 58-72, addressing “joinder”.
- Paragraphs 73-81, addressing amendment of the charge.
- Paragraphs 82-90, addressing special measures for vulnerable witnesses.
- Paragraphs 91-93, addressing measures to support the registrant.
- Paragraphs 94-112, addressing abuse of process.
- Paragraphs 113-120, addressing admissions.
- Paragraphs 121-134, addressing conflicts of interest.

10. In addition to ensuring the guidance is up to date, the aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the additions of these new aspects to the ‘Practice committee hearings: the preliminary stage’ section of the guidance?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

11. Please provide reasons for your response (including any suggestions for where and how the guidance could and/or should be improved in this section to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Practice committee hearings: the factual enquiry stage (paragraphs 135-187)

New subsections in this section include:

- Paragraphs 135-137, introducing, and setting out the broad structure of, the factual enquiry stage.
- Paragraphs 139-143, addressing admissibility of evidence.
- Paragraphs 144-159, addressing hearsay evidence.
- Paragraphs 160-165, addressing witness credibility.
- Paragraphs 166-169, addressing registrant character and dishonesty.
- Paragraphs 170-170, addressing propensity/cross-admissibility.
- Paragraphs 172-176, addressing adverse inferences.
- Paragraphs 177-179, addressing half time submissions.
- Paragraphs 180-183, addressing reasons.

12. In addition to ensuring the guidance is up to date, the aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the additions of these new aspects to the 'Practice committee hearings: the factual enquiry stage' section of the guidance?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

13. Please provide reasons for your response (including any suggestions for where and how the guidance could and/or should be improved in this section to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Practice committee hearings: submissions by the parties (paragraphs 184-187)

While submissions by the parties are briefly referenced at paragraph 4.1(ii) of the current guidance, there is no dedicated section and, as such, this section is new. This section briefly sets out the steps taken at this stage of the hearing.

14. The aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the addition of this new section 'Practice committee hearings: submissions by the parties' to the guidance?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree

- Strongly disagree
- Not sure

15. Please provide reasons for your response (including any suggestions for where and how the guidance could and/or should be improved in this section to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Practice committee hearings: the determination of the case (paragraphs 188-282)

New individual points of guidance and new subsections in this section include:

- Paragraphs 200-203, addressing the statutory ground of misconduct.
- Paragraphs 204-205, addressing the statutory ground of deficient professional performance.
- Paragraphs 206-207, addressing the statutory ground of adverse physical or mental health.
- Some aspects of the subsection on impairment, which in total runs from paragraphs 211-228. Specifically, paragraph 212 reflecting on the lack of statutory definition for impairment but setting out factors for consideration, paragraphs 216-217 addressing public interest in relation to consideration of impairment, paragraphs 216-221 addressing insight in relation to consideration of impairment, and paragraphs 225-228 addressing denial in relation to consideration of impairment.
- One aspect of the subsection on sanction mitigation considerations, specifically paragraph 235 which addresses environmental factors (including systemic environmental factors).
- Some aspects of the subsection on types of sanction, which in total runs from paragraphs 240-261. Specifically, paragraph 252 which addresses necessary term of suspension considerations, and paragraphs 253-254 which address the effect interim orders can have on the proportionality of substantive suspension orders.
- Paragraphs 262-263, addressing sanction and dental professionals with more than one registered title.
- Paragraphs 268-276, addressing the practice committee's power to hold an interim order committee.
- One aspect of the subsection on reasons, specifically paragraph 279 which sets out that the level of detail in required in reasons is context specific.
- Paragraphs 281-282, which address publication of determinations.

The judgement in *Aga v General Dental Council* [2023] EWHC 3208 (Admin) departed from the GDC's interpretation of the legislation relating to immediate orders, and is currently subject to appeal. The subsection on immediate orders, which is at paragraphs 266-267, includes a link to the GDC's practice note on the ruling. Apart from the addition of this link and some minor stylistic and typographical changes, the paragraphs in this subsection remain the same as those set out in the current guidance (at paragraphs 6.35-6.38). These paragraphs will be reviewed and updated once the appeal has been determined.

16. In addition to ensuring the guidance is up to date, the aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the additions of these new aspects to the 'Practice committee hearings: the determination of the case' section of the guidance?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

17. Please provide reasons for your response (including any suggestions for where and how the guidance could and/or should be improved in this section to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Resumed hearings (paragraphs 283-303)

While resumed hearings are briefly referenced in the current guidance (at paragraphs 6.15-6.26), it is our view that decision making considerations for resumed hearings are more clearly set out in this new dedicated section.

18. In addition to ensuring the guidance is up to date, the aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the addition of this new section 'Resumed hearings' to the guidance?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

19. Please provide reasons for your response (including any suggestions for where and how the guidance could and/or should be improved in this section to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Considerations in particular categories of cases (Appendix 1)

New or substantially revised individual points of guidance and/or new subsections in this section include:

- Paragraphs 1-14, addressing sexual misconduct.
- Paragraphs 15-27, addressing discrimination and harassment.
- Paragraphs 28-34, addressing offensive behaviour.
- Paragraphs 52-61, addressing non-cooperation.

- Paragraphs 62-67, addressing breach of Interim Orders Committee or practice committee conditions, or breach of undertakings.
- Some aspects of the subsection on criminal convictions and cautions, which in total runs from paragraphs 68-76. Specifically, paragraph 69 which provides further guidance on considerations relating to criminal convictions, and paragraphs 71-76, which provides further guidance in relation to the “Fleischmann” principle.
- Some aspects of the subsection on impact of retirement, which in total runs from paragraphs 114-118. Specifically, paragraphs 116-117 which address considerations towards necessity in terms of public safety and then, if not necessary on public safety grounds, considerations for the proportionate level of sanction, if any, in the public interest.

20. In addition to ensuring the guidance is up to date, the aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the additions of these new aspects to Appendix 1 ‘Considerations in particular categories of cases’ to the guidance?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

21. Please provide reasons for your response (including any suggestions for where and how the guidance could and/or should be improved in this section to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Section D: Conditions bank for practice committees

A revised [conditions bank for practice committees](#) is proposed.

In the interests of consistency, its development was based on the template established by the [Conditions Bank for the Interim Orders Committee](#), which was introduced in late 2023 following public consultation.

The proposed conditions bank for practice committees has been adapted to reflect the distinct nature and purpose of conditions imposed at practice committee.

22. In addition to ensuring our materials are up to date, the aim of this review is to support consistency of approach, transparency and proportionality in decision making at practice committees. To what extent do you agree that these aims are supported by the proposed revised conditions bank for practice committees?

- Strongly agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Strongly disagree
- Not sure

23. Please provide reasons for your response (including any suggestions for where and how the conditions bank could and/or should be improved to better support consistency of approach, transparency and proportionality in decision making at practice committees).

Section E: Equality impact assessment

We are committed to understanding the impact of our proposals on people or groups of people who have or share protected characteristics.

We are also required under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act. We also have a duty to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.

As part of these considerations, we ensure the equality and diversity implications of new proposals are considered. Our [Equality Impact Assessment](#) has identified no adverse impact and some positive impacts on people who share protected characteristics, but we are seeking to gather further information on the impact of the proposals from respondents.

We would like you to consider whether our proposals have the potential to impact people based on their protected characteristics. Please note, you do not need to provide us with any information regarding your protected characteristics to answer this question. The protected characteristics identified by the Equality Act 2010 are:

- Age.
- Disability.
- Gender reassignment.
- Marriage and civil partnership.
- Pregnancy and maternity.
- Race.
- Religion or belief.
- Sex.
- Sexual orientation.

24. We want to understand whether, and if so how, our proposals might advantage or disadvantage people. Please consider the above protected characteristics and indicate for each whether you think the revised guidance and conditions bank may advantage or disadvantage people in these groups. Please provide the reasons for your response and include any suggestions you might have for how the guidance and/or conditions bank could and/or should be improved.

Section F: Any other comments

25. Are there any other comments you would like to make on the proposed revised guidance or conditions bank for practice committees that are not covered by your answers to the previous questions? (Please paragraph or conditions reference numbers in the current or proposed versions where necessary.)