

EU Exit – amendments to GDC legislation

Purpose of paper	The paper seeks Council’s approval of amendments to the GDC rules and regulations required in preparation for the UKs withdrawal from the European Union.
Action	For approval.
Corporate Strategy 2016-19	Performance Objective 1: To improve our performance across all our functions so that we are highly effective as a regulator
Decision Trail	The Audit and Risk Committee and Council have received updates on the Government’s preparations for EU Exit and potential impacts on the GDC. The Constitutional Issues Working Group has been monitoring developments and following the introduction into Parliament of legislation amending the GDCs statutory framework, the Group approved the preparation of draft amendments to GDC rules and regulations.
Next stage	If approved, the new rules and regulations will be sealed and come into force on the day the UK leaves the EU.
Recommendations	Council is asked to approve and seal the General Dental Council (Dental Care Professionals Register) (EU Exit) (Amendment) Rules 2019 and the General Dental Council (EU Exit) (Amendment) Regulations 2019.
Authorship of paper and further information	<p>Lisa Marie Williams, Executive Director, Legal and Governance LMarieWilliams@gdc-uk.org</p> <p>Melissa Sharp, Head of In House Legal Advisory Service msharp@gdc-uk.org</p>
Appendices	Appendix 1: General Dental Council (Dental Care Professionals Register) (EU Exit) (Amendment) Rules 2019 and the General Dental Council (EU Exit) (Amendment) Regulations 2019.

	<p>Appendix 2: Versions of the following showing proposed amendments:</p> <p>GDC (Dentists Register) Regulations 2014</p> <p>GDC (Specialist List) Regulations 2008</p> <p>GDC (Dentists) (Fees) Regulations 2017</p> <p>GDC (Professions Complementary to Dentistry) (Fees) Regulations 2018</p> <p>GDC (Dental Care Professionals Register) Rules 2014</p>
--	--

1. Executive summary

- 1.1. The government have been preparing for the UK to leave the EU, including passing the legislation needed to retain or change regulatory systems to ensure that they continue to work after exit day.
- 1.2. The GDCs statutory framework is amongst those that require amendment, to ensure that dentists and DCPs from the EU have a route to join the register in the future (changes will not impact EU dental professionals who are already on the register). The changes are needed because this category of registrants have previously relied on rights established by the EU Directive on the mutual recognition of professional qualifications, which will cease to apply after the UK leaves the EU. The legislative changes which need to go through parliament have been made by the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (“the Regulations”), which were approved by Parliament on 7 March 2019.
- 1.3. As council members are aware, some of the GDCs legislative framework is also contained in rules made by Council. Amendments to those rules were outside the scope of the Regulations. Council itself will need to update the rules, to reflect and support the changes made by the Government. Drafts of these are attached.
- 1.4. As with the Regulations, the amended rules will not take effect until the date that the UK leaves the EU.
- 1.5. Council is asked to **approve** the new rules.

2. Introduction and background

- 2.1. Access to the GDC registers for dentists and dental care professionals from the European Economic Area (“EEA”) and Switzerland is currently regulated by the European Union Directive on the Mutual Recognition of Professional Qualifications (MRPQ) (“the Directive”). The relevant requirements of the Directive were made part of UK law by a series of amendments to the Act and other secondary legislation. Those instruments refer to the Directive for many key definitions and requirements.
- 2.2. The Directive will cease to apply in the UK when we leave the EU. The Government has exercised its powers under the European Union (Withdrawal) Act 2018 to make amendments to the domestic law. This was done in order to address deficiencies and gaps that will result from the removal of the Directive from the overall legislative framework in this area. Those amendments include both substantive and technical changes to the Act and secondary legislation subject to parliamentary approval.

3. Amendments to GDC rules and regulations

- 3.1. There are several sets of GDC rules and regulations which are not subject to parliamentary approval and for which the GDC retains the responsibility for updating the drafting. The in-house legal team and external counsel have reviewed those documents to identify the changes required to ensure that the rules retain their legal effect after exit day. The changes proposed are limited to technical drafting changes, such as removing cross-references to sections of the Act that have been removed by the Regulations.
- 3.2. The instruments to be amended are:
- The General Dental Council (Specialist List) Regulations 2008;
 - The General Dental Council (Dentists Register) Regulations 2014;
 - The General Dental Council (Dental Care Professionals Register) Rules 2014;
 - The General Dental Council ((Dentists) (Fees) Regulations 2017; and
 - The General Dental Council (Professions Complementary to Dentistry Regulations) (Fees) Regulations 2018.
- 3.3. Council is asked to approve the General Dental Council (Dental Care Professionals Register) (EU Exit) (Amendment) Rules 2019 and the General Dental Council (EU Exit) (Amendment) Regulations 2019.

4. Risks and considerations

4.1.

Communications

- Could the matter discussed in this paper have a potential impact on our reputation and/or our relationship(s) with patients, dental professionals and/or our partners? The proposed changes are to ensure that the GDC's rules and regulations are in line with the primary and secondary legislation, so it is not anticipated that there will be any reputational impact.
- Will the matter discussed in this paper have to be communicated? Who to and when? If approved, the amended Rules and Regulations will need to be published on the GDC website. Internal guidance for operational teams will need to be reviewed and amended as necessary.

Equality and Diversity

- Have you carried out an equality impact assessment (EIA)? No EIA has been carried out in this case as the changes proposed are required as a matter of law to ensure that the legal framework remains operable following the UK's exit from the EU.
- If you have carried out an EIA, what mitigating action will you take as a result of your EIA? As stated, no EIA has been completed in this matter.

Legal

- Does this paper relate to something you can do under the Dentists Act 1984 (as amended), for example register a person, Quality Assure a university? Yes. The amendments relate to the Council's powers to register applicants from the European Economic Area and Switzerland.

<ul style="list-style-type: none"> • Does this paper refer to the processing of information? If so, do you need to complete a privacy impact assessment (PIA)? No. The amendments do not relate to or require processing of information. • Does this paper refer to the Dentists Act 1984 at all? Yes. The changes being proposed are necessary due to changes to the Act that have been approved by Parliament. • Does this paper refer to any other legislation including a statutory instrument (SI)? Yes. The changes being proposed are necessary to ensure that the certain parts of the GDC's legislative framework reflect and keep pace with those made by the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019.
<p>Policy</p> <ul style="list-style-type: none"> • How does this proposal impact GDC policy decision-making? The proposal does not have any impact on GDC policy decision-making. The changes are required to ensure that the legal framework continues to work following the UK's exit from the EU.
<p>Resources</p> <ul style="list-style-type: none"> • Are there any cost implications? Is this covered by the budget? There are no cost implications of the changes proposed in this paper.
<p>National</p> <ul style="list-style-type: none"> • Will this have different impacts on the four countries in the UK? How so? Have any national organisations been consulted on the proposal? The changes made by the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 will apply to all four countries in the UK and the changes proposed here in consequence of those Regulations will have the same scope.
<p>Risks on registers</p> <p>Does this proposal link to risks on either the strategic or an operational risk register? The proposal links to CP5 – Uncertainty over constitutional changes following the referendum result to exit the EU. The proposal aims to ensure that the GDCs statutory framework reflects the wider legal position as a result of the UK's exit from the EU.</p>

5. Recommendations

- 5.1. The Council is asked to approve and seal the General Dental Council (Dental Care Professionals Register) (EU Exit) (Amendment) Rules 2019 and the General Dental Council (EU Exit) (Amendment) Regulations 2019.

6. Internal Consultation

- 6.1. Where the matter covered in the paper has implications for other areas of the organisation, or where the knowledge and experience of another team has been taken into account, please note their input in this section by, at least, completing the table and including additional comments where applicable.

Department	Date and consultee name
Strategy	14 March 2019, Matthew Hill
Fitness to Practise	14 March 2019, Tom Scott

7. Appendices

- 7.1. The General Dental Council (Dental Care Professionals Register) (EU Exit) (Amendment) Rules 2019 and the General Dental Council (EU Exit) (Amendment) Regulations 2019.
- 7.2. The General Dental Council (Specialist List) Regulations 2008;
The General Dental Council (Dentists Register) Regulations 2014;
The General Dental Council (Dental Care Professionals Register) Rules 2014;
The General Dental Council ((Dentists) (Fees) Regulations 2017; and
The General Dental Council (Professions Complementary to Dentistry Regulations) (Fees) Regulations 2018.