

General Optical Council (Constitution) Order 2008

Consultation Questions

Please fill in and/or tick the appropriate response.

Response form

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Departments and/or published in a summary of responses to this consultation.

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Please indicate all the countries to which your comments relate:

UK-wide *and/or*
England *Northern Ireland*
Scotland *Wales*

Are you responding: - *as a member of the public*
- *as a health or social care professional*
- *on behalf of an organisation*

If you are responding as a member of the public, please supply the following details:

Profession

If you are responding as a health or social care professional, please supply the following details:

Profession

Country of qualification

Please indicate as appropriate:

UK Other EEA Rest of World

Area of work

NHS
Social Care
Private Health
Voluntary
Regulatory Body
Professional Body
Education
Union
Local Authority

Trade Body
Other (please give details)

If you are responding on behalf of an organisation, please supply the following details:

NHS
Social Care
Private Health
Voluntary
Regulatory Body
Professional Body
Education
Union
Local Authority
Trade Body
Other (please give details)

The GOC (Constitution) Order 2008

Consultation Questions

Composition of the Council

Q1: Do you agree that the GOC should consist of 6 registrant members and 6 lay members?

Support (X)

Not Support ()

Unsure ()

Comments

We agree that the future composition of GOC should consist of 6 registrant members and 6 lay members. However, Council has agreed that the registrant membership of Council should consist of 4 optometrists and 2 dispensing opticians. This was debated at some length by Council, and it was agreed that such a break down of membership between optometrists and dispensing opticians would best reflect GOC's registrant base. We strongly believe that this break down should be explicitly stated in the Constitution Order to give legal

certainty to the future registrant membership of Council.

We understand that the Department of Health is reluctant to include anything in the Order which might suggest that Council members are appointed to represent any interests, and in particular the interests of registrant groups. This has been the basis of the Department not agreeing to specify in the Order the number of optometrists and dispensing opticians.

We agree that the Order should not give any suggestion that Council members play a representative function. However, we disagree that specifying the number of optometrists and dispensing opticians will give this suggestion. Optometrists and dispensing opticians are not distinct groups or specialties from a single profession, but entirely separate and distinct professions. Council will inevitably need to consider and make decisions issues which are specific to each profession. To secure the confidence of the professions it regulates, it is important that the composition of GOC's Council is seen to appropriately reflect its registrant base. Our concern, therefore, that the number of optometrists and dispensing opticians should be specified in the Order relates to our being concerned that the Council is seen to be properly reflective, and that there is legal certainty with respect to this (in the same way, for example, that the Order requires that Council members be drawn from England, Wales, Scotland and Northern Ireland to ensure an appropriately reflective Council).

Terms of office of members

Q2: Do you agree that the Privy Council (Appointments Commission) should determine the duration of the term of office of each GOC member, on appointment?

Agree (X)

Disagree ()

Unsure ()

Comments

Q3: Do you agree that no member should hold office for more than an aggregate of 8 years during any period of 20 years?

Agree ()

Disagree (X)

Unsure ()

Comments

We support the recommendation in Niall Dickson's report that the maximum term of office should be two terms of 4 years. However, we had not taken this to mean that a member could not serve again after a reasonable break, say a 4 year gap, where reappointment would be subject to the member being successful in an open competitive appointments process. We are concerned that the proposed aggregate of 8 years during any period of 20 will rule out many members from ever being able to serve again on Council. This is likely to affect our ability to recruit registrant members with the appropriate skill set to serve on a strategic board, given that the professions that we regulate are small in numbers. As such, we would urge the Department to reconsider this requirement. We suggest that an aggregate of 8 years during any period of 12 years would be more appropriate.

Q4: Do you agree that service as a member since April 2005 should be included in aggregating a Council member's service?

Agree ()

Disagree (X)

Unsure ()

Comments

As the Order will establish a reconstituted GOC we do not believe that past service on Council is relevant. Furthermore, we are concerned that the retrospective nature of this provision could be seen as being unfair. For example, a person's decision to stand on the current Council may have been different had they have known that this would restrict their term of office under the new arrangements.

Education and training of members

Q5: Do you agree that the GOC should have the flexibility to make arrangements for the provision of education and training of Council members with another body?

Agree (X)

Disagree ()

Unsure ()

Comments

Disqualification for appointment as a member

Q6: Do you agree with the reasons for disqualifying a person from appointment as a member of the GOC? If not, please specify which reasons you disagree with and explain why.

Agree (X)

Disagree ()

Unsure ()

Comments

Removal and suspension of members from office

Q7: Do you agree with the reasons given for removing or suspending members from office? If not, please specify which reasons you disagree with and explain why.

Agree ()

Disagree (X)

Unsure ()

Comments

We agree with the reasons for removing and suspending members from office, with the following exceptions.

Firstly, the effect of Articles 6(e)(ii) and (iv) is that where a registrant member of Council is suspended from the register (including interim suspension orders) or where conditions have been imposed upon a registrant (including orders for interim conditional registration) as a result of fitness to practise proceedings by the Council, that member shall be removed from office. We do not believe it would be appropriate for members to be automatically removed from office in

the case of interim suspension orders or orders for interim conditional registration. In such circumstances a final determination on their fitness to practise has yet to be made. We believe the Order should make provision for members to be suspended, rather than removed from office, in such circumstances unless the Privy Council feels it necessary to use its discretionary power to remove where it is 'satisfied that the member's continued membership of the Council would be liable to undermine public confidence in the regulation of registrants' (Article 6(k)).

Secondly, Article 6(g) provides for a member to be removed from office where they are a responsible officer of a business registrant and that business registrant has a determination against them that their fitness to carry on business as an optometrist or dispensing optician or both is impaired. We believe that automatic removal from office would be disproportionate. A number of our business registrants are very large corporate bodies, and a finding of impairment may be made where the circumstances of a case are such that the relevant responsible officer has little or nothing to do with the events that led to the determination being made against the business registrant. As such, we believe that removal from office should only take place where the Privy Council is satisfied that the person's membership of the Council would be liable to undermine public confidence. This would mirror the approach taken in the Order towards disqualifying responsible officers from the membership of Council (Article 5(l)).

Appointment, term of office and cessation of office of the chair

Q8: Do you agree that the term of office of the Chair should be determined by the Privy Council (Appointments Commission) on appointment?

Agree (X)

Disagree ()

Unsure ()

Comments

Q9: Do you agree with the reasons why a member should cease to be Chair?

Agree (X)

Disagree ()

Unsure ()

Comments

Q10 : Do you agree with the transitional arrangements in respect of the first Chair of the GOC in 2009?

Agree (X)

Disagree ()

Unsure ()

Comments

Deputising arrangements in respect of the Chair

Q11: Do you agree with the deputising arrangements in respect of the Chair?

Agree (X)

Disagree ()

Unsure ()

Comments

Quorum of the GCC, effect of vacancies etc. on the validity of proceedings

