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## 7a

*To consider*

### **Merger of PMETB with the GMC: Consultation on Legislation**

#### **Issue**

1. The terms of our response to the Department of Health for England's consultation on the draft legislation that will merge PMETB with the GMC.

#### **Recommendations**

2.
  - a. To approve the terms of the response to the consultation (paragraphs 12-20 and Annex A).
  - b. To authorise the Chair of the Council to finalise the terms of the response, taking into account points made by members in discussion (paragraph 21).

#### **Further information**

3. If you require further information about this paper, please contact us by email: [gmc@gmc-uk.org](mailto:gmc@gmc-uk.org) or tel. 0161 923 6602

## Background

### *Tooke report*

4. In September 2007, in the final report of his independent inquiry into Modernising Medical Careers, Sir John Tooke made the following recommendation:

‘PMETB should be assimilated in a regulatory structure within the GMC that oversees the continuum of undergraduate and postgraduate medical education and training, continuing professional development, quality assurance and enhancement. The greater resources of the GMC would ensure that the improvements that are needed in postgraduate medical education will be achieved more swiftly and efficiently. To this end the assimilation should occur as soon as possible.’ (Recommendation 30).

5. The Secretary of State accepted the Inquiry’s recommendation, which had been supported by 82% of respondents to the consultation on the report, and work is now well developed to merge PMETB with the GMC by April 2010.

### *Approach to legislative integration*

6. Our duties and powers are set out in the Medical Act 1983; and, in general, they are stated as broad principles. PMETB’s duties and powers are set out in the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003; and they are expressed in some detail. Legislation is required to transfer PMETB’s duties and powers to the GMC, in effect by incorporating them into the 1983 Act.

7. We have worked closely with PMETB and DH(E) on the draft legislation. The agreed approach reflects three main considerations.

8. First, to achieve the timetable for the merger, we have agreed that the scope of PMETB’s duties and powers should be transferred to us more or less as they stand. The alternative, to conduct a fundamental review of duties and powers, before drafting the legislation, would have meant that the merger timetable could not be achieved.

9. Second, the review being undertaken by Lord Patel will provide the vehicle for engaging with key interests on the medium and long term shape of the regulation of all stages of medical education and training. If consequential changes are required to our duties and powers, they will be secured through a second or subsequent Order.

10. Third, consistent with the general approach within the 1983 Act, PMETB’s duties and powers should, on transfer, be stated as far as possible as broad principles, with any necessary detail set out in secondary legislation in the form of statutory rules and regulations, supported by guidance. This will enable the legislative provisions to be updated more readily as requirements change.

11. The DH(E) consultation covers two separate pieces of legislation. A draft section 60 Order (so named because it is made under the provisions of section 60 of the Health Act 1999) which will amend the 1983 Act, and a draft Order of Council. The draft section 60 Order provides the overarching statutory framework which will be incorporated into the 1983 Act. The draft Order of Council is subordinate legislation which contains some of the underpinning statutory detail for how the arrangements described in the Act will work. The advantage of putting this detail into a separate Order of Council rather than into the Act is that it will be easier to amend the detail in future so as to keep up to date with changes in the system of medical education and training. This is explained more fully on pages 5-6 of the consultation document.

## **Discussion**

12. The DH(E) consultation document and draft legislation are at Annex A. The consultation poses seven questions.

*Question 1: Do you support the proposed approach which puts the overarching framework into the Medical Act 1983 and the detail into subordinate legislation to be made under new powers in that Act?[consultation document, page 5]*

13. Yes. For the reasons set out in paragraphs 10 -11 above, we fully support the proposed approach of putting the overarching framework into the 1983 Act and relegating much of the operational detail to subordinate legislation.

*Question 2: Do you agree that responsibility for all medical education and training, together with the associated legal powers, should be vested in a single body?[consultation document, page 14]*

*Question 3: Do you agree that PMETB merging into GMC is the preferred method of creating an ideal regulatory body in medical education? [consultation document, page 15]*

14. Yes to both questions. In 1975 the Merrison Report recommended that the regulation of the whole of medical education and training should come under the auspices of a single body, the GMC. This was reiterated by the report of the Bristol Inquiry in 1995 and, most recently, by the report of the Tooke Inquiry in 2007. This is the most appropriate way of ensuring the effective co-ordination of all stages of medical education and training. It will rationalise and simplify regulation, creating a single competent authority for medical regulation from entry to medical school to the end of a medical career. In addition, the complete integration of postgraduate education and training with the GMC's other regulatory functions will enable a focus on the whole doctor at key stages of the career pathway.

*Question 4: Do you agree that the cost drivers and benefits identified in the impact assessment are the main cost and benefit drivers of the options set out? [consultation document, page 15]*

15. Yes.

*Question 5: Do you agree that it makes sense to merge the two bodies before waiting for the outcome of the comprehensive review of the system? [consultation document, page 15]*

16. Yes. Realising the full benefits of the merger, in the light of the outcomes of the review by Lord Patel, will take time. In the meantime, there are clear advantages in merging PMETB with the GMC at the earliest opportunity. For those involved in medical education and training, as well as for the staff of PMETB, early merger will minimise the period of uncertainty. It will reduce the risk of policy and operational blight that could arise if important initiatives are put on hold pending merger. There are also quick wins to be gained from achieving the merger sooner rather than later. They include having a single point of contact for key interests; the opportunity to share best practice and achieve improvements; an integrated approach to education and training; and access to greater resources through a wider cost base.

*Question 6: Do you agree that it makes sense to integrate procedures in respect of both undergraduate and postgraduate education where possible, unless there are compelling reasons not to do so?[consultation document, page 16]*

17. Yes. As explained in paragraph 8 above, we have sought to make the minimum changes necessary to existing legislation and policy in relation to the regulation of postgraduate medical education and training. However, there would be little point in bringing the regulatory functions under one roof if all of the procedures and processes presently carried out by GMC and PMETB remained separate. For example, both the GMC and PMETB have procedures for dealing with appeals against certain decisions. It makes administrative sense to bring them together into a single set of arrangements covering both types of appeal, rather than persist with separate statutory processes.

*Question 7: Do you agree that in merging PMETB's statutory functions with those of the GMC, the Council should continue to have the flexibility to organise those new functions in such a way as to carry them out efficiently and effectively and should not be required to replicate the same statutory committee structures that were specified for PMETB?[consultation document, page 17]*

18. Yes. As explained in paragraph 10, recent changes have meant that the 1983 Act has increasingly focused on the broad principles of medical regulation and the functions we must carry out. It is the GMC's responsibility to decide how to organise itself so as to carry out those functions effectively and efficiently. This approach was endorsed by the 2007 White Paper *Trust, Assurance and Safety* and led to changes to the constitution and governance of the GMC so as to emphasise its independence. Those and other changes have helped to give us greater flexibility over how we fulfil our responsibilities.

19. By contrast, the 2003 Order is much more prescriptive about the statutory committee structures of PMETB. It includes, for example, requirements for PMETB to have an Assessment Committee and a Training Committee, both to be chaired by a doctor. Although the functions of those committees need to be imported into the 1983 Act, the committees themselves do not. It should be for the GMC to determine the structures it needs to deliver its functions and we are currently working, in partnership with PMETB colleagues, to consider this.

#### *Next steps*

20. This paper has set out our proposed responses to the seven questions posed in the DH(E) consultation. In addition, there are a number of technical and drafting issues in the legislation that we will wish to highlight. As they do not raise any policy questions, they are not discussed in this paper. Further details can be provided by Richard Marchant, if required.

**Recommendation:** To approve the terms of the response to the DH(E) consultation.

21. A draft reply to the consultation will be prepared, incorporating any additional points that members may wish to raise.

**Recommendation:** To authorise the Chair of the Council to finalise the terms of the response, taking into account points made by members in discussion.

#### *Work on statutory rules and regulations*

22. The section 60 Order and the Order of Council which are the subject of this consultation will need to be underpinned by a suite of rules and regulations that set out the details of how our procedures will operate. We are working with PMETB colleagues to develop the necessary rules and regulations. We are aiming to bring drafts to Council for approval in autumn 2009, preparatory to public consultation.

#### **Resource implications**

23. None arising from the recommendations in this paper.

#### **Equality**

24. An impact assessment has been undertaken by DH(E) as part of its consultation process.