To consider

Provision of GMC Services: Options for development

Issue
1 Proposal to further explore offering ‘GMC services’ on a cost recovery or for profit basis, within and outside the UK, recognising that to date discussions have been largely limited to international opportunities.

Recommendation
2 The Strategy and Policy Board is asked to consider whether it wishes to agree the proposal to explore options for offering ‘GMC services’ and associated opportunities further.
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Issue

Context – international and UK opportunities

3 The GMC’s reputation inside and outside the UK as a leading healthcare regulator, the globalisation of medical education and practice, an emerging momentum across Government to exporting ‘UK Healthcare’, the opportunities presented by the proposed Law Commissions Bill (both within the UK as well as abroad), and a need to consider alternative/additional sources of revenue are generating interest in whether we could usefully develop our role and begin to offer services on a cost recovery or for-profit basis.

4 In an international context, as one of the world’s largest net importers of doctors we also have a vested interest in the quality of medical education, training and regulation of doctors overseas.

5 We already have a limited role in the quality assurance of undergraduate medical education provided by UK medical schools at overseas campuses but only where those courses lead to a UK primary medical qualification (PMQ). We know that other medical schools are also contemplating establishing campuses overseas.

6 As evidence of the wider demand for our work internationally, we have recently been engaged in discussions about potentially providing services on a paid for basis to the United Arab Emirates (UAE) (we have been invited to join the UK-UAE Business Council working group by Healthcare UK) and by colleagues in Qatar on medical education and revalidation respectively. We have also recently been approached by PULSE locum agency to offer our Welcome to UK Practice on a paid for basis as part of their overseas recruitment programme and by a number of Royal Colleges in support of their Medical Training Initiative (MTI) schemes.

7 Feedback from delegates at the International Association of Medical Regulatory Authorities (IAMRA) Conference in September 2014 suggested potential demand for a paid for model for delegations visiting the GMC. The demand from overseas regulators to visit the GMC and learn from what we do is already enormous and growing. We have hosted the largest ever IAMRA Conference and have hosted over 20 international delegations this year alone, a number of whom have asked us to consider providing them with consultancy and advisory support in developing their regulatory models.

8 Recently the Professional Standards Authority (PSA) has informally confirmed its support for us developing our thinking on any international offering. Some Council members have also expressed an interest in exploring whether we are in a position to offer services overseas.
In a UK context, the Law Commissions’ Bill may drive conversations about moving towards a more fluid regulatory environment including regulators taking on regulatory responsibility for additional/new professions. The emergence of Physicians Assistants is an example of the changing nature of the healthcare workforce and may raise once again a potential question about a role for the GMC in their regulation. As a minimum, we should prepare ourselves for both these possibilities.

The success of the Medical Practitioners Tribunal Service (MPTS) and our in-house legal team suggests we may also now wish to consider the possibility of developing these as shared service offerings, available to other healthcare regulators on a commercial basis (for the MPTS this was originally envisioned by UK Government in their OHPA proposal). We also have offices in all four UK countries which, on a pro bono basis, we have occasionally allowed other regulators to use for meetings with their stakeholders. Demand is likely to grow and there is now a need to formalise the basis on which our estate is used by others and recover the associated costs.

So the questions for us now are: On what basis/for what reason might we wish to proceed in developing ‘GMC services’? Are we legitimately able to do so and if so what considerations would apply? And finally, what services might we offer? The main focus of this paper is on the potential for offering services overseas, but the underlying principles are also relevant to services we might consider offering in the UK – to other regulators and others.

On what basis/for what reason?

The primary reason for any consideration of ‘GMC services’ is to support our overriding duties and obligations as laid out in the Medical Act currently and proposed in the draft Law Commissions’ Bill.

As one of the world’s largest net importers of doctors we have a powerful interest in the quality of medical education, training and regulation of doctors overseas. Beyond the international mobility of the medical workforce and the challenges those trained overseas may have in practising in the UK, our inability to test EU doctors during registration and the difficulty of securing assurance about medical education outside the UK, coupled with the fact that enormous harm can arise from the actions of a single doctor, are legitimate reasons why extending our work overseas would be aligned with our statutory functions/purpose.

In addition, although secondary, other reasons which support such an initiative may include one or more of the following principles:

- Recovering costs for work we are already doing is good business practice and it is in any case incumbent on us to ensure we making best use of registrant’s fees by recovering costs for work undertaken in support of others.
b On the assumption that offering additional services would not impact on the quality or efficiency of our core functions in the UK, seeking profits which could be reinvested back into the GMC’s core work would further contribute to our commitment to offering registrants value for money and an aspiration to maintain an annual retention fee (ARF) which is proportionate and stable. The Civil Aviation Authority’s (CAA) international arm currently generates significant profits for reinvestment by the CAA in its core business in the UK.

c Making an active contribution to the work of ‘UK Healthcare plc’ by offering services internationally is also in the wider public interest and would lend further legitimate urgency to our call for the introduction of the Law Commissions’ Bill by the next UK Government.

d We should also be mindful that there are likely to be significant benefits for strengthening our work in the UK from greater international engagement in particular. We are likely to learn a great deal from looking more closely at medical regulation overseas which we can consider applying to our own regulatory model.

e There may also be some opportunities for staff development. Although not strictly analogous, we know that medical students or doctors in training who have undertaken a placement in a completely different healthcare environment outside the UK have found benefits in terms of fostering their resilience, initiative and other leadership attributes.

What can we legitimately do and what considerations apply?

15 In keeping with these internal and external considerations we have sought legal and commercial/financial advice from Tim Dutton QC and our external auditors respectively in considering the issues that would be relevant to the prospect of the GMC providing services to regulators and other bodies on a pro bono, cost recovery or profit making basis.

16 This advice, albeit preliminary, confirms there is no bar to the GMC to recovering costs or making a profit from such activities provided they are ‘incidental or conducive’ to our statutory function, and any profits are reinvested into our objectives under the Medical Act.

17 In summary, the initial advice we have received is that it’s not open to the GMC to provide a consultancy service to an overseas regulator or institution in order solely to meet the needs of that regulator or institution. The provision of such a services must be ‘incidental to or conducive to’ our statutory functions. Further, the draft advice suggests that there should be a connection, supported by evidence, about (for example) the number of doctors coming to the UK from the overseas jurisdiction in which we provided a service.
However, where there is not such a clear link between providing an overseas service and demonstrable evidence that it is conducive or incidental to our UK functions, it may be possible to establish a separate legal entity to do this with any profits that entity derives from its activities being channelled back to the GMC. It may also be possible for the GMC to use its reserves to provide funding to the start-up of such a separate subsidiary. We have only had early discussions with leading counsel and informal discussions with our external auditors on both these matters, and we would require further advice in writing to confirm this assessment.

The initial advice also takes into account relevant draft provisions in the Law Commissions’ Bill and suggests that the Bill is actually somewhat broader in scope than the Medical Act because regulatory purpose is linked to ‘the wellbeing of the public’. This, taken together with the greater focus on risk based regulation in the Bill, may facilitate to linking the provision of assistance abroad to the eradication of risk posed by doctors coming to the UK, and thus the wellbeing of our citizens.

**What services might we offer?**

On this basis the services we might provide within our existing legal and charitable framework could include, for example:

- **a** A formal programme for overseas delegations visiting the GMC.

- **b** The provision of Welcome to UK Practice as part of locum agency or other partner overseas recruitment/training programmes.

- **c** The provision of general consultancy support and advice on medical regulation generally or the design and delivery of regulatory functions in order to assist a country or its regulator in developing its institutions and systems of regulation.

The services we might provide with the appropriate legal reforms delivered by the Law Commission could include, for example,

- **a** The quality assurance of medical education delivered overseas with the service being similar to that which we currently undertake in the UK and overseas. The difference would be that the medical school (or possibility postgraduate provider) would not need to be a UK organisation, without it being necessary for the overseas course to follow all the outcomes in *Tomorrow’s Doctors*, and without entitling their graduates to registration with the GMC.

- **b** The provision of UK shared service offerings to other healthcare regulators, for example in house legal services and MPTS for a profit.
Proposed next steps

22 First, we would need to finalise legal and commercial advice about the legitimacy of developing and offering ‘GMC services’ within the UK and overseas on a cost recover or for-profit basis, and the options for taking this work forward via a separate limited company.

23 We plan to engage key interests including the British Medical Association (BMA) on a similar basis to the PSA to share our developing thinking before engaging Council.

24 We plan to bring proposals to Council in early 2015 on the following basis:

   a We believe there is operational, political and financial merit in, and legitimate legal and commercial support for, exploring the development of a ‘GMC services’ offering at this time.

   b We believe a separate entity is the preferred option for taking this forward in order to ensure transparency and maintain a clear separation for reporting and accounting purposes.

   c Providing Council is content that we explore this further, we should develop a feasibility study for Council to consider subsequently and make a final decision whether to commit to this initiative. This would cover what the opportunities and risks for us are and what the resourcing, funding and organisational design implications would be for the GMC. It would be sensible to have consultancy support for this work both because of the complexity of the initiative and because a number of the major consultancy firms are involved in supporting healthcare initiatives abroad and would be well placed to consider how the GMC could develop an international offer. This work would also need to look at what lessons we can learn from other bodies (such as the CAA, BBC and PSA) who have each developed an international offering. A provision of £100, 000 has been made in the Strategy and Communication budget for these purposes.

25 In the meantime, we plan accept an invitation to sit on the UK-UAE Business Council Working Group.
Supporting information

How this issue relates to the corporate strategy and business plan

26 This relates to Strategic aim 2: to help raise standards in medical education and practice.

How the action will be evaluated

27 Subject to the approval of these proposals by Council a feasibility study would be undertaken on the basis outlined above.

What engagement approach has been used to inform the work (and what further communication and engagement is needed)

28 Informal discussions have been held with the Chief Executive, Chair, Chair designate, the Chief Operating Officer and Directors to inform this paper. The Chief Executive of the PSA has been notified of our interest in this area of work. Further engagement will be required, with both Council and the BMA.

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