

### **Summary of GLADD's response**

***GLADD welcomes this consultation and many of the proposals contained in this document. However, as already pointed out by GLADD, the law on employment and religion & belief, and sexual orientation was changed in December 2003. It is a matter of very serious concern that the GMC which always makes a point of only acting within its legislative framework and which has such full access to legal expertise should have overlooked this and issued a document for consultation which contained this regrettable error.***

***The GMC has demonstrated its commitment to tackling discrimination both as an employer and as a regulator. However, the perpetuation of a distinction between issues relating to racial discrimination and other forms is itself discriminatory and should be brought to an end.***

***More detailed comments are to be found in red italics throughout the document.***

## **Consultation: Race, Equality and Diversity Work Programme (2003-2004)**

### **Background**

1. The GMC is committed to promoting fairness, equality, transparency and diversity in the way that it provides its service to doctors and patients and in the way that it treats its staff and members.
2. As part of the review of the existing Race, Equality and Diversity Work Programme (2003-2004), the Race, Equality and Diversity Committee of the General Medical Council wishes to consult key organisations on progress to date, and any new developments that the GMC should consider in order to take forward these strategies.
3. The Race, Equality and Diversity Committee has the following remit:  
  
To consider, across the full range of the GMC's responsibilities, what action is required to fulfil the GMC's commitment to promoting equality and valuing diversity and to processes and procedures that are fair, objective, transparent and free from discrimination. In particular the Committee should:
  - a. Ensure that equality and diversity issues are central to the development of new policies and procedures.

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- b. Ensure that we have systems for auditing our processes, to enable us to meet our commitment to be fair, objective, transparent and free from discrimination.
  - c. Promote best practice in equality and diversity including in matters relating to race. *It is unnecessary to say 'including in matters relating to race.'*
  - d. Use the GMC's influence with others whose work has an impact upon our processes. *Demonstration of such leadership would be very welcome*
4. This document reflects the GMC's dual roles as both a regulator and an employer.
5. These are the steps we are taking to ensure that we fulfil our responsibilities.

Our commitment is:

To consider, across the full range of the GMC's responsibilities, what action is required to fulfil the GMC's commitment to promoting equality and valuing diversity and to processes and procedures that are fair, objective, transparent and free from discrimination.'

**Q: In the light of this Work Programme, do you think the GMC is taking appropriate steps to meet our commitment?**

*The GMC needs to make sure that all threads of diversity are recognised in its approach and not just Race. The very fact that the GMC committee uses the title Race, Equality & Diversity suggests that it sees Race as being the primary diversity issue and the others as secondary. This in itself is prejudicial.*

Modern principles of professionally led regulation state that:

Regulatory bodies must show that their procedures are free of racial and other forms of bias and discrimination. *It is unnecessary to draw the distinction between racial and other forms of bias etc.*

**Q: Do you think the GMC is taking appropriate steps to meet this objective?**

*We need to see how the GMC plans to measure the appropriateness of its initiatives with regards to diversity groups. Is the language of the publications produced reviewed for gender and sexual orientation language discrimination? Do the forms for registration, etc. reflect diversity?*

*Is there a process of external review of the procedures to monitor discrimination and bias and how is this recognised for diversity issues which may not be recognised at first contact?*

**Q: How could the GMC improve this Work Programme? What could we add to it?**

*Objective c as worded is discriminatory in its own right as it focuses specifically on race suggesting that this has a greater priority for the GMC and some form of equality hierarchy which is a contradiction in terms. The GMC should be setting an example and addressing the needs of all diversity groups equally.*

*The GMC should look at the reporting of discrimination by doctors and the process for dealing with this. Consultation should be made with relevant groups to examine barriers to discrimination reporting. The evidence from the lesbian and gay community suggests that patients still feel they cannot disclose safely to their doctors without experiencing discrimination.*

The GMC needs to provide clear information to patients about the role of a doctor in relation to diversity issues and their rights in terms of getting respect and good quality care. Information needs to reflect diversity in its language and imagery.

**Q: What measures would you like to see included in a 2005 work programme?**

- 1. Staff training on diversity needs to include sexual orientation.*
- 2. When selecting 'representative' and 'diverse' groups e.g. for GMC medical school visits, patient representatives, there is a need to ensure LGB people are properly represented.*
- 3. GMC should use the powers it has during Medical School visits to recommend that there are explicit areas appropriate to sexual orientation in areas of the curriculum (not just HIV, Psychiatry). Please see GLADD guidelines.*
- 4. Non-discriminatory attitudes and behaviours towards LGB colleagues and patients must be assessed before graduation.*
- 5. Acquiring and displaying non-discriminatory attitudes and behaviours need to be included as a competency for all doctors in training.*
- 6. If during assessment discriminatory behaviour or attitudes to patients or doctors are detected then measures should be put in place for improvement followed by reassessment. Doctors should not progress through training if they display inappropriate attitudes or behaviours*
- 7. Discriminatory behaviour or attitudes should be reported to the GMC as a matter of concern under fitness to practise.*
- 8. The GMC should report on cases notified to them.*
- 9. The E&D committee should produce a document and an easily accessible section of the GMC website stating the role of the E&D Committee and explaining the position of the GMC on all strands of diversity, not just race which is sent to all doctors and those who manage and employ them and to patients.*
- 10. The committee should produce a document which should also easily available on the GMC website which defines the process and the implications of being found guilty of discrimination against patients and colleagues, which includes support mechanisms for both sides in the case and also reflects the serious impact that such actions may have on both professional colleague's future in healthcare and the ability of patients to trust and engage in healthy well being with health professionals.*

## Standards and Ethics

### *Update of Good Medical Practice*

6. We plan to review the publication Good Medical Practice in 2004/5. This will give us the opportunity to re-evaluate whether there is sufficient emphasis on equality and diversity issues and to take into account changes in the law and other developments in this area. We are improving our consultation process to ensure we engage with the public, including people who are difficult to reach in formal consultations. This will mean not just seeking views early in the process (rather than when our ideas have already crystallised), but also establishing the best means of fostering a dialogue with groups and individuals. We hope that through a range of initiatives, including personal visits, seminars and through using our website, and those of other organisations, we can better understand the views, interests and needs of groups within society who are often poorly represented.

*This is strongly welcomed and LGB groups should be specifically included.*

### *Revision of Management in Health Care - The Role of Doctors*

We will focus in particular on guidance relating to treating colleagues fairly and without discrimination. We will also ensure the guidance gives clear advice about how medical managers can avoid their decisions directly or indirectly discriminating against groups of patients. We will work with the CRE, DRC, BIDA and others (*Why are LBG organisations relegated to 'others'?*) to formulate views and to discuss working drafts of the new guidance.

### *Revision of Withholding and Withdrawing Life-prolonging Treatments: Good Practice in Decision-making*

We will be reviewing the guidance following the publication of the Mental Capacity Bill and the determination of the JR of our booklet. We are already in discussion with the DRC and the Mental Health Foundation, and will be working closely with these and other groups to ensure the booklet promotes diversity and equality in this particularly sensitive and difficult area of medical care. This will take forward the successful links we made with religious groups, disability groups and human rights organisations and others in developing this guidance.

### *Valuing Diversity Guidance*

7. *Good Medical Practice* (May 2001) currently stipulates that:

'You must not allow your views about patients' lifestyle, culture, beliefs, race, colour, gender, sexuality, disability, age, or social or economic status, to prejudice the treatment you provide or arrange' (Paragraph 5).

*'Sexuality' is an incorrect term. It should be 'sexual orientation' as per the recent legislation.*

and that:

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'In accordance with the law, you must not discriminate against colleagues, including those applying for posts, on grounds of their sex, race or disability. And you must not allow your views of colleagues' lifestyle, culture, beliefs, colour, gender, sexuality, or age to prejudice your professional relationship with them' (Paragraph 34).

*'Sexual orientation, religion and beliefs' should be added to the sentence starting 'In accordance with the law....'*

8. This is not intended to provide comprehensive practical guidance on compliance with the letter of the law or on best practice. In an increasingly important aspect of doctors' working lives, we want to offer the profession some guidance in this area. *This para seems contradictory. Guidance to doctors and those who employ and manage them on all E&D issues is badly needed.*

9. In 2004/5, therefore, we plan to provide information to doctors offering advice on how to comply with this aspect of *Good Medical Practice*, and also where to find relevant information on best practice and compliance with the law.

*The GMC should also consider why, when Para 34 of GMP already outlaws discrimination on the basis of Sexual Orientation, no cases to our knowledge have ever been brought before the GMC around this issue. It is not simply a question of writing rules – these are no good if they are blatantly ignored by some and others feel do not feel empowered to use them. A very clear statement of commitment to these issues from the GMC would be very welcome in this respect.*

## Registration

10. A broad range of initiatives have been introduced to promote equality and diversity in our registration practices, and to help ensure our registration processes and procedures are fair, objective, transparent and free from discrimination. Recent accomplishments in this area, and our forthcoming objectives, are summarised below.

### *Accomplishments*

#### Single route to registration for overseas-qualified doctors

11. At the end of 2003, we ended the special registration arrangements for doctors who qualified at universities in Australia, New Zealand, South Africa, Hong Kong, Singapore, and the West Indies. Whilst not intended to be discriminatory, the special arrangements for this group of overseas doctors were often perceived as such, since a protected few were able to gain registration on the strength of their primary medical qualification whilst others were required to demonstrate their medical knowledge and skills before registration was granted. Now all those applying for registration from outside the UK and EEA will be treated equally. They will all be required to demonstrate their medical knowledge and skills at the point of registration.

#### Registration Review

12. We have been working on a fundamental review of our registration arrangements, founded on the principle of equal treatment for all doctors, regardless of where in the world they have qualified. After a wide-ranging consultation, Council endorsed the review's recommendation to abolish the concept of 'limited' registration for international medical graduates, and introduce a single licensing framework for all doctors.

13. At present, those who have qualified outside the UK or EEA can only apply for limited registration, which means that they can only work under the supervision of a fully registered medical practitioner. New arrangements will apply the same licensing framework to every applicant. When international medical graduates have demonstrated their medical knowledge and skills they will be able to apply for the same full licence as their UK counterparts. The forthcoming system of a licence to practise and periodic revalidation will apply to all doctors.

#### Improved service delivery

14. Over the past few years we have been working hard to redesign registration processes to help secure a significant improvement in customer service, effectiveness and efficiency. We now have a set of service delivery standards and defined targets (for example, in relation to telephone calls, reception service and dealing with applications) against which performance can be monitored. Monthly reports to the GMC's Registration Committee show that there has been a considerable improvement in our performance since the service delivery standards were introduced.

15. We have also made access to registration information easier with more on-line services. We publish application forms and comprehensive guidance notes for all candidates on the GMC's web site. And since October 2003, PLAB candidates have been able to book a place for Part 2 of the test on our website. This means that doctors who have already passed Part 1 of the test no longer need to complete a paper form or wait for us to process their application.

#### PLAB test

16. A pass in the Professional Linguistic Assessment Board ("PLAB") test is the most common way overseas-qualified doctors demonstrate their capability for practice in the UK. As such we have made concerted efforts to prevent any potential for bias in our question methods (Part 1 of the test) and 14 objective structured clinical examination ("OSCE") stations (Part 2 of the test), and, more generally, to improve access to PLAB services.

17. All writers have a training session before they write questions and OSCE stations for the test. They also take part in a briefing session before each training workshop and receive guidance notes to help them produce questions written in simple language, avoiding colloquialisms, cultural references, and assumptions about knowledge of NHS procedures which are not necessary for assessing candidates' clinical knowledge and skill.

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18. OSCE examiners undertake a rolling training programme of training, including practical sessions on discrimination awareness. The aim is to increase their awareness of cultural differences, and ensure that candidates are not being penalised for cultural differences where those differences do not affect the candidate's ability to practise medicine safely.

19. Since mid-November 2003, we have been carrying out OSCEs at our own on-site assessment centre. Feedback has shown that candidates are very pleased with the Centre both in terms of the facilities and the welcome from staff.

#### Refugee doctors

20. To help support initiatives for preparing refugee doctors for work in the UK, and in recognition that many are financially disadvantaged, we offer various concessions in registration fees. For example, we allow refugee doctors to take Part 1 of the PLAB test free of charge, and since February 2004, they pay discounted fee for Part 2 of the test.

#### Feedback for reception staff

21. We have introduced a monthly customer survey of visitors to our fifth floor registration reception. To date, most of the respondents (on average 95% or over) thought that the facilities we provide in reception were either very good or excellent and that our service delivery time was either very good or excellent. Doctors are also invited to give general feedback. Here are some comments from overseas-qualified doctors:

'You are providing excellent services to the doctors - who are far from their homes - with your kind guidance.'

'I am really impressed with the way the GMC has changed over the last few years.'

#### Training for staff

22. All new staff undergo cultural awareness training as part of their induction programme, and external trainers run a tailored course for registration customer-facing staff.

#### *Objectives for 2004 and 2005*

During 2004 and 2005, we plan:

#### Information for overseas doctors

23. Produce, together with the Department of Health, information on the UK job market for doctors planning to move to the UK. We believe that steps should be taken to make sure that doctors coming to the UK are clearly informed about the job market here and their realistic prospects before they begin their planning for a move, or incurring costs in taking the PLAB test for example.

#### PLAB test

24. Review our guidance for PLAB candidates. Some important aspects of the practise of medicine in the UK are not always obvious to candidates from different cultural backgrounds. We plan to set up a working group of past PLAB test candidates, facilitated by an equal opportunities specialist, to help review our guidance.

#### New on-line services

25. Create more on-line services (for example, payment of fees, change of registered address) to make access easier for doctors who are living outside the UK.

#### Staff training

26. Promote cultural awareness in the workplace context by arranging for speakers to talk directly to staff about their experience of dealing with the GMC (for example, refugee doctors); produce a manual and on-line guidance facility for staff on cultural awareness; design and implement a feedback questionnaire for visitors to our reception and for callers to our help line.

27. Design an assessment tool to assess staff awareness of racial, cultural, disability, age and gender *and sexual orientation* issues, and their ability to deal with people in a way which is fair, objective, transparent and free from discrimination. This will help us identify staff who might benefit from further and possibly more intensive cultural awareness training.

#### Casework decision-making and appeals

28. Introduce a new registration decision-making and appeals process for all doctors, which will stream-line our decision making process and bring our registration appeals framework in line with EU law and domestic human rights law.

#### Ethnicity data

29. Use the introduction of the licence to practise and revised fee framework to collect further ethnicity data from doctors on the register. We hope this will provide us with a more reliable baseline for future analysis and monitoring of ethnicity trends.

#### **Fitness to Practise**

##### *The Fitness to Practise Review*

30. 2004: The current fitness to Practise procedures are the subject of a major review.

31. One of the key success measures will be completing the implementation of the review during 2004. In addition, in order to measure our success in implementing the new procedures, and doctors' perception of their fairness, we will collect and report on feedback from complainants and doctors on the new processes.

32. A training programme will be developed for all staff, case examiners and panel members to introduce the new process and to ensure that all those involved in handling complaints are appropriately trained and assessed.

### **Review of Fitness to Practise performance procedures**

33. 2004: We started to scope and initiate the review and develop a work programme. We intend to revisit the original objectives examining relevance and validity now and for the future between January and March of 2004. We will develop and consult on any proposals for change from March through to September 2004.

### **Complaints about doctors**

34. Incoming complaints are screened within the office, initially by caseworkers. Once assessed, complaints which raise the possibility that a doctor's fitness to practise may be in question are investigated further. Other complaints, which do not raise that possibility, are closed. Before any complaint is closed that closure must be agreed by both a medical doctor and a layperson.

35. In 2003 we revised our procedures to produce greater clarity and certainty about categories of complaint, and the specific reasons for closing those complaints. Screener and caseworker activity was audited using a sampling approach each month. Caseworker induction training was reviewed and formalised to include equality and diversity issues.

36. 2004: Screening activity will continue to be routinely analysed so we can measure whether there are any changes in the relative proportions of UK and overseas qualifiers sent forward from screening.

### **Legal Assessor training and performance monitoring**

37. The GMC appoints Legal Assessors (barristers, solicitors or advocates of at least 10 years standing) to advise the fitness to practise committees on points of law.

38. We have introduced monitoring of the performance of legal assessors through the feedback forms completed by panel chairmen to assess whether there are any concerns about the partiality of legal assessors. Training in equality and diversity issues is provided for all legal assessors. In an attempt to introduce greater diversity, letters were sent to specific groups of lawyers (e.g. the African, Caribbean and Asian

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Lawyers Group and the Association of Women Solicitors) asking them to encourage those of their members who were suitably qualified to apply. *Did the GMC send this to the Lesbian and Gay Lawyers Association (LAGLA)?*

39. In future recruitment rounds, we aim to increase diversity amongst legal assessors as the need for more assessors arises.

### **Member assessment/appraisal scheme**

40. In 2003 we established a working group to develop a system of assessment and appraisal for fitness to practise panel members, including chairmen.

41. 2004: We plan to have in place a functioning assessment and appraisal scheme for committee panellists by June 2004.

### **Appointment of Fitness to Practise Panellists**

42. The Council has appointed medical and lay associates to sit on the committees following open competition for the posts. The posts are advertised in the national and medical press and panellists are appointed if they are deemed to possess the required competencies. The process is overseen by an independent assessor appointed by the Office of the Public Appointments Commissioner. Those considered suitable for appointment must then satisfactorily complete training, including training in racial awareness and equality issues, before the appointment is confirmed. *The training should be about all E&D issues*

43. The panellists appointed are from diverse backgrounds, not only in terms of ethnicity and gender but also age, specialty and job level. *This is poorly worded. Panellists should be appointed from all the E&D groups.*

### **Education and Training**

44. The agreed objectives of the Education Committee for 2004 include demonstrating that the GMC has contributed to ensuring that medical education and training reflect contemporary society (promoting equality, valuing diversity; learning to practise with others; patient centred practice; work in a constantly changing environment; learner centeredness).

45. In 2004 the Education Section will be piloting its proposals for the Quality Assurance of Basic Medical Education at three medical schools - Aberdeen, Birmingham and Liverpool. Through this process of quality assurance we will be assessing, among other roles, how well undergraduate medical education reflects contemporary society including the need to promote equality and value diversity both in the selection, support and assessment of medical students and in their future

relationships with patients. During 2003 we carried out a detailed impact assessment of our proposals and we shall carry out another impact assessment of the lessons that we learn through the pilot.

46. After graduation, former students enter PRHO training. We will be issuing a consultation document on reforms to the GMC's guidance (through a revised version of 'The New Doctor') and to the legislative structure (through a Section 60 Order). The need to ensure that PRHO training promotes equality and values diversity is fully recognised and we will consult formally with organisations with particular expertise in this field.

47. We will also issue the GMC's first guidance on Continuing Professional Development, which we drafted and consulted upon widely during 2003. This itemises aspects of good medical practice that could be relevant to doctors' CPD including equality and diversity issues in their relations to both colleagues and patients.

#### *Medical schools visitor recruitment*

48. The GMC has a major influence on undergraduate medical education and should be seen to support attempts to promote equality and diversity in undergraduate education. A major influence on the way that schools conduct the medical course is our inspections and visits programme. Historically, visitors to medical schools have been selected by the Education Team based on individuals who have been known to have relevant expertise and experience

49. All visitors were recruited in open competition against a set of objective criteria. We encouraged applicants from a broader cultural, ethnic and social range by targeting advertisements. We subjected the texts of our advertisements and the material that we sent to applicants to equality proofing to ensure that they encouraged diversity of applicants.

50. During 2004 we will ensure that appropriate training is provided to all visitors. This will cover issues such as: drivers for equality and diversity; personal and vicarious responsibility under current and new legislation; understanding prejudice, discrimination and harassment; and promoting good practice.

51. Appropriate guidance and detailed sets of criteria/questions will be prepared for visitors. For example, this could stress the importance of ensuring fairness and objectivity (e.g. in applications), and student support appropriate for a wide range of backgrounds, and of talking to an appropriate range of students to ensure that minority concerns are identified.

52. The visits programme starts in 2004. We will analyse and report on equal opportunity monitoring data, and take appropriate action if we find evidence of unfair discrimination or failure to promote diversity.

*Visits should include reference to appropriate support services for minority group students.*

*The GMC needs to develop and publish an appropriate standard for equality and diversity teaching and learning in schools. Visiting teams need to feed back to the medical schools based on the standard of the Equality and Diversity in the curriculum.*

## **Policy and Corporate Affairs**

### *Equality proofing*

53. In 2003 we introduced equality proofing, to comply with CRE guidance to help us take into account the impact of new procedures or policies on different parts of the community, and ensure that we do not unfairly discriminate against any group, either directly or indirectly. *The equality proofing needs to comply with Employment Equality (Sexual Orientation) Regulations 2003.*

54. This has required staff and members to consider whether their proposals have a direct or indirect discriminatory impact and to make appropriate amendments to the policy or procedures where necessary. All proposed policies and procedures undergo an impact assessment.

55. It is important to note that there may be circumstances where the public interest or our statutory obligations require us to adopt a policy or procedure that might be seen as discriminatory. *(What are these circumstances?)* In those circumstances we should seek to minimise the discriminatory impact of the policy or procedure and to ensure that we explain the reasons why it is necessary to go ahead with the policy or procedure.

56. Through 2004 the REDC and the Secretariat will continue to monitor impact assessments to review the effectiveness of these procedures at regular intervals. As we gain more experience of working in impact assessment the REDC will strengthen the equality proofing procedures and supporting guidance.

57. We have worked with a specialist consultant to achieve this and measures planned or undertaken include: setting up bespoke interventions to improve and increase the competency of staff with regards to equality proofing; weekly email and telephone 'surgeries'; creating learning pairs so that people can discuss issues with a specific colleague; short 'masterclass' events looking at process strengths and weaknesses; reviewing recently produced internal and external documents that reflect best practice.

58. We are also developing web-based and desktop analysis of best practice in other relevant organisations; and we plan to undertake an evaluation after 6-9 months to assess whether the competence and confidence of staff have been maintained and that the Council and Committees are satisfied with the organisation's equality proofing standards as reflected in reports.

59. We will seek to ensure that our Patient Reference Group includes a diverse group of representatives.

*This patient reference group should include LGB patients.*

## Employment

### *Recruitment and staffing*

60. Recruitment is the most important aspect of the HR programme. It provides an insight for prospective employees (and a wider audience) into the way we work, the values that we have and our aspirations as an employer.

61. During 2004 we plan a broadening of our advertising strategy to include a variety of web-sites; the use of events such as recruitment fairs to develop the GMC's profile, especially in the North West; a move towards an application form based recruitment system; the development of a wider range of formats for recruitment materials; the design of some roles as trainee posts in order to allow us to recruit and develop talent on an agreed career path; strategic partnerships with organisations to provide placement opportunities for job seekers from particular groups; and a revised welcoming statement for job adverts emphasising that 'The GMC has made a public commitment to fair, open and accessible recruitment processes'.

### *Training and development*

62. The GMC has a long established programme of cross cultural awareness training. *This should include aspects on sexual orientation.* Development opportunities are also in place for staff who are involved in key tasks such as recruitment.

63. Maintaining existing training is important and training on disability awareness and gender issues will also be made available as part of the 2004 training plan, as well as covering areas that will shortly be covered by legislation (age, religion or beliefs, and sexual orientation). *Sexual Orientation is already covered by legislation. Sexual orientation should be included in the awareness training.*

*Employment practices*

64. The GMC has good employment policies, monitoring arrangements and equality auditing in place and opportunities exist to promote these further to prospective employees. The development of legislation on age, sexual orientation and religion will provide an opportunity to further review practices.

***The law on employment and religion & belief, and sexual orientation was changed in December 2003. It is a matter of very serious concern that the GMC which always makes a point of only acting within its legislative framework and which has such full access to legal expertise should have overlooked this.***

*Employment practices need to be reviewed now as Sexual Orientation already covered by legislation.*

65. In 2004 we plan the publication of a diversity site on the GMC's intranet (including for example a calendar of the main religious and cultural events); an equality audit and equal pay review; an assessment of work-life balance policies through the use of appropriate benchmarks; the publication of equality audits so they are available to all staff; the publication of procedures for managing and implementing adjustments to the work place for disabled staff.