

## EXPLANATORY MEMORANDUM TO

### THE GENERAL CHIROPRACTIC COUNCIL (CONSTITUTION) ORDER 2008

2008 No. 3047

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This Order sets out the new constitution of the General Chiropractic Council (GCC). It makes provision for the Council to consist of 14 members, made up of 7 lay and 7 professional members, all of whom will be appointed by the Privy Council (although in practice the Privy Council's appointment functions will be delegated to the Appointments Commission). The Order also sets out the criteria for disqualification for appointment as a member, the circumstances in which members may be suspended or removed from office, and the chairing arrangements for the GCC.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative Context**
  - 4.1 Prior to this Order, the membership of the GCC was made up of 6 lay members appointed by the Privy Council, 10 professional members who are elected representatives of chiropractors registered with the GCC, 3 members appointed by the GCC's own Education Committee and one member appointed by the Secretary of State. The constitution of the GCC was set out, essentially, in Schedule 1 to the Chiropractors Act 1994 ("the 1994 Act"), but those constitutional arrangements have been revised.
  - 4.2 The amendments made to the 1994 Act by the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 (SI 2008/1774: "the 2008 order") made a number of changes to the constitutional arrangements for the GCC. In particular, Schedule 1 to the 1994 Act was amended so that it now provides for a fully appointed council, rather than the mix of appointed members and elected professional members described above. The 2008 Order also provided for the constitution of the GCC to be set out in a constitution order made by the Privy Council instead of being contained within the 1994 Act.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to all of the United Kingdom
6. **European Convention on Human Rights**
  - 6.1 As the Order is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy Background

- 7.1 The White Paper *Trust, Assurance and Safety – the Regulation of Health Professionals in the 21<sup>st</sup> Century* (published in 2007) set out a substantial programme of reform to the United Kingdom’s system for the regulation of health care professionals. This was based on consultation on the two reviews of professional regulation published in 2006: *Good doctors, safer patients* and *The Regulation of the non-medical health care professions*.
- 7.2 Chapter One of the White Paper (*Assuring independence: the governance and accountability of the professional regulators*) included a number of recommendations in relation to the constitution of the regulators of health care professionals. It was recommended that :
- The Councils of the regulatory bodies should have, as a minimum, parity of membership between lay and professional members, to ensure that purely professional concerns are not thought to dominate their work;
  - To enhance public confidence in the healthcare professional regulators, council members should be independently appointed;
  - To enable Councils to focus more effectively on strategy and the oversight of their executives, they should become smaller and more board-like, with greater consistency of size and role across regulatory bodies.
- 7.3 The arrangements set out in this Order mean that the GCC has parity of membership between lay and professional members and it is smaller (down from 20 to 14 members). The appointment of members will be carried out by the Appointments Commission by virtue of a separate set of directions given by the Privy Council.
- 7.4 The Appointments Commission will also be responsible, by virtue of the Directions, for the suspension or removal from office of members, in accordance with the criteria set out in this Order. However, the GCC may also provisionally suspend its members under its own standing orders, pending the outcome of the Appointments Commission consideration of the matter. The Order also allows the Appointments Commission to stay its own consideration of whether or not to suspend a member while the GCC is carrying out its own internal investigation. A balance is therefore struck between the independence of the regulator, the GCC, and the effectiveness of independent oversight of the regulator.

## 8. Consultation Outcome

- 8.1 The General Chiropractic Council (Constitution) Order was published in draft on 11<sup>th</sup> July 2008, for 12 weeks. Consultation closed on 3<sup>rd</sup> October 2008.
- 8.2 Respondents were requested to fill in a questionnaire response form and return either electronically or by post to the Department. In total 6 responses were received by the closing date, and a further response was received the following week. All 7 responses were reviewed as part of the consultation process.
- 8.3 The responses represented a mix of bodies/organisations and individual professionals, including primary stakeholders in the field of Chiropractic practice. The majority of respondents supported the reforms set out in the Order. A report on the consultation is provided on the Department’s website, [www.dh.gov.uk](http://www.dh.gov.uk).

## **9. Guidance**

9.1 The Department of Health has not issued any guidance in relation to this Order. The Appointments Commission has been working closely with the GCC to develop an information pack for prospective applicants seeking appointment to the Council.

## **10. Impact**

10.1 An Impact Assessment is attached to this Memorandum

## **11. Regulating small business**

11.1 The legislation does not apply to small business

## **12. Monitoring and Review**

12.1 The outcome will be subject to internal review after three years and the legislation may be amended accordingly.

## **13. Contact**

13.1 Stuart Griffiths at the Department of Health, tel: 0113 254 5249 or e-mail [stuart.griffiths@dh.gsi.gov.uk](mailto:stuart.griffiths@dh.gsi.gov.uk)

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>DH</b>	<b>Title:</b> <b>Impact Assessment of General Chiropractic Council Constitution Order</b>	
<b>Stage:</b> Implementation	<b>Version:</b> 1.1	<b>Date:</b> 1 October 2008
<b>Related Publications:</b> Health Care and Associated Professions (Miscellaneous Amendments) Order 2008. GCC Constitution Order		

**Available to view or download at:**

<http://www.dh.gov.uk>

**Contact for enquiries:** Stuart Griffiths

**Telephone:** 0113 254 5249

**What is the problem under consideration? Why is government intervention necessary?**

The need to implement changes to the constitution of the General Chiropractic Council (GCC) in line with legislation approved by Parliament. This will deliver enhanced confidence in regulation through a smaller council, independently appointed, with parity between lay and professional members.

Government intervention is necessary to enable changes made by the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 to be implemented. Under the terms of this Order details of the GCC must be set out in a "constitution" order.

**What are the policy objectives and the intended effects?**

The policy objective is to set out the constitutional arrangements for the GCC in a new constitution order. The new Council will be smaller in order to focus more effectively on strategy and the oversight of the executive. All members of the council be be independently appointed to enhance public confidence in the GCC, and to ensure that purely professional concerns are not thought to dominate its work the council will have parity between lay and professional members.

**What policy options have been considered? Please justify any preferred option.**

Policy options were considered prior to Parliamentary consideration and approval of the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008. This Order requires a new constitution of the GCC to be made.

This Impact Assessment relates to the final order to be laid before Parliament.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** October 2011

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister:

**Ben Bradshaw**.....**Date:** 11th November 2008

## Summary: Analysis & Evidence

<b>Policy Option:</b>	<b>Description:</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' The attached Order provides for a fully appointed council, with fewer members than at present. One-off costs represents the costs of appointing and training the 14 new members of the Council			
	<b>One-off</b> (Transition)		<b>Yrs</b>		
	£ 44k		1		
	<b>Average Annual Cost</b> (excluding one-off)				
	£ 66.3k	<b>Total Cost (PV)</b>		£ 228,261	
Other <b>key non-monetised costs</b> by 'main affected groups'					

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups' The attached Order provides for a smaller council than at present. Annual benefits shown are the savings achieved by reducing the size of the Council			
	<b>One-off</b>		<b>Yrs</b>		
	£ 0				
	<b>Average Annual Benefit</b> (excluding one-off)				
	£ 86.2k	<b>Total Benefit (PV)</b>		£ 241,501	
Other <b>key non-monetised benefits</b> by 'main affected groups'					

Key Assumptions/Sensitivities/Risks None

Price Base Year	Time Period Years	<b>Net Benefit Range (NPV)</b> £	<b>NET BENEFIT (NPV Best estimate)</b> £ 13,240
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What is the geographic coverage of the policy/option?	United Kingdom		
On what date will the policy be implemented?	October 2008		
Which organisation(s) will enforce the policy?	GCC		
What is the total annual cost of enforcement for these organisations?	£ N/A		
Does enforcement comply with Hampton principles?	Yes		
Will implementation go beyond minimum EU requirements?	No		
What is the value of the proposed offsetting measure per year?	£ N/A		
What is the value of changes in greenhouse gas emissions?	£ 0		
Will the proposal have a significant impact on competition?	No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium      Large
Are any of these organisations exempt?	No	Yes	N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of    £	Decrease of    £	<b>Net Impact    £</b>

Key:    Annual costs and benefits: Constant Prices    (Net) Present Value

### Background

1) The White Paper *Trust, Assurance and Safety – the regulation of health professionals in the 21<sup>st</sup> century* (published February 2007) set out a substantial programme of reform to the United Kingdom's system for the regulation of health care professionals. This was based on consultation on the two reviews of professional regulation published in 2006: *Good doctors, safer patients* and *The Regulation of the non-medical health care professions*.

2) Over recent years, most of the regulators have made changes to provide greater reassurance that they are even-handed in their deliberations and decisions but perceived dependence on, or attachment to, a particular interest has continued to weaken or threaten confidence in those actions. The composition of the regulators is central to those perceptions. Firstly, some are seen to be partial to professionals as they form a majority on their Councils. Secondly, some are seen to be partial because their councils are thought to be elected to represent the particular interests of health professionals.

3) The White Paper therefore proposed that:

- The Councils of the regulatory bodies should have, as a minimum, parity of membership between lay and professional members, to ensure that purely professional concerns are not thought to dominate their work
- To enhance public confidence in the health care professional regulators, Council members should be independently appointed
- To enable Councils to focus more effectively on strategy and the oversight of their executives, they should become smaller and more board-like, with greater consistency of size and role across regulatory bodies

4) These reforms were considered further in the consultation on the Health Care and Associated Professions (Miscellaneous Amendments) Order published for consultation on 22 November 2007. The consultation closed on 22 February 2008. Responses to the consultation supported the proposed constitutional arrangements.

5) The Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 was approved by Parliament and made by the Privy Council in July 2008. This Order requires the details of the new constitution of the GCC to be set out in a separate "constitution" order.

6) A draft GCC constitution order was published for consultation in July 2008. There were 7 responses to the consultation before the closing date of 3 October. A report of the consultation has been placed on the Department of Health website at [www.dh.gov.uk](http://www.dh.gov.uk)

7) The constitution order has been revised in the light of comments received, made by the Privy Council and laid before Parliament.

8) This Impact Assessment relates to the final constitution Order

## **GCC Constitution Order**

The constitution order provides for the new council of the GCC to consist of 14 members made up of 7 lay and 7 professional members. All members will be appointed independently, rather than the current mix of appointed members and elected professional members. This is a reduction in council membership from the current 20.

### **Estimated costs**

#### New Council

*One off costs* of appointing and training 14 members = £44k

#### *Annual costs:*

Each member receives £275 per day remuneration.

Each member attends 4 meetings a year each of 2 days duration. Therefore each member receives remuneration of  $4 \times 2 \times £275 = £2200$

Average expenses per member = £277 per meeting. Each member therefore claims expenses of  $4 \times £277 = £1108$

Costs per member =  $£2200 + £1108 = £3308$

14 members @ £3308 per member = £46,312

Annual training and development costs for council members = £20k

Total Annual costs =  $£46,312 + £20k = £66,312$

#### Old Council

Each member receives £275 per day and attends 4 meetings a year of 2 days duration

Each member receives remuneration of  $4 \times 2 \times £275 = £2200$

Average expenses per member = £277 per meeting. Each member therefore claims expenses of  $4 \times £277 = £1108$

Costs per member = £3308

20 members @ £3308 per member = £66,160

Annual training and development costs for council members = £20k

Total annual costs of old council = £66,160+£20k = £86,160

New Council therefore achieves annual savings of £86,160 - £66,312 = £19,848

Summary of costs/benefits.

Costs	Price base year 2008/09				3.5
year		setup	annual	total	discounted
1	2009/10	44,000	66,300	110,300	106,570
2	2010/11		66,300	66,300	61,892
3	2011/12		66,300	66,300	59,799
			Total cost (PV)		228,261

Benefits	Price base year 2008/09				
year		setup	annual	total	discounted
1	2009/10		86,200	86,200	83,285
2	2010/11		86,200	86,200	80,469
3	2011/12		86,200	86,200	77,747
			Total benefit (PV)		241,501
			NET BENEFIT (NPV best estimate)		13,240



## Specific Impact Tests: Checklist

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	Yes
Small Firms Impact Test	No	Yes
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

# Annexes

## **Competition Assessment**

No issues have been identified

## **Small Firms Impact Test**

No impact on small firms

## **Legal Aid**

No legal issues identified

## **Sustainable development**

No issues identified

## **Carbon Assessment**

No impact

## **Other environment**

No environmental issues identified

## **Health Impact Assessment**

No issues identified

## **Race/Disability/gender equality**

In drafting the Order, we have considered the possible impact on equality issues (age, disability, gender, race, religion or belief, and sexual orientation) of the move to a fully appointed council. All appointments will be made by the Appointments Commission, who are required to follow guidance issued by the Commissioner for Public Appointments. The appointments procedure will provide those legal safeguards to ensure that there will be no negative impact on these groups.

## **Human Rights**

No issues identified

## **Rural Proofing**

No issues identified