

# **Eligibility for Inclusion in the Specialist Register - Restoration of the Existing Specialist Route - consultation**

*Background and consultation questions*

October 2008 to January 2009

**Please return your responses by Friday 9 January 2009 to:**

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**Responding as an individual**

Are you are responding as an individual?

**NO**

**Responding as an organisation**

Are you are responding on behalf of an organisation?

**YES**

If yes, please complete the following questions. If not, please complete the 'responding as an individual' section above.

Which of the following categories best describes your organisation?

Body representing doctors **YES**  
Body representing patients or public  
Government department  
Independent healthcare provider  
Medical School (undergraduate)  
Postgraduate medical institution  
NHS/HSC organisation  
Regulatory body  
Other (please give details)

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In which country is your organisation based?

UK wide **YES**  
England  
Scotland  
Northern Ireland  
Wales  
Other (European and Economic Area)  
Other (rest of the world)

Would you like to be contacted about GMC consultations in the future?

**YES**

If you would like to know about upcoming GMC consultations, please let us know which areas of the GMC's work you are interested in:

Education ✓  
Standards and Ethics ✓  
Fitness to Practise ✓  
Registration ✓  
Resources (including the annual retention fee) ✓

The information you provide in your response may be subject to disclosure under the Freedom of Information Act 2000, which allows public access to information held by the GMC. This does not necessarily mean that your response will be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, and please take this into consideration when choosing if others may view your responses.

Please tick if you want us to treat your response as confidential

In our consultation reports we often include quotes from respondents. Are you content for the comments you submit to be attributed to your organisation in our consultation reports?

**YES**

### **Data protection**

The information you supply will be stored and processed by the GMC in accordance with the Data Protection Act 1998 and will be used to analyse the consultation responses and help us to consult more effectively in the future. Any reports published using this information will not contain any personally identifiable information. We may provide anonymised responses to the consultation to third parties for quality assurance or approved research projects on request.

### **Consultation summary**

Since 1 January 1997 it has been a legal requirement that, in order to take up - as opposed to continuing to be employed in – a consultant post (other than a locum consultant appointment) in a medical or surgical specialty in the UK health service, a doctor must be included in the Specialist Register. It is not possible to hold specialist registration without also holding full registration in the register of medical practitioners. The Specialist Register is maintained by the General Medical Council (GMC).

Earlier this year the Government consulted on proposals to amend the relevant legislation which would enable the restoration of the existing specialist route (see Further information below). Following this review we have been invited to consult on a scheme for the registration of persons who were consultants before **1**

**January 1997.** This consultation sets out the principles and eligibility criteria for the Scheme. The introduction of the Scheme is subject to the proposed legislative change receiving the necessary approval of parliament.

## **Background**

The legislation that enabled the creation of the Specialist Register – the European Specialist Medical Qualifications Order 1995 (the 1995 Order) – made taking up a consultant post (other than as a locum) in the NHS after 1 January 1997 conditional on the doctor having his or her name included in the Specialist Register. Those who were already consultants would be entitled to apply for specialist registration by virtue of their status as ‘existing specialists’. They could do so under so-called transitional arrangements that required them to apply before 1 December 1998, or later, if they satisfied ‘the Registrar that there was good reason for not applying by then’.

On 30 September 2005 the Postgraduate Medical Education Training Board (PMETB) assumed the roles previously carried out by the Specialist Training Authority (STA) and the Joint Committee on Postgraduate Training for General Practice (JCPTGP) under the provisions of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (the 2003 Order). The original 1995 Order having been revoked it was now the 2003 Order that specified the categories of doctors eligible for entry to the Specialist Register. However, existing specialists as defined in the 1995 Order were no longer among them. Any pre-1 January 1997 consultants seeking entry to the Specialist Register would henceforth need to satisfy PMETB, under Article 14 of the 2003 Order, that their past specialist training and/or qualifications met the present standards required for the award of a Certificate of Completion of Training (CCT).

This mechanism was never intended for established senior consultants who are already in post and quickly proved to be inappropriate for specialists whose training had been undertaken so long ago. Accordingly, and following lobbying by the GMC and others, the Department of Health has agreed to restore the previous arrangements for those holding consultant posts in the NHS prior to 1 January 1997 by amending the 2003 Order by means of the latest Section 60 Order<sup>1</sup>. However, having been a consultant prior to 1 January 1997 will not of itself entitle a doctor to specialist registration: the GMC is required to publish a ‘scheme’ that will set the criteria to be considered in determining whether to include a person’s name in the Specialist Register.

To a certain extent this change will reinstate the powers the GMC had prior to September 2005, although unlike then the GMC will have discretion over how it operates the new arrangement. This consultation sets out the details of how the arrangement will work.

In preparing the proposed Scheme we have shared outline proposals with both the PMETB and the British Medical Association (BMA). Although the Section 60 Order which will enable the legislation to be changed is not expected to be implemented until early 2009, we are permitted to undertake the consultation on this specific Scheme now.

## **Further information**

The Department of Health has recently consulted on Consultation on the Medical Profession. See the Consultation on the Medical Profession (Miscellaneous Amendments) Order 2008

The draft order made which enables the changes can be viewed at:

[http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_083325?IdcService=GET\\_FILE&dID=161379&Rendition=Web](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_083325?IdcService=GET_FILE&dID=161379&Rendition=Web)

<sup>1</sup>

Section 60 of the Health Act 1999 (Regulation of health care and associated professions) allows for modification of regulations pertaining to health care professionals (eg the Medical Act 1983, the Dentists Act 1984).

## **Purpose of the consultation**

We would like your views on the proposed Scheme, *Eligibility for Inclusion on the Specialist Register: Restoration of the Existing Specialist Route*. The Scheme explains the following:

- Scheme eligibility criteria
- Evidence of the applicant being fit to practise
- Evidence of the applicant being up to date
- Title of specialty
- Communicating the introduction of the Scheme to those affected.
- Equality and Diversity

Consultation will start on 3 November 2008 and end on 10 January 2009. We will publish the results no later than 31 March 2009.

## **Expressing your interest for inclusion in the Specialist Register under the proposed route.**

If you were appointed to a consultant post (other than as a locum) in the National Health Service or the Armed Forces on or before 1 January 1997, are not currently included in the Specialist Register, and would like us to contact you once the details of the scheme have been finalised, you can express your interest by emailing us at [pre1997scheme@gmc-uk.org](mailto:pre1997scheme@gmc-uk.org)

## **Questions relating to eligibility for inclusion in the Specialist Register and restoration of the existing specialist route**

### **Introduction**

This questionnaire asks for your views on the proposed scheme. There are 12 questions in this questionnaire, and we appreciate you taking the time to complete it.

The topics covered are:

- Scheme eligibility criteria

- Evidence of the applicant being fit to practise
- Evidence of the applicant being up to date
- Title of specialty
- Communicating the introduction of the scheme to those affected
- Equality and Diversity

### Scheme eligibility criteria

The proposed amendments apply only to those persons who were in substantive or honorary consultant posts in the NHS immediately before 1 January 1997. Central to any application will therefore be the provision of evidence of having been appointed to an appropriate consultant post – substantive, honorary or fixed-term (**locum posts are not included**) – prior to 1 January 1997. The proposed amendments will also provide the GMC with discretion to determine the criteria that the Registrar will apply to consider whether a person’s name can be entered into the Specialist Register. It will be in both the GMC’s interests and of those likely to be eligible to apply to keep the criteria as simple as possible. However, a key principle of the Scheme must be that, for the safety of the public, only those who are fit to practise and up to date should be eligible to apply.

#### Question 1

<p><b>Do you agree that in addition to having held an appropriate consultant post in the NHS prior to 1 January 1997 the Scheme should be open only to those doctors who are fit to practise and up to date?</b></p>		
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Not sure <input type="checkbox"/>

### Evidence of the applicant being fit to practise

Potential applicants under the Scheme are likely to fall into one of five broad categories, those who are:

- registered medical practitioners and are still in active practice in the UK
- registered medical practitioners and are still in active practice elsewhere in the world
- registered medical practitioners but not currently engaged in practice
- no longer registered medical practitioners but are still in active practice elsewhere in the world, and
- no longer registered medical practitioners and are not currently engaged in practice.

### Question 2

For those who are currently registered with the GMC we will be aware of their current fitness to practise. In the absence of any outstanding matters this could be sufficient evidence that the applicant is fit to practise. Added assurance would be provided if all applicants were required to provide a declaration that they were not aware of any matters that might lead them to be referred to the GMC's fitness to practise procedures.

**Do you agree that, in order to satisfy the Registrar of their fitness to practise, applicants who are currently registered medical practitioners should provide a declaration that they are not aware of any matters that might lead to them being referred to the GMC?**

Yes ✓	No	Not sure
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### Question 3

For those applicants not currently registered in the register of medical practitioners there are already procedures in place as part of the process for restoration to that register that require doctors to demonstrate that they are fit to practise. These include a statement from their most recent employer confirming the absence, or otherwise, of matters that might lead to the doctor being referred to the GMC; and, if they have been working abroad they would also need to provide a certificate of good standing from the regulatory body in whose jurisdiction they had been practising.

**Do you agree that in the case of applicants who are not currently registered medical practitioners that we rely on the existing procedures for restoration to the register of medical practitioners as sufficient means to satisfy the Registrar of the applicant's fitness to practise?**

Yes ✓	No	Not sure
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**Evidence of the applicant being up to date**

Recency of practice is a good indicator that a doctor remains up to date. Many prospective applicants for specialist registration under the Scheme will still be in the same consultant posts they held prior to 1 January 1997. Others may have since moved abroad and continued to practise at a similar level, while a small number may not have practised for a few years. The Scheme aims to accommodate the various scenarios applicants might present.

#### Question 4

*Applicants who are currently consultants in the UK* We expect those still employed in their pre-1997 posts to make up the bulk of the applications. By their nature they will be straightforward: they are still working at consultant level in the UK and this will indicate that they are still up to date. For such doctors a declaration from them, supported by their employer, stating that they are still working as a consultant would be sufficient evidence that they remain up to date.

**Do you agree that applicants who are currently employed at consultant level in the UK should be required to provide a declaration confirming this in order to satisfy the Registrar that they remain up to date for the purposes of the Scheme?**

Yes ✓	No	Not sure
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#### Question 5

*Applicants who are not currently consultants in the UK but are in medical practice* Those doctors who are not currently in practice as a consultant in the UK but, whether in the UK or elsewhere, have practised medicine in some capacity for three years immediately prior to making their application for specialist registration could be considered to be up to date for the purpose of the Scheme. All they would need to provide is details of where they have been working for the three years prior to their application (eg. a reference or letter from their employer) and as for all applicants, confirmation of their consultant post prior to 1997.

**Do you agree that, in order to satisfy the Registrar that the doctor remains up to date for the purposes of the Scheme, those applicants who are not currently employed at consultant level in the UK should be required to provide details of their employment for the last three years?**

Yes ✓	No	Not sure
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Comments

**Those contracted to the NHS/University and/or working in an “approved healthcare environment” should also provide evidence of participation in annual appraisal, which could be audited if necessary. This should also apply to Q.2, Q.3, Q.4, and Q.6.**

**Question 6**

*Applicants who are not currently consultants in the UK but have recent medical practice within the five years prior to applying* An applicant not currently in practice may wish to return to work at the level of consultant. For these, details of their practice as a medical practitioner in some capacity for three years during the five years prior to making their application could be considered sufficient proof of being up to date for the purpose of the Scheme if they were to provide in addition evidence of how they have maintained their knowledge and skills in the interim.

**Do you agree that applicants who are not currently employed in a medical capacity but have three years’ experience of medical practice in the five years prior to making their application should, in addition to the requirement to provide details of their employment, submit evidence of how they have maintained their knowledge and skills in order to satisfy the Registrar that they remain up to date for the purposes of the Scheme?**

Yes ✓	No	Not sure
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Comments

**See comments on Q.5.**

**Question 7**

*Applicants who are not currently consultants in the UK and have no medical practice within the five years prior to applying* It would not be appropriate for any doctor who has not practised medicine in any capacity within the previous five years to be considered eligible for specialist registration under the Scheme. The only alternative for such doctors would be an application to PMETB under article 14 of the 2003 Order.

**Do you agree that applicants who have not practised medicine in any capacity during the previous five years should not be considered to be up to date for the purposes of eligibility under the Scheme?**

Yes ✓	No	Not sure
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Comments

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### **Title of specialty**

The Specialist Register must include the specialty in respect of which each person's name is included. Successful applicants will be registered in the specialty for which they were appointed as a consultant prior to 1 January 1997. This will ensure that the recorded specialty is one for which the applicant has been approved - it will also help keep the Scheme simple. We understand that in some cases this may mean that the specialty is not one for which PMETB issue a certificate of completion of training, but this would be no different to the position that existed prior to the abolition of the 'existing specialist' route in 2005.

### **Question 8**

**Do you agree that the specialty shown in the Specialist Register for successful applicants under the Scheme should be that to which they were appointed prior to 1 January 1997?**

Yes ✓	No	Not sure
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Comments

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### **Communicating the introduction of the Scheme to those affected**

Communicating the introduction of the Scheme will be a significant challenge and critical to its success. We understand that between 1000 -1500 doctors may be affected but cannot be sure of the group size, current status or their location. To ensure we communicate effectively we will formalise a communications plan that will be informed by, among others, the Postgraduate Medical Education and Training Board, British Medical Association, NHS Employers and the GMC Communications Directorate. The main groups we expect to be engaged with will be hospitals, other consultants and their employers. We aim to maximise

coverage and communicate the Scheme effectively.

#### **Question 9**

**Do you have any comments or suggestions regarding how we might communicate the Scheme to ensure maximum coverage?**

Comments

**There may be problems communicating with doctors currently out of the country or having a career break. The College would be happy to ensure information, once finalised, is circulated to Fellows and Members.**

### **Equality and Diversity**

#### **Question 10**

**Do you have any other comments that would help us in our commitment to value diversity and promote equality throughout the GMC and to ensuring our processes and procedures are fair, transparent and free from unlawful discrimination?**

Comments

**None.**

### **Any other comments**

#### **Question 11**

**Do you have any other comments on any of the issues raised here?**

Comments

**None.**

**And finally...**

**Question 12**

**Do you have any comments on the consultation documents and/or process?**

Comments

**None.**

Thank you for taking the time to send us your comments – we are grateful for your input.