Self-regulation in dentistry and the social contract

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In brief

Provides a different perspective to the regulation of the dental profession.

Highlights the need for the profession and the regulator to resist commercial forces.

Explains through the perspective of the social contract why the GDC needs to modify its approach.

This article looks at the General Dental Council (GDC) and dental regulation from the perspective of social contract theory. Self-regulation is a requirement for the dental profession to exist within such a contract with society and this article seeks to examine the effects of the GDC upon the social contract. The GDC maintains that it is independent of the dental profession and while this may be true when discussing impartiality, the existence and purpose of the GDC is intrinsically intertwined with the dental profession. This article will show that the GDC has acted in a manner that has a negative impact upon the social contract between the dental profession and society and that for the dental profession to maintain its status and ability to place patients first, the GDC needs to re-evaluate its role and attitudes.

The idea of a social contract between the healthcare professions and society has been prevalent for several decades.[1] This philosophical concept of how society accepts and enables the functioning of professionals can be extrapolated onto dentistry.[2] The social contract theory states that the dental profession is empowered by society's need for the profession's ability to alleviate suffering related to oral disease. In exchange for the skills associated with the treatment of oral malady, the dental profession is given higher social and moral status, higher income and legal protection of skills specific to the practice of dentistry. It is argued that failure of the dental profession to honour this contract through the pursuit of cosmetic intervention over the treatment of disease will lead to the loss of the profession's status as a healthcare profession.[3]

An important aspect of the contract that maintains society's confidence in the profession is an expectation that the dental profession will self-regulate. It will be discussed later in this article to what extent the dental profession still maintains its status as being self-regulatory, however, the requirement that society needs help to discern good from poor treatment still exists. The general public often has a distorted view of what makes a good dental professional, for them, a pain-free experience is how the quality of treatment is measured rather than the placement of a sound restoration. It is therefore important that the dental profession is viewed to be self-regulatory and that the public can rely upon the profession to deal with those members who fail to meet required standards. If doubt of the profession's ability to engage with this requirement occurs, this is damaging to the social contract.

Society's need for the dental profession's assistance in governance is illustrated well by the need for expert witness testimony in the courts. While the ultimate power lies with the judiciary, in a case which holds a dental component the courts routinely rely upon dental opinion to help form a position. It is an expectation from society that characteristics such as altruism and trustworthiness will be championed and demonstrated by the dental profession, regardless of whether this meets the reality of the status quo. Some are sceptical of the dental profession's ability to act in this manner; Bertolami suggests that when conflicts of interest arise, dental professionals are likely to place their interests first.[4] Nowhere is this better observed than with attitudes towards the reporting of poor behaviour, health or performance of colleagues by dental professionals. All registrants of the GDC have a professional duty to raise concerns regarding colleagues where these exist.[5] This is in many ways the real test of a professional: the ability to make a choice to raise concerns where doing so might contrast starkly against that professional's own interests. This is not a position that would inspire envy in many. This choice is between the devil and the deep blue sea; whether to raise a concern and risk one's own livelihood and reputation or to remain tacit upon the issue and risk being viewed as complicit should events come to light. The social contract maintains that raising concerns is an altruistic action, whereby patients' interests in safety are placed first. The social contract relies upon such altruism for the profession to remain in its elevated status that exists between it and other trades and professions.

Out of the contract's requirements for self-regulation, the GDC was born. The first meeting of the Council was in 1956, the Council having been created as a response to a feeling that the profession was now mature enough to be self-regulatory.[6] This article seeks to examine the GDC and its role in regulation from the perspective of the social contract, seeking in the main to establish whether the current incarnation of the GDC is in breach of said social contract.

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What does the GDC exist to do? Its simple tagline, included in all correspondence, publications and online material, reads, 'protecting patients, regulating the dental team'.[7] From the perspective of the social contract this does not offer the full picture. As previously asserted, society requires that the dental profession acts in a self-regulatory manner, the GDC is the body set up by the profession that carries this function out. Intrinsically, as far as the social contract is concerned, the GDC is part of the profession. While the Council would argue that it is impartial and independent from the profession in its regulatory capacity, it is still largely connected and part of the dental profession; by definition of the social contract, if the GDC ceased to exist, the profession would cease to exist as well. This creates an immediate disparity between the Council's *raison d'être* as they advertise and how the social contract sees their role. All too often, the Council has acted and positioned itself outside of the profession, in a manner that causes some dental professionals to feel alienated.[8]

It might be somewhat of an understatement to suggest that the GDC's relationship with the dental profession is strained at the current time. The British Dental Association has vociferously campaigned for clarity and reform regarding the current Council and a perception that the GDC is over-regulating the profession. The GDC is perceived by many as the instigator to frivolous claims against dental professionals. While some claims that come before the Council may be lacking in merit, it must be remembered that there is a lack of options between local resolution at practice level and a GDC investigation; those who struggle to get resolution of an issue locally often have no other option than to complain to the GDC who is tied by current legislation to treat all complaints in a certain manner. Nevertheless, the profession is left feeling demoralised and disheartened by its regulator.

The GDC has received criticism about how it has conducted itself, from judicial review upon the manner in which it consulted upon raising the annual retention fee,[9] from its own regulator the Professional Standards Authority,[10,11] as well as from the profession itself. During a recent accountability hearing with the parliamentary health select committee, the senior management were asked by a member of the committee whether they thought they should resign.[12] It was during this committee hearing that the Chair and the Chief Executive of the GDC stated their belief that the Council did not exist for the profession, and that their primacy was to patients. While this comment may be true, it could be argued that this is the primacy of the dental profession also. Society's deference to the healthcare professions has eroded over time[13] and this has had a knock-on effect upon society's trust in how the professions will self-regulate. The production of the document on changes to healthcare regulation by the Secretary of State for Health in 2007 demonstrated the extent to which this distrust exists.[14] This white paper contributed greatly to the end of the self-regulation of the dental profession. However, despite this distancing of the regulators from their respective professions, the GDC should still view its function as being complimentary to the practice of the dental profession, not antagonistic.

The GDC has acted, as already established, in a manner that has disrupted its relationship with the dental profession. Not only this, but the GDC has also acted in a manner that disrupts the relationship between the dental profession and the public. While altruism and trustworthiness are attributes still desired by patients of their treating dental professionals, many are sceptical as to whether these will actually be delivered.[15] The profession is not helped in its task of treating oral disease by the production of adverts in the national media, placed by the dental regulator, that suggest to the public that they should complain about their dental treatment. While there is validity in an exercise that might promote the rights of patients to seek redress of dissatisfaction, the advert placed by the GDC did no such thing, it instead promoted the idea of complaining directly to the regulator rather than attempting to first locally resolve issues. The notion of a regulator attempting to incite complaints against the profession it is tasked with regulating seems counter-productive and damaging to the social contract that exists between the dental profession and society.

One of the largest threats to the social contract between the dental profession and society is the increased focus within society towards commercialism. The switch from treating patients to customers is not one that should be encouraged, the assumption being that with patients dental professionals have a fiduciary relationship, with customers they do not. The altruism expected as part of the social contract does not exist within a commercial model of dentistry; the idea being that a patient enters the surgery, pays their money and has treatment upon the basis of consumer empowerment is both unethical and impractical. It assumes that patients know enough about dental procedures so as to be able to make professional decisions about their treatment. While patients may come into the surgery with an idea that they are a client or a customer, there is still an expectation that their interests will be placed first and that the profit margin of the practitioner will be placed behind whether a particular treatment is appropriate to begin with. There is the expectation with the general population of dental professionals of this as well, that treatments will be provided on a basis of need and that these will be provided with an evidence-based approach. Is there evidence that the GDC might wish to disrupt this basis of care?

The opinions of an organisation are often difficult to gauge without focusing upon those of the leadership. The current chair of the GDC, Dr Bill Moyes, has expressed his views on the direction of the dental profession and has in detail made his stance clear on the position of patients. Dr Moyes gave the Pendlebury Lecture in June 2014 at the Faculty of General Dental Practice.[16] In this lecture, Dr Moyes discusses the commercialisation of dentistry and how patients are becoming both 'clients' and 'customers'. He does not talk of a need to resist slipping into this way of considering patients, moreover this is encouraged. This idea of dentistry operating in a more business-minded fashion is elaborated further when Dr Moyes discusses a model he would like to see in the dental industry whereby practices are ordered in the same way supermarkets are, with differing levels of service and quality.[17] This again shows a philosophy of the GDC: exalted by its leader, whereby the profession should be operating as any other business or non-healthcare related industry does.

Having posed the question as to whether the social contract that the dental profession has with society is damaged by the attitudes and actions of the GDC the answer is overwhelmingly in the affirmative. The GDC as it is today is very different to the body that was first created for the purpose of self-regulation. The issue for the GDC is that it seems to have become antagonistic to the practice of dentistry within the defined social contract. This has led to a visibly demoralised workforce that doubts the ability of the Council to effectively regulate them. The survival of dentistry as a respected and privileged profession relies upon the terms of the social contract being satisfied.

The GDC needs to consider its direction with regards to a perceived embrace of commercial values and the effect of this upon the

dental profession's relationship with society. A commercial approach to dentistry rather than one that is fiduciary is likely to encourage dissatisfaction in the public rather than improve care. While the social contract may evolve in response to society's requirements, for the survival of the dental profession as a professional entity it needs to endure. The GDC should consider its part in this very carefully and how it might contribute positively to the maintenance of such a relationship.

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