Serious concerns about the General Dental Council's performance and its direction of travel

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Key points

Suggests very significant changes to the dental profession's regulator have not gone unnoticed, nor have they gone unquestioned, but all objections at the time were ignored.

Suggests that the profession and its regulator are no longer content to work together.

Identifies many of the key areas of friction and suggests a few ways in which a regulator could amend its attitude in order to be able to do its job properly.

There should be tension between a profession and its regulator, it would be odd if it were not so, but the level of concern that has been articulated recently by some high profile commentators about that relationship has been well beyond what I would describe as tension. In this piece I attempt to contextualise my personal observations and comments on what is rapidly becoming a serious concern among those few of us who have had to deal with the profession: regulator interface at the highest level.

I have been following the *BDJ* articles concerning the activities, finances and decisions of the General Dental Council (GDC) for some time now. I share the Editor's grave concerns about the direction of travel to be seen within the GDC. As a one-time leader of the BDA, it has long been a concern to me that the profession's regulator should be seen to behave in a reasonable manner at all times. Professor Kelleher's recent critical *BDJ* article[1] summed up my frustration too.

In the days of Professor Nairn Wilson (a towering academic figure) I had no great worries.

In the time of Huw Matthewson (an excellent representative of the working dentist, if ever there was one) I had occasional worries but friendly explanations and assurances were greatly valued and helpful.

It was always clear to me that the powers the GDC had been given, sat firmly in the 'Armageddon' area of regulatory practice and it was essential that those in charge should always behave with scrupulous fairness and magnanimity in the discharge of those powers. Until 2009, my experience was that the Presidents carried out their job description admirably, doing a tricky task with consummate skill.

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At the last constitutional upheaval of the GDC in 2009, all that changed. Dentists lost their majority on the Council, the new President was a lay person and the organisation did an about face and seemed to me to become an organ that saw its job as becoming the 'patient's friend'. The need for patients making complaints and their statements to be examined just as rigorously as those of the accused dentist disappeared.

The rigour we were accustomed to was replaced by what appeared to be two assumptions – that the patient was right and the dentist was wrong.

Over the last 12 years or so I have been taking part in occasional GDC Fitness to Practise (FtP) matters, including several hearings, a total of about 25 cases. Hardly a major player, but certainly a very knowledgeable observer.

I have witnessed, and participated in a series of FtP cases where – to generalise a good deal – a dentist has fallen foul of a patient with very significant oral health issues as well as owning an extremely combative personality. The starting point of the problem is that the dentist fails to deal with a very difficult series of dental problems and the patient blames the dentist for a poor outcome. The patient then complains to the GDC.

The failure of care provided may well be easy to spot but the easy assumption (often made, it seems, by the GDC case handlers) is that the root cause of the problem has little or nothing to do with the complexity of the case and everything to do with the dentist's own clinical negligence.

What had started out as a relatively simple clinical problem, capable of mediation and resolution in a different place, has now become a major regulatory issue with the registrant's professional standing under attack. The GDC usually finds that the clinical records don't match up to their stratospheric, bureaucratic standards and a couple of pages of extra charges are generated to bulk out the charge sheet.

I have been doing a good number of lectures recently, explaining, in detail, to dentist colleagues, mostly working in the NHS, exactly what the GDC standards say on clinical records and what the prosecution experts expect to see. The looks I receive as my lecture progresses can be summed up by one simple question:

'How am I supposed to do all that in the time I have to complete a Band 1 examination worth £25.00?'

The GDC sets its standards very high, it also houses them in impenetrable and rambling language that makes detailed understanding difficult and is then surprised when the people they are responsible for registering seem to find it difficult to match their performance to the said standard.

It is time the GDC's own work on presenting a case to the Fitness to Practise panel is required to match the same standard.

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Last year I sat and watched in total disbelief as the barrister, representing the client I had been helping, argued that the four-year investigation carried out to build the prosecution case was nothing but an empty vessel and that the case should be abandoned right there and then. The panel thought about if for an hour or so and decided the defence barrister was right and threw the case out. The client collapsed in shock and disbelief, realising that everything she had been through for all of that time was over, and all for nothing.

This farce has got to stop. The GDC should stop trying to be a dental ombudsman. It is not. All evidence from any party should be subjected to the same standard of investigation and the current standard of evidence, adopted a few years ago – 'the balance of probabilities' – must revert to the criminal standard of proof – 'beyond all reasonable doubt'.

If you sit in judgement on a professional person and you hold the power to destroy that person's life for ever, the standard of proof cannot be compromised. We were promised at the time of the change that if the charge was more serious the evidence would have to be that much better. Really? I have seen no evidence to support that promise.

The groundwork undertaken by GDC staff must improve. The single patient claims/complaints must be examined much more closely for signs of pending civil court action based on the outcome of the GDC hearing. The penalty of erasure must only be used or even threatened when the case is very serious indeed.

Mediation should be a requirement for all cases where dentist and patient fall out, not a full scale trial with barristers and the professional death penalty hovering in the wings.

I have been in dental politics for some 50 years now and I still do not know to whom the GDC is accountable and it's not for want of searching.

It's time! Enough is enough. We need and deserve our own profession's case to be heard and listened to. One day I may discover to whom my plea should be addressed!

1. Kelleher M. State-sponsored dental terrorism? *Br Dent J* 2017; **223:** 759–764.

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