



Consultation paper - Addendum

Review of accreditation arrangements for dental practitioners

This addendum to the public consultation paper *Review of accreditation arrangements for dental practitioners* (the consultation paper) seeks specific feedback as a part of the Dental Board of Australia's (Dental Board) review of accreditation arrangements for dental practitioners. As previously advised in the consultation paper (released 30 October 2012) the Dental Board has undertaken preliminary consultation with key stakeholders prior to this public consultation. The feedback from the preliminary consultation process supported the Dental Board's preliminary view with respect to the review of accreditation arrangements for dental practitioners.

Since the release of the consultation paper the Dental Board has been advised by the Australian Dental Council (ADC) that it has reviewed and made changes to its Register of Stakeholder Organisations, which in turn has changed councillor membership of the ADC.

The Dental Board members considered these changes at the November 2012 meeting and agreed that, as the Board was currently undertaking public consultation with respect to its ongoing accreditation arrangements, that an addendum should be added to the consultation paper and the public and key stakeholders be given the opportunity to comment on the changes made by the ADC.

Please provide feedback to both the consultation paper and this addendum via email to accreditationreview@ahpra.gov.au by 21 December 2012. Please contact the Dental Board Support Officer via email at: heather.janssen@ahpra.gov.au if you or your organisation is having difficulty meeting this timeframe.

As this is a public consultation process, your comments will be published unless you advise otherwise in your response.

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Background

The Australian Dental Council (ADC) was formed in 1993, initiated by the then state and territory dental boards, in association with the Australian Dental Association Inc, the University Dental Schools (now the Australasian Council of Dental Schools) and the Royal Australasian College of Dental Surgeons. Since that time the ADC has included additional bodies namely the Dental Hygienists Association of Australia, the Australian Dental and Oral Health Therapists Association and the Australian Dental Prosthetists Association.

On 21 September 2010, soon after the commencement of the national registration and accreditation scheme, the ADC wrote to the Dental Board advising that the ADC Board had *reiterated the importance of maintaining its association across Australia with the registration bodies to which its accreditation functions are linked*. The ADC invited the Dental Board and the Dental Board's (then) State and Regional Boards to become Members and for each to nominate an individual for appointment as a Director of the ADC Board. In the ADC's correspondence, with respect to the Dental Board becoming a Member, the ADC acknowledged that although *there is some (minimal) potential for conflict of interest situations to arise we believe that each body has procedures and policies to manage such situations and that there may be many benefits to be gained through involvement at board level*.

The Dental Board and the State and Regional Boards agreed to the proposal and nominated persons as Directors of the ADC as requested. The person nominated by the Dental Board was not a Dental Board member.

In February 2011 the Dental Board agreed to discontinue the State and Regional Boards of the National Board as at 1 July 2011. In early November 2011, the ADC also advised a restructure, effective from 25 November 2011. This restructure and new Constitution is reflected in the ADC submission to the Dental Board for the accreditation review. It resulted in the Dental Board and its state and territory Registration and Notification Committees, and the other bodies who were previous Members, becoming Stakeholder Organisations of the ADC.

Under the ADC's Constitution a Stakeholder Organisation may be an individual or organisation listed on the ADC's Register of Stakeholder Organisations. Each Stakeholder Organisation nominated a Member/Councillor to the ADC's Strategic Advisory Council. Under the current ADC's constitution the terms 'Member' and 'Councillor' are used interchangeably. Stakeholder Organisations and Members/Councillors do not have direct involvement in the operational or approval process of the ADC's *accreditation functions*. Members/Councillors offer strategic guidance to the ADC and elect the Directors of the Governing Board. Note that some Stakeholder Organisations have two nominations; however have only one vote as a Member.

The Australian Health Practitioner Regulation Agency (AHPRA) has been advised and consulted in respect to the Dental Board's relationship with the ADC. The consistent advice from AHPRA with respect to independence and accreditation authorities is there must be *independence of accreditation functions* (defined in the National Law) and that National Board members should not directly be members of an accreditation authority but may wish to nominate individuals to ensure the interests of the linkages between registration and accreditation are maintained. With respect to the management of conflict of interest, there are clear principles in the National Law and AHPRA and the National Boards have applied standard governance procedures and policies to manage these issues.

In the lead up to the release of both the preliminary and public consultation paper, representatives of Dental Board and the ADC have met to discuss and finalise the documents. In the ADC submission, with respect to its structure and membership of the ADC, it states:

- *The Company is moving towards the inclusion of community representative(s) on the Governing Board.*
- *The Constitution will be reviewed in 2013 for continuing appropriateness for the company's operating environment.*
- *Directors serve two year terms and are eligible for a maximum of three successive terms (but may be reappointed at a later time). A rotation policy for retirement of Directors is being phased in following the adoption of the new Constitution in November 2011.*
- *In June 2012, the ADC's Directors endorsed a proposal to expand stakeholder representation within the ADC by inclusion of a lay and an overseas qualified practitioner Stakeholder Organisations.*
- *The composition of the Register of Stakeholder Organisations is to be reviewed over the next 18*

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months to ensure independence from influence over the accreditation activities.

Issues

The ADC has advised that at the October 2012 meeting of the ADC Governing Board it resolved to withdraw membership from Dental Board linked persons and invite the Dental Board to replace them with two observers to the Strategic Advisory Council who will have full speaking rights but not voting rights. The ADC also advised that it was intending to write to each of the Members/Councillors (linked to the Dental Board) and advise accordingly. The ADC advised that this decision was based on legal advice it had obtained that *there is an actual and perceived lack of independence of the ADC from the Dental Board.*

The Dental Board has raised the following issues with the ADC:

- The Dental Board is currently undertaking public consultation about the ADC being re-appointed as the Board's Accreditation Authority. The change to the Register of Stakeholder Organisations, while in accordance with the ADC Constitution, are not reflected in the consultation paper and as this is a substantive matter will be of interest to the Dental Board's key stakeholders and the public.
- Accordingly, there should be an addendum to the public consultation document to include the change to the ADC's Register of Stakeholder Organisations to ensure open and transparent consultation.
- The Dental Board, other ADC Stakeholder Organisations and Members/Councillors had not been consulted or officially advised of the change. The ADC in the past has consulted with all stakeholders and members about intended changes and had committed to (in correspondence to the Dental Board in late 2011) continued consultation with stakeholders and members regarding consideration of implementation aspects of the new governance structure and arrangements for the ADC in 2012.
- In respect to independence, it was acknowledged that no one body should have undue influence (including the community, government, higher education institutions) over an organisation. In the National Registration and Accreditation Scheme there is a clear requirement for *independence of accreditation functions*, that are the defined functions of accreditation authorities in the National Law. National Board members should not directly be members of an accreditation authority, however as governance arrangements allow for input from stakeholders, the National Boards should (if agreed) be able to nominate individuals to ensure the interests of the linkages between registration and accreditation are maintained. With respect to the management of conflict of interest, there are clear principles in the National Law and AHPRA and the National Boards have applied standard governance procedures and policies to manage these issues.
- The Dental Board members did not view that it or its Registration and Notification Committees being Stakeholder Organisations of the ADC and being able to nominate individuals as Members/Councillors directly influenced the ADC's *accreditation functions*. The Members/Councillors role is to offer strategic guidance to the ADC and to participate in the election of the Directors of the Governing Board.
- The recent change to the Register of Stakeholder Organisation has increased the number of individual Stakeholder Organisations. The ADC's current absence of selection and approval principles relating to Stakeholder Organisations (both organisations and individuals) does not support open and transparent governance processes.

The ADC wrote to Members/Councillors with links to the Dental Board on 5 November 2012, advising they would no longer be eligible as Members/Councillors and that they may attend the meeting (16 November 2012) *at that time if you wish to so do so and/or provide a written submission before the resolution is put to a vote.* The Dental Board and other Stakeholder Organisations were not officially advised of this Governing Board decision prior to the meeting.

In response to these issues being raised with the ADC, the ADC has advised the Dental Board that:

- *The ADC has never had a process, guidelines or criteria for selecting entrants to the Stakeholder Register or for appointment of members. However the ADC has decided to develop these over the next few months, review the stakeholder group, and also to decide upon an upper and lower number limit for individual and organisational Stakeholders. In the interim the ADC has invited dentists of good standing and who have contributed services and input to the ADC to become individuals in the Stakeholder Register e.g. two past presidents, past chair of the Dental Practitioner Assessment Committee and*

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others.

- *Upon further scrutiny by the ADC Governing Board at its October 2012 meeting and the receipt of legal advice, it was resolved that the ADC was not independent of the Dental Board with which it also has a Service Agreement and is seeking a further five year assignment of the accreditation activities.*
- *To resolve this irreconcilable conflict of interest the Governing Board resolved that at the 15 November 2012 meeting it would remove the Dental Board linked entities from the Stakeholder Register and thereby the nine Dental Board linked members.*
- *The intention to undertake this action was flagged at a meeting between representatives of the Dental Board and the ADC on 2 November 2012 and the letter that was to be sent to members following the meeting was shared.*

Key areas for comment:

- The management of conflicts of interest and policies and procedures for identifying conflicts of interest.
- The stakeholder collaboration and consultation processes of the ADC.
- Transparency and consultation with respect to the decision making of the ADC Governing Board.
- The current membership of the ADC Governing Board.
- Governance arrangements should enable input from stakeholders that includes the community, education providers and the profession/s while maintaining independence with respect to *accreditation functions* as defined in the National Law.
- ADC Stakeholder Organisations should be determined through a fair, open and transparent selection process.
- The balance of the current composition of the ADC's Register of Stakeholder Organisations and the resultant Member/Councillor nominations and appointments. The need for community member involvement.