

To note

Amendments to the Fitness to Practise Rules: Consultation

Issue

1. Consultation on proposed changes to the GMC (Fitness to Practise) Rules 2004.

Recommendation

2. To note the proposed consultation on further changes to the Fitness to Practise Rules 2004 (paragraphs 11-20).

Further information

3. If you require further information about this paper, please contact us by email: gmc@gmc-uk.org or tel. 0161 923 6602

Background

4. The statutory framework for our fitness to practise procedures is provided by the Medical Act 1983 and the Fitness to Practise Rules 2004.
5. The 2004 Rules came into effect in November 2004. We have since identified a number of areas where further improvements can be made. The proposed improvements arise from legal advice in relation to individual cases and from operational experience.
6. In 2008, Council agreed two tranches of possible changes to the statutory framework, on the recommendation of the Fitness to Practise Committee. We have since worked with the Department of Health (England) to agree a timetable for implementing those changes.
7. Our aims are:
 - a. To ensure that our fitness to practise procedures are fair, objective, transparent and free from unlawful discrimination.
 - b. To ensure that our procedures are effective; and some of the proposed amendments will enable more effective management and progression of cases through our procedures.
 - c. To ensure that our procedures are efficient; and some of the proposed improvements will remove provisions that do not add value to the process and do not contribute to protection of the public interest.
8. A number of the proposed improvements require amendment of the 1983 Act. We are working with DH(E) to include them in a Section 60 Order later this year.
9. Other proposed improvements require changes to the 2004 Rules without amendment of the 1983 Act. Those changes will be through an amendment order. An amendment order is used when we make changes to our own rules, as opposed to primary legislation. We draft amendments for Council to approve. Under the 1983 Act there is a statutory duty to consult and the amendment order needs approval by the Privy Council. For this reason, we keep DH(E) informed throughout the process.
10. The next step, as reported in the Chief Executive's report for the Council meeting on 27 January 2009, is to undertake that consultation.

Discussion

11. The draft consultation document is at Annex A.
12. Most of the proposed changes are technical in nature and do not represent policy developments.
13. The most significant proposed amendments relate to Rules 4, 12 and 28.

Rule 4: Vexatious complaints

14. We propose to amend Rule 4 to provide the Registrar with the power to filter out vexatious complaints at the point of initial consideration. We will develop criteria to support the exercise of this power. We envisage that the power will rarely be engaged. Normally, where there is a realistic possibility that there is merit, we will investigate before reaching a decision.

Rule 12: Review of Investigation Stage decisions

15. Rule 12 sets out powers for reviewing decisions at the Investigation Stage. We propose to amend the powers under Rule 12 to extend the circumstances in which a decision may be reviewed; and to provide that the Registrar will exercise those powers.

Rule 28: Cancellation of Fitness to Practise Hearings

16. Rule 28 contains provisions for cancelling Fitness to Practise panel hearings in specified circumstances. As it stands, no further action is possible when a referral to a hearing is cancelled. We propose that, on the cancellation of a referral to a hearing, the case may be remitted to case examiners who, in addition to the power to conclude the case, may invite the doctor to accept a warning, invite the doctor to agree undertakings or reconsider the allegations about the doctor's fitness to practise.

Consultation

17. We have agreed with DH(E) that we will consult on the proposed changes for three months, from March 2009 to June 2009.

18. As part of the consultation we will be engaging with a range of organisations, across our key interests.

19. Details of the consultation, including the draft amendment order, will be published on the consultation section of our website. Responses will be accepted on-line or in writing.

20. We will report the results of the consultation when we seek Council's formal approval.

Recommendation: To note the proposed consultation on further changes to the Fitness to Practise Rules 2004.

Resource implications

21. The costs of the consultation will be approximately £2,000 and will be met from existing budgets.

Equality

22. We have completed an Equality Impact Assessment; and a copy is available on request.