

To note

Report of the Fitness to Practise Reference Group 2009-2010

Issue

1. Update on the activities of the Fitness to Practise Reference Group.

Recommendation

2. To note the report on the activities of the Fitness to Practise Reference Group since April 2009 (paragraphs 6-20).

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 purpose of the Fitness to Practise Reference Group is to ensure that the GMC's Fitness to Practise procedures are fit for purpose, monitoring and reviewing their operation and its statutory framework and making proposals for modification and improvement as necessary. This includes:

- a. Reviewing the function of Fitness to Practise.
- b. Discussing and advising on operational guidance for staff, as required.
- c. Keeping performance statistics under review.
- d. Advising Council on Fitness to Practise issues as required.

5. The Reference Group has met on six occasions since April 2009. The Group's work has focused on monitoring and reviewing the Fitness to Practise procedures.

Discussion

Engagement and communication

6. In June 2009 we commenced a review of our standard letters to doctors to ensure that we communicate with doctors in a way that is clear and acknowledges the stressful nature of involvement in our Fitness to Practise procedures. As part of that review, we undertook a consultation with the Reference Community. While feedback suggested that the tone was generally appropriate, a number of suggestions for improvements were made and these suggestions were approved by the Reference Group in December 2009.

7. In September 2009 the Reference Group approved a draft of a leaflet produced by the GMC in conjunction with the BMA, to provide more information for doctors about managing their health, including signposting to a range of agencies for help and advice about health concerns. The leaflet has now been published.

Consultations

8. On 20 April 2009 the Reference Group approved draft consultation papers on consensual disposal and hearings management.

9. The Group agreed that we should consult on proposals to extend our use of consensual disposal in performance cases, where undertakings can be effective at getting a doctor back into unrestricted practice. The proposals were approved by Council in October 2009.

10. The Group approved a consultation on the recommendations of the Case Management Review Working Group which was set up to address concerns about the increasing length of hearings and last minute cancellations. The consultation sought views on the 13 recommendations of the Working Group. The Reference Group recommended to Council a series of work streams arising out of the consultation in the short, medium and longer term which are now being progressed.

11. On 19 June 2009 the Group considered the responses to a consultation on amendments to the Fitness to Practise Rules and made recommendations to Council including the introduction of a new power to deal with vexatious complaints, greater flexibility in our powers to review decisions not to refer cases to a panel and greater flexibility in relation to cancellation of cases after they have been referred for a hearing. The new rules were implemented by Amendment Order on 7 August 2009.

Monitoring and reviewing the operation of the Fitness to Practise procedures

Monitoring our performance

12. In December 2009 the Group received a paper on the CHRE report on the conduct function of the General Social Care Council (GSCC). The paper looked in detail at the concerns revealed at GSCC and examined whether there was assurance for the Group and Council that similar problems could not arise at the GMC. The Group received assurance in relation to all the issues raised by the CHRE report.

13. The Group also received regular reports about:

- a. The Major Risk Register in relation to Fitness to Practise issues.
- b. High profile litigation.
- c. The format of the Annual Fitness to Practise Statistics report.
- d. The Fitness to Practise service targets including reviewing the targets.
- e. Increasing levels of operational activity.

Developing the policy model

14. The Group has looked in detail at the development of our policy on the publication of disclosure of interim orders where there is no substantive fitness to practise finding and warnings after five years have elapsed. This is the subject of item 6a on this Council agenda for further consideration.

15. The Group oversaw the work of the Drafting Allegations Working Group set up to review the way in which we draft allegations and to suggest improvements. The Group approved the final report of the Working Group which has since been published on our website and which recommended simplification of our charges, mainly through reducing the use of summary clauses.

Development of further guidance

16. The Group has reviewed a number of pieces of further guidance on our Fitness to Practise procedures including:

- a. Revised guidance for case examiners on undertakings following consultation on proposals to expand our use of consensual disposal mentioned above.
- b. Guidance on assessing evidence of insight in consensual disposal cases.
- c. Revised guidance on voluntary erasure following consultation on proposals to expand our use of voluntary erasure.
- d. Guidance on revoking undertakings.
- e. Guidance on vexatious complaints as a result of the new rules.

Reform agenda

17. The Group receives standing reports on the wider reform agenda initiated by the White Paper '*Trust Assurance and Safety*'. In particular, the Group discussed the future of GMC affiliates following the publication of the evaluation report and approved recommendations for Council that we should undertake further piloting within the Revalidation Pathfinder pilots. The Group also receives regular reports about the transition project on transferring our adjudication function to the Office of the Health Professions Adjudicator (OHPA). The Chair of OHPA, Walter Merricks, attended the Reference Group meeting on 15 December 2009. The Group received a report on the impact of licensing on our fitness to practise procedures in September 2009, prior to the November 2009 implementation date.

Operational issues

18. Over the last 12 months the Group has considered a number of matters in relation to our Fitness to Practise operations. On 20 April 2009 the Group considered a paper on our approach to extending fitness to practise panellists' contracts. The Group agreed we should extend panellists' contracts rather than incur the expense of a recruitment campaign given the impending transfer of our adjudication function to OHPA in 2011.

19. The Group reviewed our triage categories in June 2009 and agreed slight amendments to the triage categories as a result of operational experience, for example, an additional category that allows us to close a case where the substance of the complaint relates to a doctor enforcing his/her legal or human rights.

20. In February 2010 the Group looked in detail at the timeliness of our Fitness to Practise investigation model. The Group discussed, in particular, delays due to NHS response times to correspondence and agreed that closer working with Strategic Health Authorities and local health bodies would help as would developing GMC affiliates.

Recommendation: To note the report on the activities of the Fitness to Practise Reference Group since April 2009.

Resource implications

21. No resource implications arise from this paper.

Equality

21. No equality issues arise from this paper.