

Publication and disclosure policy

- We are committed to transparency about our processes and decisions.
- We believe openness about our decisions is of benefit to all parties involved.
- We are committed to publishing information about a doctor's registration in a format which is easily accessible to all enquirers.

The legislative context

- 1 The GMC has a statutory duty under Section 35B(4) of the *Medical Act 1983* to publish, in such a manner as we see fit, a range of decisions by medical practitioners tribunals, interim orders tribunals, the Investigation Committee, and undertakings agreed with doctors. We have a discretionary power to withhold any information concerning the physical or mental health of a person which we consider to be confidential.
- 2 We also have a discretionary power to publish or disclose any information about a doctor, to any enquirer, where we consider it to be in the public interest. The power to disclose information where we consider it to be in the public interest is not subject to any statutory requirement to consider the public interest in relation to individual doctors or cases. This means we are able to agree and implement policies which apply to the disclosure of general categories of information, in the public interest.
- 3 The GMC is subject to a range of legislative duties in relation to information governance including the *Data Protection Act 1998*, *Human Rights Act 1998*, and the *Freedom of Information Act 2000*. The *Data Protection Act* and *Freedom of Information Act* impose a particular set of duties in respect of information disclosure. This document outlines our policy in relation to the routine publication and disclosure of fitness to practise information.

Publication of fitness to practise information

- 4 Since 11 June 2012 the adjudication function of the GMC has been administered by the Medical Practitioners Tribunal Service (MPTS). The MPTS follows the same principles as the GMC in relation to publication and disclosure. The MPTS has its own website which publishes information relating to fitness to practise and interim order tribunal hearings. All medical practitioners tribunal and interim order tribunal hearings

are heard by independent tribunals at the MPTS. Investigation Committee hearings are not part of the MPTS and are run by the GMC's investigation function.

- 5 Fitness to practise information is published in three places:
 - a The List of Registered Medical Practitioners on the GMC website.
 - b The 'Recent Decisions' page on the MPTS website.
 - c The 'Investigation Committee' page on the GMC website.

The List of Registered Medical Practitioners

- 6 The List of Registered Medical Practitioners (LRMP) is an online database of all doctors registered with the GMC. All sanctions currently attached to a doctor's registration are displayed on their individual record, together with relevant hearing decisions.
- 7 The LRMP also displays details of a doctor's fitness to practise history from 20 October 2005 (which is when we started keeping electronic records). This includes historical information about all restrictions previously imposed on a doctor's registration which no longer apply. (Details of any sanctions effective on a doctor's registration prior to October 2005 can be obtained via enquiry to our Contact Centre.)
- 8 All sanctions on a doctor's registration, imposed by either a medical practitioners tribunal (including when sitting at a non-compliance hearing) or interim orders tribunal, including erasure, suspension and conditions and any undertakings agreed with a doctor remain on their fitness to practise history on the LRMP indefinitely. The only exceptions to this are
 - a information solely relating to a doctor's health
 - b interim orders where a case is closed with no finding of impairment or no warning
- 9 Warnings are published on our website on a doctor's record on the LRMP for a period of five years and disclosed to any enquirers. After five years, warnings cease to be published on the LRMP or disclosed to general enquirers. However, they are kept on record and disclosed to employers on request indefinitely. This approach seeks to achieve an appropriate balance between the need to be transparent and open with the public, with our duty to be fair to the doctor.

Investigation Committee hearing decisions

- 10 Decisions of all Investigation Committee hearings which conclude in a warning are published on the 'Investigation Committee' page on the GMC's website for one year from the end of the hearing, and on the LRMP for five years.

- 11** Decisions of Investigation Committee hearings which do not conclude in a warning are not published on either the 'Investigation Committee' page of the GMC website or on the LRMP.

MPTS medical practitioners tribunal and interim order tribunal hearing decisions

- 12** Decisions of all fitness to practise hearings (including non-compliance hearings) where there is a finding of fact are published on the 'Recent Decisions' page of the MPTS website.
- 13** Decisions of all fitness to practise hearings where there is a finding of impairment or non-compliance are published on the LRMP as a permanent record.
- 14** Decisions of all fitness to practise hearings where there is no finding of impairment, but a warning is issued are published on the LRMP for a period of five years.
- 15** Decisions of fitness to practise hearings where there is no finding of impairment, non-compliance or warning issued are not published on the LRMP.
- 16** Detailed decisions of interim orders tribunal hearings are not published. However, interim orders to suspend a doctor or impose conditions on their registration pending the outcome of an investigation are published via a press release on the 'Recent Decisions' page of the MPTS website for six weeks. They are also published on the LRMP indefinitely, except where a case is closed with no finding of impairment and no warning.
- 17** Decisions of all tribunal hearings to consider an application for voluntary erasure are published on the 'Recent Decisions' page of the MPTS website. If voluntary erasure is granted after a finding of impaired fitness to practise the decisions are also published on the LRMP.
- 18** Review hearing decisions (including where a review takes place on the papers) are published on the 'Recent Decisions' page of the MPTS website and on LRMP regardless of the outcome of the hearing.
- 19** Decisions of fitness to practise hearings to consider an application for restoration of doctors previously found to be impaired are published on the 'Recent Decisions' page of the MPTS website and the LRMP. Decisions of tribunal hearings to consider an application for restoration where there is no previous finding of impaired fitness to practise are published on the 'Recent Decisions' page of the MPTS website only.

Appeals

- 20 Doctors are given 28 days to appeal a decision on sanction before it becomes effective on their registration. The appeal period is published on the doctor's record on the LRMP.
- 21 If a decision is appealed, we publish the fact the sanction is not effective pending the outcome of the appeal. Where the appeal is partly or fully upheld we cease publication of the original decision which is replaced by the outcome of any further hearing. This information is published on the LRMP.
- 22 We notify interested parties of appeals and their outcome. We do not publish appeal decisions, but these may be available from the relevant court.
- 23 An immediate suspension will be effective on the doctor's registration until the date that the substantive sanction takes effect, unless a doctor successfully appeals the substantive sanction, in which case the immediate suspension will cease from the date that the appeal decision is made. In either case, the immediate suspension will remain on the doctor's LRMP record indefinitely unless the immediate suspension order has itself been separately successfully appealed.

Information about a doctor's health

- 24 We do not publish any information relating solely to a doctor's health. We treat this information as confidential regardless of whether the case is heard under 'old rules' (the *Fitness to Practise Rules* which we used before 2004) or under the *Fitness to Practise Rules 2004* (our current Rules have been in use since 2004).
- 25 This means we do not publish the details of conditions or undertakings that directly relate to a doctor's health.
- 26 Where details regarding a doctor's health are disclosed during any part of a hearing which is held in public, by any party, this information is redacted from the published decisions.

Multi-factorial cases

- 27 Sometimes, concerns about a doctor relate to a variety of factors, for example conduct, performance, and health (called multi-factorial cases). In multi-factorial cases, tribunals are expected to hold as much of the hearing as possible in public, while entering into private session only for those parts of a hearing which relate to a doctor's health.
- 28 If, in exceptional circumstances, a tribunal holds the whole of a multi-factorial case in private, the doctor will be notified at the hearing before evidence is presented that

only information relating directly to the doctor's health will be redacted from the published decisions.

Disclosure to employers

- 29** Before disclosing personal information we will consider consent requirements for relevant data subjects.
- 30** In some cases we may make provisional enquiries to gain further information before making a decision about whether a full investigation is necessary. We will disclose details of the complaint to the doctor and to the doctor's Responsible Officer (RO). We may contact the doctor's employer or another third party if they hold information that we need.
- 31** In other cases, where there are lower level concerns that would only be matters for the GMC if part of a wider pattern of behaviour, we disclose the concerns to the doctor and their RO to be considered as part of revalidation. Where a doctor has no RO, we will disclose the complaint to the doctor and the doctor's current employer. We will also disclose the fact we have received a complaint about the doctor, but not the details to their previous employers up to a maximum of four in order to check they have no further concerns we should be aware of.
- 32** Where we decide to progress a full investigation into concerns raised, we will disclose details of the concerns including the place of the incident to the doctor's current and relevant previous employers.

Witnesses

- 33** The names of all witnesses are redacted from the published decisions.
- 34** In exceptional circumstances, vulnerable witnesses may be allowed to give evidence in private. The legal definition of a vulnerable witness is anyone who may have a serious mental health condition or learning difficulties, young people under the age of 17, people with physical disabilities who require assistance to give evidence at a hearing, witnesses who complain of intimidation, and witnesses who are the victim of sexual assault. However their evidence will be published in the record of the decision in accordance with this publication policy. The witness will be notified of this at the hearing before evidence is presented.
- 35** In particular, vulnerable witnesses will be made aware of the extent to which we can redact the record of the decision to protect their anonymity, for example, by removing the name of the witness. In exceptional circumstances, it may also be possible to remove other identifying details such as the address and name of a health centre, or broadening the scope of the doctor's practice (for example, the South East rather than London).

The decisions circular

- 36** The MPTS issues a decisions circular each month to a range of UK organisations responsible for healthcare provisions and regulation. The circular includes all investigation stage and hearing decisions made in the preceding month, which affect a doctor's registration or practice, including sanctions imposed on the doctor's registration, undertakings, interim orders warnings and cases where administrative or voluntary erasure have been granted in a fitness to practise case. This excludes information about a doctor's health.
- 37** Under European law, we are also required to send alerts to European medical regulators or competent authorities about any restrictions on a doctor's registration.
- 38** While sanctions on a doctor's registration are only applicable to the UK, overseas healthcare regulators may take this information into consideration as part of their regulatory processes.

Accessibility

- 39** We are committed to a publication policy that is accessible to people with sensory impairment. Our websites contain an accessibility section with tips and guidance on how to resize the text, ways to change the text and background colour together with other accessibility features. The website works with a number of screen readers to offer users the option to have web pages and PDFs read to them (this is available at no cost via Browsealoud). The sites perform well on a Vischeck (colour blindness simulator) test, and have high contrast and scalable text options which can be chosen from the home page.

Complainant confidentiality

- 40** When a concern is raised by a complainant we may ask for their consent to disclose it to the doctor in order for us to take forward an investigation. However, we will notify a complainant at this stage that, in view of our public protection role, we may progress our investigation even if they refuse consent in order to establish if there is any risk to patients or to public confidence in the profession. However, our preference is to do so by agreement with the complainant.

Disclosure at investigation (rule 7) stage

- 41** When a case has been referred for a full investigation, once we have sought consent from relevant data subjects, we will disclose the complaint to the doctor without delay. At this stage, we will also fulfil our statutory duty to notify the doctor's employers and the Department of Health (England), Scottish Ministers, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales. If the doctor's responsible officer is not the doctor's employer we will also notify the

responsible officer about the complaint at this stage. Concerns about a doctor which are the subject of an investigation will not be disclosed to general enquirers (apart from current or new employers/responsible officers) or the media unless or until a warning is issued, undertakings are agreed or a hearing takes place, except where it is necessary for the MPTS to impose an interim order to restrict the doctor's practice as a precautionary measure.

Employer checks

- 42** NHS Employers and others are expected to check registration with us when first employing a doctor. In consultation with the Department of Health, NHS Employers has developed mandatory standards for pre and post-employment checks for all persons working in the NHS in England. The *NHS Employment Check Standards 2010* directs prospective employers to submit a request to our Contact Centre. The contact centre can disclose to any enquirer sanctions on a doctor's registration including interim and historical sanction, and warnings that are less than five years old.
- 43** In addition to the information published on the LRMP, we may provide current employers with a summary of any fitness to practise concerns which are currently under investigation but are not subject to an interim order and information about any warnings which are more than five years old.

Public interest disclosure

- 44** We receive requests to share information with a range of public authorities including the Police, Crown Prosecution Service (CPS) or other regulatory bodies seeking information about a doctor's fitness to practise history or matters currently under investigation. We seek to co-operate with such requests where it is reasonable and in the public interest to do so.

Vetting and barring scheme

- 45** Information about decisions by the Independent Safeguarding Authority or Disclosure Scotland to bar someone from working with vulnerable adults or children is not disclosed by the GMC.

Transcripts at the end of a hearing

- 46** The parties to the hearing, that is the doctor who is the subject of the hearing and the GMC (or their representatives), can ask for a copy of the hearing transcript, free of charge, at the end of a hearing. If the hearing was held in public the person who made the complaint can also ask for a copy free of charge, at the end of a hearing. A charge will apply to requests for copies from other enquirers. For further detail, please see our publication scheme on our website at www.gmc-uk.org/publications/right_to_know/publications_scheme.asp.

Media enquiries

47 All media enquiries are dealt with by our press office.

Press releases

- 48** A press release will be published on the MPTS website before all fitness to practise hearings (including non-compliance hearings) held in public and will be removed no later than three months after the hearing takes place. If a doctor chooses to have their interim order hearing in public, a press release will be published in the same way.
- 49** A press release will be published on the GMC website before an Investigation Committee hearing and will be removed no later than three months after the hearing takes place.
- 50** Further guidance on the circumstances in which the GMC issues a press release to give notice of a hearing is attached at Annex A.

Annex A

Guidance on issuing a press release for hearings

Introduction

- 1 The purpose of this document is to set out the circumstances in which the GMC issues a press release to give notice of a hearing.
- 2 The GMC has a discretionary power to publish or disclose any information about a doctor, to any enquirer, where we believe it to be in the public interest. This power is set out in the Medical Act 1983 Section 35B(2). In the interests of transparency our policy is to issue a press release to give notice of public hearings.
- 3 This approach supports the better regulation principles of transparency and accountability.

Categories of hearing

- 4 We issue a press release for all medical practitioners tribunal and Investigation Committee hearings where the hearing is expected to take place in public.
- 5 As most Interim Orders Tribunal hearings are held in private, no press release is produced for these hearings. A press release is produced prior to any Interim Orders Tribunal hearing, which is to be held in public at the doctor's request.

Notification of public hearings

- 6 A press release is normally issued to the media in advance of a scheduled Investigation Committee or Medical practitioners tribunal. This includes review hearings held before the end of a period of conditions or suspension.

- 7** A press release to give notice will not be issued where:
- a** The allegation relates solely to a doctor's health.
 - b** The hearing is preliminary and the sole purpose is to decide whether or not the full hearing should be heard in private.
 - c** An injunction from the court precludes publication.
- 8** For clarity, (b) applies only where the sole purpose of a hearing is to establish whether a subsequent, separate hearing should be heard in private. Where the first part of a public hearing is expected to consider whether evidence should be heard in private, a press release will be issued in the usual way.

Exceptional circumstances

- 9** In exceptional circumstances the MPTS may decide that it would not be appropriate to issue a press release to give notice of the hearing where doing so presents a significant risk to the physical or mental health of someone connected to the hearing.
- 10** Relevant factors which may include:
- a** A doctor who is at risk of suicide.
 - b** A significant risk of serious harm to the physical or mental wellbeing of a witness or their family.
 - c** An adverse impact on the willingness of a key witness to provide evidence to a hearing.
- 11** The following factors, however, are not relevant to whether or not a press release to give notice of a hearing will be issued:
- d** A reputational risk to a doctor or their family.
 - e** The strength of evidence to support the allegations.
- 12** Evidence may be required to support the decision not to issue a press release. For example, this could include advice from the police or a report from a treating psychiatrist.