

# The GMC's fitness to practise procedures

## Introduction

- 1** This factsheet provides an overview of our fitness to practise procedures. Our fitness to practise procedures allow us to respond to the most serious concerns, which call into question a doctor's fitness to practise and right to retain unrestricted registration.
- 2** Our fitness to practise procedures are divided into two separate stages: 'investigation' and 'adjudication'. In the investigation stage we investigate cases to assess whether we need to refer them to the Medical Practitioners Tribunal Service (MPTS) for adjudication. The adjudication stage consists of a hearing by an medical practitioners tribunal.
- 3** The chart at the end of this document explains the various procedures and the way in which concerns can be referred to us.

## Investigation

- 4 At an early stage we will decide whether there are issues which we need to investigate further, and if so, what form the investigation should take.
- 5 In some cases, it will be clear from the start that it is not appropriate for us to investigate (for example, because it is not about a doctor or because the case clearly falls outside our criteria for taking action against a doctor) and these cases can be closed early on.
- 6 If the issues raised in the complaint do not themselves raise questions about the doctor's fitness to practise, but might do so if part of a pattern of concerns, we refer the matter to the doctor's employer and ask them to confirm there are no wider concerns.
- 7 In some instances, we may decide to carry out a provisional enquiry.
- 8 A provisional enquiry is a limited, initial enquiry at the outset of the process which helps us to decide whether to open an investigation.
- 9 Where the concerns potentially raise questions about the doctor's fitness to practise, we will start our investigation. Whenever we investigate concerns further, we will disclose the complaint to the doctor and his/her employer/sponsoring body. This ensures that we have a complete overview of the doctor's practice. This exchange

also makes our information available to those responsible for local clinical governance.

- 10** At this stage the doctor will be given an opportunity to comment on the complaint.
- 11** Our investigation will depend very much on the nature of the concerns raised with us. Our Investigation Team will decide on the most effective form of investigation for the case. Evidence can be gathered over the telephone, in writing or at meeting

An investigation may include:

- obtaining further documentary evidence from employers, the complainant or other parties
  - obtaining witness statements
  - obtaining expert reports on clinical matters
  - an assessment of the doctor's performance
  - an assessment of the doctor's health
  - an assessment of the doctor's knowledge of the English language.
- 12** If we consider that a doctor could be an immediate risk to patients, or it is in his/her interest or in the public interest, we can take immediate action to stop a doctor working by

suspending them or by restricting them from practising while we continue our investigations.

## **How long will the investigation take?**

- 13** The length of the investigation depends on the complexity and seriousness of the concerns. We will complete the investigation as quickly and efficiently as we can and will keep the doctor and the person that raised the concern informed of progress.

## **What will happen at the end of the investigation?**

- 14** At the end of the investigation the case will be considered by two of our staff members, known as case examiners (one medical and one non-medical).

They can:

- conclude the case with no further action
- issue a warning
- refer the case to the MPTS for a medical practitioners tribunal hearing
- agree undertakings on health and performance issues following a health or performance assessment.

- 15 No case can be concluded or referred to a medical practitioners tribunal without the agreement of both a medical and non-medical case examiner. If they fail to agree, the matter will be considered by the Investigation Committee, a statutory committee of the GMC.
- 16 If the case examiners or the Investigation Committee decide that the doctor's fitness to practise is not impaired, they may issue a warning. A warning may be appropriate where the concerns indicate a significant departure from the standards set out in our guidance, *Good medical practice*, or if there is a significant cause for concern following assessment.
- 17 The Investigation Committee will also consider those cases where case examiners decide to issue a warning, but where the doctor has disputed the facts, or requested that the matter be considered at a hearing of the Investigation Committee. The hearing will take place in public.
- 18 We will inform both the doctor and the complainant/referring organisation of the case examiners' decision and their reasons.

## Referring a doctor to a medical practitioners tribunal

- 19 Medical practitioners tribunals are the final stage of our procedures. A tribunal consists of specially trained people, both doctors and members of the public, who will hear all

the evidence and will decide at the end of the hearing whether they need to take action against the doctor. The tribunals will act in accordance with the standards and guidance published by the GMC and the MPTS. Hearings are held in public, unless they are hearing confidential evidence about a doctor's health.

## **What happens at the end of a medical practitioners tribunal hearing?**

**20** At the end of the hearing the medical practitioners tribunal may decide that the doctor's fitness to practise is not impaired and will either take no action or issue a warning. Where they make a finding that the doctor's fitness to practise is impaired they may do one of the following:

- put conditions on the doctor's registration (this might mean the doctor is only allowed to do medical work under supervision or restrict him/her to certain areas of practice)
- suspend the doctor's name from the medical register so that he/she cannot practise during the period of suspension
- erase (remove) the doctor from the medical register so that he/she will not be able to work as a doctor in Great Britain; the GMC's intention is that erasure should normally be for life.

- 21** If the tribunal decides to impose conditions on the doctor's registration, they may also impose an order for immediate conditions. If the tribunal directs that the doctor's registration should be suspended or that his/her name should be erased from the register, they may also impose an order for immediate suspension.

## Warnings

- 22** A warning will be appropriate where concerns indicate a significant departure from the principles set out in the our guidance, *Good medical practice*, or if there is a significant cause for concern following assessment but a restriction on the doctor's registration is not necessary.
- 23** For more information on warnings please see the factsheet which can be downloaded from our website.

## Undertakings

- 24** Undertakings are an enforceable agreement between ourselves and the doctor about the doctor's future practice. They allow us to deal effectively with cases where the issues relate to a doctor's health or performance without having to refer to a medical practitioners tribunal. Such undertakings might include restrictions on the practitioner's practice or behaviour, or commitments to have medical supervision or retraining.

- 25** For more information on undertakings please see the factsheet which can be downloaded from our website.

## **Interim orders tribunal**

- 26** At any stage in the proceedings we may refer the doctor to the MPTS for an interim orders tribunal hearing. An interim orders tribunal can suspend or restrict a doctor from practising while the investigation continues. For more information on the MPTS interim orders tribunal please see the factsheet *Investigating Concerns* which can be downloaded from our website.

## **Convictions and decisions by other regulatory bodies**

- 27** Our rules allow us to deal quickly with doctors who have received a criminal conviction or who have been subject to a decision by a regulatory body either in the British Isles or overseas.
- 28** We treat convictions and determinations by other regulatory bodies as proof of that offence. In many cases, particularly where the doctor has received a custodial sentence, the case will be referred directly to the MPTS for a medical practitioners tribunal hearing.
- 29** Certain categories of conviction cases (such as parking offences) will be closed at a very early stage with no further investigation or action.



## Appeal

- 30** A doctor has 28 days in which to appeal to the High Court or Court of Session about any decision by an medical practitioners tribunal. The tribunal's decision will not take effect until either the appeal period expires or the appeal is determined. However, the tribunal can impose an immediate order of suspension or conditions if it believes this is needed to protect the public or is in the best interests of the doctor.
- 31** The GMC also has the right to appeal the decision of a tribunal and, similarly, any such appeal must be lodged within 28 days of notification of the decision. If the GMC decides to lodge an appeal, the MPTS will inform the doctor at the end of the appeal period. Thereafter, the GMC will serve the doctor with a notice of appeal. Unlike the process when a doctor appeals, if the GMC appeals, any substantive sanction will take effect once the 28 day period expires.

The GMC has a power to make an appeal where it considers that the decision of the MPT is not sufficient for the protection of the public, taking into account:

- protecting the health, safety and well-being of the public;
- maintaining public confidence in the medical profession; and/or
- maintaining proper professional standards and conduct for members of that profession

## Professional Standards Authority

- 32** The Professional Standards Authority has the power to refer a decision by a medical practitioners tribunal to the High Court (or its equivalent throughout the UK) for the protection of the public, if it considers the decision is not sufficient for the protection of the public. The Professional Standards Authority has 28 days to decide whether to refer a decision following the doctor's 28-day appeal period. The Professional Standards Authority reviews all decisions of medical practitioners tribunals that have not resulted in erasure.

## Time limits

- 33** We will not normally investigate complaints about matters that took place more than five years ago, unless it considers that it is in the public interest for the case to proceed.

## What we cannot do

- 34** Our legal powers enable us to take action where there is evidence that it is necessary to remove or restrict the doctor's right to practise.

There are other areas where we cannot act. In particular we cannot:

- deal with concerns or complaints about nurses, pharmacists, dentists, opticians, hospital or practice managers or administrative staff, or anyone who is not a registered doctor (many other kinds of medical professionals have their own regulatory bodies and complaints procedures)
- provide advice on standards of practice applicable to other healthcare professionals (the regulatory bodies for those professions will be able to help)
- arbitrate in practice or departmental disputes
- intervene in local disciplinary procedures
- provide advice and support to doctors whose employers are considering action against them (doctors in this position should consult their medical defence organisation or the British Medical Association)
- make a doctor apologise to a patient or professional colleague

# Dealing with concerns about a doctor

## Stage one

### Referral to the GMC

It is often better for patients to raise their concerns through local complaints procedures in the first instance with the NHS Hospital Trust, Primary Care Trust (or equivalent) or private healthcare body.

#### NHS Local Procedures

- Internal review
- No action required
- Internal/Local action
- Information exchange
- Referral to the GMC

#### Private Health Local Procedures

- Internal review
- No action required
- Internal/Local action
- Information exchange
- Referral to the GMC

#### GMC GMC Procedures

- Internal review
- Information exchange
- Further investigation by the GMC
- Conviction or decisions from another regulatory body
- Inappropriate complaints would be closed at this stage

### Further investigation

Where a matter raises serious concerns about a doctor's practice, the GMC will undertake an investigation. This may include an assessment of the doctor's health or performance, where appropriate. GMC case examiners will then decide what action to take, for example referral to a fitness to practise panel. If the case examiners cannot agree or a warning is offered and the doctor refuses to accept the warning, the case will be referred to the Investigation Committee.

#### GMC

##### Further Investigation

The case examiners may decide to:

- Take no action
- Issue a warning
- Refer to a FTP Panel
- Agree undertakings
- Referral to the Interim Orders Panel (IOP)

### Investigation Committee and interim orders

If both case examiners decide that a warning is appropriate, the doctor may exercise his/her right to an oral hearing before the Investigation Committee. If the two case examiners do not agree on the appropriate outcome, the case will be decided by a meeting of the Investigation Committee.

#### GMC

##### Investigation Committee

- No action required
- Warning issued
- Referral to a FTP Panel
- Undertakings agreed
- Referral to the IOP

#### GMC

##### Interim Orders Panel

- IOP directs interim conditions (restricting practise)
- IOP directs suspension with immediate effect

## Stage two

### MPTS

Fitness to Practise Panels comprise the final stage of the fitness to practise procedures.

All aspects of the doctor's fitness to practise will be considered and there are no longer separate streams for conduct, health and performance.

#### MPTS

##### Fitness to practise panel

The panel may decide to:

- Issue a warning to the doctor
- Put conditions on the doctor's registration
- Suspend the doctor's name from the medical register
- Erase the doctor's name from the medical register