

GMC Thresholds (Scotland)

Introduction

- 1 This guidance is for medical directors and other relevant Board staff and has been designed to clarify those matters where we can, and cannot, take action. This guidance explains the thresholds for referral to the GMC. The GMC's overriding obligation is to ensure patient safety – we do not aim to resolve individual complaints but rather to take action where we need to in order to protect patients or the public interest.
- 2 A detailed explanation of our fitness to practise procedures including decision making at the end of a GMC investigation can be found on our [website](#).
- 3 The GMC can act on any information it receives, from any source, which raises a question about a registered doctor's fitness to practise. Common sources of information include patient complaints, referrals from employers and notifications from the police.

Cases closed at an early stage

- 4 In some cases, it is clear from the outset that there is no need for the GMC to investigate because the complaint is about matters which cannot raise an issue of impaired fitness to practise. We will normally close these cases without taking any further action.
- 5 Examples of cases closed without any investigation:
 - a. Minor motoring offences not involving drugs or alcohol
 - b. A delay of less than 6 months in providing a medical report
 - c. A minor non-clinical matter
 - d. A complaint about the cost of private medical treatment.
- 6 We also conclude many other cases after discussing the concerns with the doctor's Board. By checking with the Board, we can satisfy ourselves that a complaint is not part of a wider pattern of concerns. Where the Board reassures us that there are no grounds to

investigate further, and the matters complained of are not, by themselves, serious enough to require any action by the GMC, the case will be closed

- 7 Examples of cases closed after we have checked with the doctor's employer that they have no concerns:
 - a. Complaints about the quality of treatment received where there is no indication of any risk to the patient or that the doctor acted significantly below appropriate standards.
 - b. Complaints about doctors' poor attitudes to patients, or failing to take their preferences into account.

Cases that involve an investigation

- 8 For the remainder we carry out an investigation into the doctor's fitness to practise before we decide what action to take. This may include taking witness statements, obtaining an expert report, or undertaking an assessment of the doctor's health or performance. We must then decide whether we should conclude the case with no further action, issue a warning, offer the doctor undertakings on their registration or refer the doctor for a hearing by a fitness to practise panel. In deciding what action to take, our decision makers must consider the test at paragraph 11 below.
- 9 Section 35C(2) of the **Medical Act 1983** as amended states that a doctor's fitness to practise can be impaired by any or all of the following:
 - a. Misconduct
 - b. Deficient professional performance
 - c. A criminal conviction or caution in the British Isles (or elsewhere for an offence which would be a criminal offence if committed in England or Wales)
 - d. Physical or mental ill-health
 - e. A determination (decision) by a regulatory body either in the British Isles or overseas to the effect that fitness to practise as a member of the profession is impaired.

10 During an investigation we consider all aspects of a doctor's fitness to practise. In many cases we may consider not only the matters raised in the original complaint, but also any other concerns that have come to light during the investigation.

The test applied

11 For cases that proceed to an investigation, our decision makers will apply the following test at the conclusion of our investigation:

The Investigation Committee or case examiner must have in mind the GMC's duty to act in the public interest which includes the protection of patients and maintaining public confidence in the profession, in considering whether there is a realistic prospect of establishing that a doctor's fitness to practise is impaired to a degree justifying action on registration.

Cases where the GMC is likely to take action

12 In some cases, the allegations about a doctor are so serious that, if proven, they are likely to result in us taking action on the doctor's registration. These types of case tend to fall within 4 main headings:

- a. Sexual assault or indecency
- b. Violence
- c. Improper sexual/emotional relationship with a patient or someone close to them
- d. Dishonesty.

13 Therefore any allegations that fall within any of these 4 categories are likely to meet the threshold for referral to the GMC.

Concerns about the standard of the doctor's clinical care and practice

14 Many of the cases we investigate concern the standard of the doctor's medical practice, including the quality of the care and treatment provided by the doctor. Whilst not all breaches of *Good Medical Practice* will require formal action by the GMC, as many issues can be dealt with adequately by the Board, GMC action is more likely to be required where the allegations are of serious or persistent failures to meet the standards set out in *Good Medical Practice*.

15 Allegations of serious or persistent failures to practise in accordance with the principles set out in *Good Medical Practice*, can be categorised under the following headings:

- a. Good Clinical Care
- b. Maintaining *Good Medical Practice*
- c. Teaching and Training
- d. Relationships with patients
- e. Working with colleagues
- f. Probity
- g. Health.

16 The GMC threshold for referral is likely to be met when any of the following features occur:

- a. A doctor's performance has deviated from the guidance set out in *Good Medical Practice* and as a result has harmed patients or put patients at risk of harm.
- b. Attempts to improve a doctor's performance locally have failed and the Board identifies a remaining unacceptable risk to patient safety.
- c. A doctor about whom the Board has developed significant concerns leaves the Board's employment and the Board is not confident that alternative safeguards are in place.
- d. A doctor has shown a deliberate or reckless disregard of clinical responsibilities towards patients.
- e. A doctor has abused a patient's trust or violated a patient's autonomy or other fundamental rights.
- f. A doctor has behaved dishonestly, fraudulently or in a way designed to mislead or harm others.
- g. The doctor's behaviour was such that public confidence in doctors generally might be undermined if the GMC did not take action.
- h. A doctor's health is compromising patient safety – see below.

Health

17 Only a relatively small number of doctors with a health concern are referred to the GMC each year. There is no need for GMC intervention if a doctor with a health issue has insight into the extent of their condition, is seeking appropriate treatment, following the advice of their treating physicians and/or occupational health departments in relation to their work and restricting their practice appropriately.

18 The GMC will only seek to restrict a doctor's registration in these circumstances if significant concerns arise about their fitness to practise and/or patient safety, for example where a doctor's ill-health (including addiction) appears to be uncontrolled or where there is evidence that the doctor is not following advice. The GMC will also take action in respect of significant misconduct issues, for example where a doctor is convicted of a drink-driving offence.

Summary

19 If a doctor working for your organisation appears to have reached, or be close to, any of the thresholds set out above you should contact the GMC for advice on how to proceed. You can contact the Fitness to Practise Directorate on 0845 357 0022 or by e-mail at practise@gmc-uk.org.

Further information

20 This guidance summarises **other guidance we have produced for our decision makers**. More detailed guidance for case examiners, the Investigation Committee and our fitness to practise panels is available on our **website**, as is all our other guidance on the standards expected of doctors (including *Good Medical Practice*). Hard copies can be obtained from our publications department.