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## CHRE issues performance review

The Council for Healthcare Regulatory Excellence conducts an annual performance review of the healthcare regulators.

The GMC's review was extremely positive and cited many areas of best practice, including our standards and guidance documents, such as Good Medical Practice, and our quality assurance processes which ensure that decisions are made in line with GMC guidance and policy. Our Indicative Sanctions Guidance also receives praise and CHRE suggests that other regulators consider whether they might usefully incorporate parts of it into their own guidance.

You can read a copy of the report on CHRE's website at <http://www.chre.org.uk/news/40/>

## Help for witnesses

As part of our continuing work on witness support, we have published a new booklet 'Help for witnesses'.



The booklet draws on the 'Help for witnesses' pages on our website. It provides information about giving evidence at fitness to practise panel hearings and includes a glossary of terms used in connection with hearings and maps and directions to our hearing centres.

The booklets are sent to witnesses once it is clear they will be required to give evidence. A feedback form is included to enable witnesses to let us know about their experience after the hearing. Copies of the booklet are also available in all the witness waiting rooms at our hearing centres.

# The Investigation Committee

A number of panellists may be unaware of the work of the Investigation Committee, on which a small number of panellists (16) serve.

The Committee considers whether there is a realistic prospect of establishing that a doctor's fitness to practise is impaired to a degree justifying action on his or her registration. There are two categories of case:



- i. Where the case examiners have been unable to agree a suitable outcome. These cases are considered on the basis of the papers and the Committee meets in private. The Committee may determine that the matter should not proceed further, dispose of the allegation by issuing a warning without an oral hearing, determine that an oral hearing should be held, refer the matter to a Fitness to Practise Panel or, where the case examiners have failed to agree whether to recommend that the doctor be invited to comply with undertakings, that the doctor be invited to comply with undertakings.
- ii. Where the doctor has refused to accept a warning and has elected to have an oral hearing. These cases are heard in public. The GMC is legally represented; the doctor is normally present and legally represented. The Committee may determine that the matter should not proceed further, dispose of the allegation by issuing a warning, where new information is adduced that indicates it is appropriate to do so, refer the matter to a Fitness to Practise Panel, or adjourn for further investigations.

The Investigation Committee also considers cases where case examiners are unable to agree whether to approve an application for voluntary erasure.

Applications from doctors to postpone their hearing before a Fitness to Practise Panel are also considered by members of the Committee.



Some of the Investigation Committee panellists at a training day.

# Review of Confidentiality: protecting and providing information

Confidentiality is the topic on which we receive most enquiries from doctors, patients and others who call or write in for advice. We have produced specific guidance on confidentiality since 1995, with the current version accompanied by a set of Frequently Asked Questions on topics as diverse as publishing case studies and disclosure after a patient's death.



Following an initial consultation, the Council's Standards & Ethics Committee approved a revised draft of our core guidance for consultation, along with supplementary guidance on:

- Reporting concerns about patients to the DVLA
- Disclosing records for financial and administrative purposes
- Reporting gunshot and knife wounds
- Disclosing information about serious communicable diseases
- Disclosing information for insurance, employment, benefit claims and similar purposes
- Disclosing information for educational and training purposes
- Responding to criticism in the press.

There has already been some press coverage of the interim guidance on reporting knife wounds, an issue of clear public concern. The review process, including formal consultation with opportunities for everyone to contribute is designed to ensure we get this and the rest of the final guidance right.

The consultation runs from 8 September to Friday 28 November 2008. You can contribute by submitting your comments via our new public consultation site:

<https://gmc.e-consultation.net/econsult/>.

Alternatively, you can email [standards.consult@gmc-uk.org](mailto:standards.consult@gmc-uk.org) or telephone (020 7189 5404) our Standards Section to request hard copies or copies in alternative formats.

## New international research commissioned

We have commissioned the internationally renowned think tank and research organisation, RAND-Europe, to conduct a comparative analysis study of overseas medical regulators.

RAND began work on 1 September, exploring the similarities and differences between our approach to regulation and that in 10 other countries - Germany, Poland, Greece, Italy, Spain, India, South Africa, Pakistan, Nigeria and Egypt. Currently, there are some 60,000 doctors on the Medical Register who qualified in one of those countries.

The study will increase our knowledge of how regulation works abroad and will help us to understand how doctors from other countries assimilate into the UK system of regulation and healthcare.

## 2008 Training update

**Investigation Committee** – Two one-day training events have been arranged for 26 September and 31 October.

**Interim Orders Panel** – Two one-day training events have been arranged. The first took place on 4 July; the other will be held on 6 November.

**Fitness to Practise Panel** – Five one-day training events have been arranged. Four have already been held with the remaining event taking place on 23 October. A few panellists have been unable to attend any of the sessions, mainly due to sitting on hearings. We will be arranging a further date later in the year and will contact the panellists concerned shortly.

**Fitness to Practise Panel and Interim Orders Panel Chairmen** – One-day training sessions have been arranged in November and December with a further date in January 2009. Chairmen have been allocated to one of the sessions based on their availability. We will be sending further details closer to the dates of the sessions.

The next issue will be published at the end of November 2008.

## Your questions answered

Q. It has been suggested that if a panel find a conviction proved, the use of the word 'shall' in section 35C(2) of the Medical Act 1983 (as amended) means that the panel must find the doctor's fitness to practise impaired. Is this correct?

A. Section 35C(2) provides that 'a person's fitness to practise shall be regarded as "impaired"..... by reason only of ..... a conviction...'. The word "shall" confirms that it is only in respect of the five categories (of which a conviction is one) that a person's fitness to practise shall be regarded as impaired. It cannot, in our view, be taken to mean that the panel must find the doctor's fitness to practise impaired once a conviction, or any of the allegations relating to the other categories, has been found proved.

Q. Following a finding that a doctor's fitness to practise is impaired due to adverse physical or mental health and following submissions by both parties about the appropriate sanction, can the specialist adviser provide advice on the relevance of conditions about the doctor's treatment?

A. Specialist advisers have no role to play in deciding what sanction to impose; that decision is for the panel. It would not be appropriate for a specialist adviser to advise on the relevance of conditions before the panel had discussed in camera whether conditions were sufficient and proportionate. If, during its in camera deliberations, the panel reached a decision, or provisional decision, that conditions may be appropriate, the panel could resume in the presence of the parties to receive advice from the specialist adviser. It would then be open to either party to comment on that advice before the panel resumes its in camera discussions.

### Correction

In the July 2008 issue of the Bulletin we said that, following a determination at a review hearing that the doctor's fitness to practise was not impaired, it was for the panel to decide whether to revoke the remaining period of conditions or suspension. Although the panel has such discretion in cases where the doctor's registration is subject to conditions the panel has no such discretion in cases where the doctor's registration is subject to suspension – see section 35D of the Medical Act 1983, as amended. We apologise for the error.