Fitness to Practise Bulletin

General Medical Council

Regulating doctors
Ensuring good medical practice

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Fitness to Practise activity

The **Fitness to Practise – Annual Statistics for 2007** is now available on the GMC's website. We exceeded our target, that 90% of cases should be concluded within 15 months, with 92% of cases being concluded within that timeframe. The report shows a rise between 2006 and 2007 of 1.6% (from 5085 to 5168) in the number of doctors subject to an Enquiry; since 2003 the number of such Enquiries has risen by 24%. The number of hearings in 2007 was down by 15.5%. The number of sitting days, however, increased from 1560 in 2006 to 1992 in 2007, reflecting an increase in the average length of hearings.

The number of sitting days in the first half of 2008 continued to increase as the following table demonstrates. As far as the Fitness to Practise Panel is concerned this reflects, in part, the improvements we have implemented to ensure greater utilisation of our hearing room capacity. For example in the first half of 2007 our hearing room utilisation rate was 70%, the equivalent figure for the same period in 2008 was 76%.

	Quarter 1	Quarter 2	Total
Investigation Committee	5	6	**11 (11)**
Interim Orders Panel	66	73	**139 (107)**
Fitness to Practise Panel	543	493	**1036 (934)**
Totals	**614**	**572**	**1186 (1052)**

Figures in brackets represent the equivalent figures for 2007

At the end of 2006 there were 300 cases awaiting hearing by a Fitness to Practise Panel. That figure reduced to 256 by the end of June 2007 and 195 by the end of 2007. The figure rose to 207 by the end of June 2008, reflecting an increase in the rate of referrals. We therefore altered our plans to reduce the number of hearing rooms from 13 to 10 from July 2008 and are now operating with 11 hearing rooms.

New guidance on consent and good decision-making

At the residential training sessions last year, we reminded panellists of the variety of guidance the GMC provided to doctors on medical ethics and drew attention to the proposals to update the guidance on consent.

That new guidance, *Consent: patients and doctors making decisions together* took effect on 2 June 2008 and replaced Seeking patients' consent: the ethical considerations.

The guidance sets obtaining consent in the context of a wider process of discussion and decision-making, and builds on the partnership approach which underpins our core guidance, Good Medical Practice.

It identifies the key principles of good decision-making that apply to all decisions about care from simple treatment for minor and self-limiting conditions to major surgery.

It contains practical advice on sharing information and discussing treatment options, including (for the first time) discussions about risk. It outlines the factors that doctors should take into account when assessing the risks of side effects or complications, and emphasises tailoring the discussion to the individual patient's situation.

The guidance does not set a numerical or percentage threshold at which doctors must tell patients about a specific risk, because it would be difficult to set a threshold that would be meaningful across the range of procedures, and because the level of risk and its significance will vary from patient to patient depending on their clinical condition and personal circumstances.

Part 3 of the guidance sets out the principles of good practice where patients cannot make decisions for themselves or where their ability to do so is impaired or fluctuating. This section of the guidance is largely new, since the legal position has changed significantly with the introduction of capacity/incapacity legislation in England, Wales and Scotland. Additional information about relevant legislation and case law is set out in the Legal Annex to the guidance.

The guidance can be accessed via the GMC's website. Copies will also be placed in all our hearing rooms. If you would like a personal copy please contact the Standards & Ethics Team (**standards@gmc-uk.org**, **020 7189 5404**).

Guidance for doctors who act as expert witnesses

At the time of drafting we are preparing to publish **new guidance** for doctors who undertake work as expert witnesses. Copies of that guidance will also be available on the GMC website and will be placed in the hearing rooms.

Recruitment campaign for Council members

The drive to recruit Council members for the GMC has begun. Following the 2007 White Paper, *Trust Assurance and Safety*: *The Regulation of Health Professionals in the 21st Century* which recommended changes to medical regulation, we are moving to a smaller Council of 24 with equal numbers of lay and medical members.

The membership of the Council will be reflective of its key interest groups:

- patients and the public
- doctors
- the NHS and other healthcare providers and
- the medical schools and medical Royal Colleges.

The current recruitment campaign is the first time that all Council members will be selected by an external body, the **Appointments Commission**. At least one member of the Council must live or work wholly or mainly in each of England, Northern Ireland, Scotland, and Wales.

The timetable for the recruitment is as follows:

- End June 2008 – Closing date for applications
- July and August 2008 – Shortlisting
- September 2008 – Interviews
- October 2008 – Appointments made
- November/December 2008 – Induction
- January 2009 – Reconstituted Council takes office.

Student Fitness to Practise consultation

Just to remind you that you have until 19 September to respond to the GMC and Medical Schools Council consultation on revised guidance, *Medical students: professional values and fitness to practise*, and other options to promote consistency in student fitness to practise. The guidance can be viewed at **https://gmc.e-consultation.net/studentftp**

Stop Press – Health and Social Care Bill

The Health and Social Care Bill received Royal Assent on 21 July 2008. This is essentially enabling legislation and work continues on the implementation of the provisions contained in the Act. We will continue to keep you informed of developments

Revisions to the Indicative Sanctions Guidance – consultation ends

In March we launched our consultation on revisions to the Indicative Sanctions Guidance. In keeping with the GMC's Welsh Language Scheme both English and Welsh versions of the consultation papers were published on our website. Those consulted included interested parties such as the BMA, the medical defence organisations, the GMC's Public and Patient Reference Group, patient groups, panellists and legal assessors.

The consultation period ended on 9 May. We received responses from a broad range of individuals and organisations. Thank you to all of you who took the opportunity to reply. There are a number of issues we are considering but in the main the comments were positive, with several respondents welcoming the increased links with Good Medical Practice, and the streamlined structure.

Once we have completed our analysis of the responses, revisions will be considered by the Council and the final version published in due course.

Panellists who have recently demitted office

Professor Sir Robert Boyd, Professor Brian Gomes da Costa, Mr Alan Montgomery and Mr Robert Hart all reached the age of 70 earlier this year and have therefore demitted office.

We are grateful to them for their work as panellists and wish them well for the future.

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

Your questions answered

Q. If a doctor is not present or represented and there are no members of the press and public present, can the panel "hand down" its determination or does the the chairman have to read it out?

A. In such circumstances the chairman may, with the agreement of the panel, hand down copies of the determination i.e. hand copies to the GMC's representatives and the shorthand writer and ask the shorthand writer to include the determination in the transcript. The panel, legal assessor and shorthand writer must, however, be in the hearing room and must remain there while the GMC's representative reads the determination in case he or she wishes to make any submissions arising from the determination.

Q. If, at a review hearing, the panel concludes that the doctor's fitness to practise is not impaired should it revoke the conditions on, or suspension of, the doctor's registration immediately or should it allow the original order to run until it would otherwise expire?

A. Under section 35D(12)(d) of the Medical Act 1983, as amended, either option is available to the panel. The GMC has not issued any guidance on this matter. It is entirely a matter for the panel's discretion having regard to the particular circumstances of the case.

Q. Are there any plans to provide additional PCs in the panellists' waiting rooms in London and Manchester?

A. No. We are aware that at certain times of the day the PCs are in high demand. We introduced Wi Fi so that panellists can access the internet via their laptops and this has helped ease the demand on the PCs. But not all panellists carry laptops and we would encourage panellists using the PCs to bear in mind that others are likely to be waiting and to restrict their use of the PCs accordingly, particularly at busy times such as lunchtime.