

<b>Agenda item:</b>	<b>13</b>
<b>Report title:</b>	<b>Update on response to independent review of whistleblowing</b>
<b>Report by:</b>	<b>Andy Lewis</b> , Assistant Director – Employer Liaison Service <a href="mailto:alewis@gmc-uk.org">alewis@gmc-uk.org</a> , 0161 250 6849
<b>Considered by:</b>	<b>Strategy and Policy Board</b>
<b>Action:</b>	<b>To note</b>

## Executive summary

In September 2015, we asked Sir Anthony Hooper QC to review how we handle cases involving individuals who regard themselves as whistleblowers who have appropriately raised concerns in the public interest. Sir Anthony liaised with Sir Robert Francis who was undertaking a review for the Department of Health dealing with whistleblowers in the NHS.

Sir Anthony made a number of recommendations and we developed an action plan to take this work forward. The Strategy and Policy Board approved the plan at its meeting on 14 July 2015.

## Recommendations

Council is asked to:

- a** Note this update on our response to the independent review of whistleblowing.
- b** Note the [action plan](#).

## Hooper review and recommendations

- 1 As a results of his review of the way we handle cases involving whistleblowers, Sir Anthony Hooper made eight recommendations: two relating to the way organisations make referrals to the GMC; five relating to our processes and procedures; and one recommendation about an independent body establishing a system for healthcare professionals to record that they have raised a concern with their employers:
  - Recommendation 1: Organisations referring a doctor's fitness to practise to the GMC should be encouraged to answer a written question the effect of which is to ascertain whether the doctor being referred has raised concerns about patient safety or the integrity of the system.
  - Recommendation 2: Organisations referring a doctor's fitness to practise to the GMC should be encouraged to have the document containing the allegation signed by a registered doctor and to contain a statement by the doctor to the effect that: "I believe that the facts stated in this document are true".
  - Recommendation 3: If the written document containing the allegation is not signed by a registered doctor and/or does not contain a statement to the effect that "I believe that the facts stated in this document are true", organisations should be encouraged to explain why this has not been done.
  - Recommendation 4: If a doctor being referred to the GMC has raised concerns about patient safety or the integrity of the system with the organisation making the referral, then the necessary steps should be taken to obtain from the organisation material which is relevant to an understanding of the context in which the referral is made.
  - Recommendation 5: Investigators assessing the credibility of an allegation made by an organisation against a doctor who has raised a concern should take into account, in assessing the merits of the allegation, any failure on the part of an organisation to investigate the concern raised and/or have proper procedures in place to encourage and handle the raising of concerns.
  - Recommendation 6: In those cases where an allegation is made by an organisation against a doctor who has raised concerns, the Registrar should, where it is appropriate to do so, exercise his powers under rule 4(4) to conduct an examination into that allegation, including taking the steps outlined in my earlier recommendations and asking the doctor for his or her comments on the allegation and the circumstances in which the allegation came to be made.
  - Recommendation 7: Those who investigate allegations made against doctors who have raised concerns must be fully trained to understand "whistleblowing", particularly in the context of the GMC and the NHS.

- Recommendation 8: The GMC, together with healthcare regulators, professional organisations, unions and defence bodies, set up a simple, confidential and voluntary online system, run by an organisation independent of the regulators. The system would enable healthcare professionals to record electronically the fact that they have raised a concern with their employers, what steps they have taken to deal with the concerns, including details of when and with whom the concerns were raised. The date and time at which the healthcare professional made the entries would be recorded. Access to the record would be restricted to the professional or another person with his or her consent.
- 2 At its meeting on 14 July 2015, the Strategy and Policy Board approved our action plan setting out how we will consider the recommendations and next steps in relation to each of them.
  - 3 We have established a cross directorate project board to take forward this work. The project board met for the first time in late July. We identified a number of workstreams and leads for each will be considering scope, key milestones and risks ahead of the next project board meeting in September 2015.

### **Mandatory annual reporting of public interest disclosures**

- 4 The Government recently consulted on the introduction of mandatory annual reporting of statistics relating to public interest disclosures (i.e. concerns raised by a whistleblower) and have published draft regulations, which they are aiming to take through Parliament in 2016. The legislation to introduce mandatory reporting applies in England, Scotland and Wales. We are seeking confirmation from the Department of Business, Skills and Innovation regarding the position in Northern Ireland.
- 5 The Strategy and Policy Board approved the project board including a workstream to scope out the work necessary to implement mandatory reporting.

### **Next steps**

- 6 The next project board meeting is in September 2015 and will consider the scope, risks and key milestones for each workstream and the programme as a whole.
- 7 We are planning a workshop of external key interests to explore the possibility of an independent body establishing a voluntary online facility for healthcare professionals to record raising a concern.
- 8 We know that between 2010 and 2013, a higher proportion of complaints about non-UK graduates and black and minority ethnic doctors were from employers. The review of our processes in relation to Sir Anthony's recommendations may benefit these doctors and we will carefully consider the equality and diversity considerations relating to whistleblowers as this project develops.