

## Part C – allocation to a Provisional Enquiry stream

Purpose .....	2
Overview of different streams .....	2
Approach to be taken .....	7
<b>Public interest concerns (PIC) provisional enquiries.....</b>	<b>8</b>
Key considerations .....	8
What is a public interest concern? .....	8
How can it be determined if a doctor has raised public interest concerns? .....	8
Did the public interest concerns raised by the doctor relate to the referring organisation? .....	8
Did the doctor raise public interest concerns after becoming aware of the local investigation or GMC referral?.....	9
Did the doctor raise public interest concerns related to the Covid-19 pandemic? .	9
Objectivity of evidence .....	10
Exclusions from PIC PE.....	10
Specific questions for decision maker and possible outcomes .....	10
<b>Health provisional enquiries .....</b>	<b>11</b>
Key considerations .....	11
Circumstances where a health PE is suitable .....	11
Circumstances where a health PE is not suitable .....	12
Specific questions for decision maker and possible outcomes .....	13
<b>SCI and SCC provisional enquiries .....</b>	<b>13</b>
Key considerations .....	13
Ambiguity over the nature of the concerns .....	15
Enquiries involving multiple doctors.....	16
Doctors without a connection.....	16
Specific questions for decision maker and possible outcomes .....	16
<b>Further information provisional enquiries.....</b>	<b>17</b>
Key considerations .....	17

# Part C – allocation to a Provisional Enquiry (PE) stream

## Purpose

- 1 This guidance applies once it has been determined that a complaint or referral is suitable for a provisional enquiry (PE.) The broader factors which exclude enquiries from suitability are set out in [part B](#). These include the doctor being the subject of an open case involving similar concerns or the allegation being of such a serious nature that it would undermine public confidence in the medical profession if a full investigation was not carried out.
- 2 The guidance is intended to support decision makers in the Triage team to allocate enquiries to the correct PE stream. It flags the relevant considerations and sets out a series of questions to guide the decision maker either to the correct stream or to close the enquiry or promote to an investigation if, upon further consideration, a PE is not suitable. Staff handling provisional enquiries should bear in mind that an enquiry can switch streams at a later stage if further information means this is appropriate.

## Overview of different streams

- 3 Although all PEs are intended to be proportionate and targeted enquiries at the triage stage, there are different streams to reflect nuances in the type of evidence needed to decide if a full investigation is necessary. These streams are set out in the table below in the order that different types of provisional enquiries should be considered.

Type of provisional enquiry	Definition	Key features
Public interest concerns (PIC)	A provisional enquiry to obtain independent evidence to corroborate allegations about a doctor who has previously raised concerns in the wider public interest, prior to being referred to the GMC. For example, a doctor who has reported patient safety being compromised by the practice of colleagues or the systems, policies and procedures	The PIC stream is suitable for any type of concerns including those carrying a presumption of impairment, where the referred doctor has previously raised public interest concerns. This is with the exception of cautions, convictions and determinations.  No set timescale for completion of a PIC PE due to

	<p>in the organisation in which they work.</p> <p>One of the following criteria should be met:</p> <ul style="list-style-type: none"> <li><b>a</b> the referrer has either declared that the doctor has raised public interest concerns or failed to provide this information within the necessary timescale, or;</li> <li><b>b</b> there is evidence either from the doctor or a third party source that the doctor has raised public interest concerns about the referring organisation, or;</li> <li><b>c</b> the circumstances of the complaint/referral lead to a material risk that it may be linked to the doctor's history of raising public interest concerns even though it is from a patient, a third party organisation or a third party person acting in a public capacity.</li> </ul> <p>Concerns that arose during the Covid-19 pandemic about a doctor's practice and/or conduct in a clinical setting will be appropriate for allocation for a PIC PE if they meet the other criteria for the stream. The circumstances of the pandemic will be considered, alongside the other relevant information, as part of the provisional enquiry.</p>	<p>their likely complexity but regular reviews are conducted.</p> <p>The doctor must have raised concerns with wider patient safety or public interest implications. PIC PE is not indicated if a doctor has raised a private grievance in relation to their personal circumstances.</p> <p>If concerns about the doctor's practice and/or conduct in a clinical setting arose from events during the pandemic, the decision maker should obtain further information about the circumstances.</p>
--	--	---

Type of provisional enquiry	Definition	Key features
Health	<p>A limited enquiry where there are potential concerns solely about a doctor's health and it is unclear whether their condition is likely to impact on their fitness to practise or, where it may do, whether it is being managed effectively locally. By obtaining one or two pieces of further information, we can clarify if a question is raised about the doctor's fitness to practise.</p>	<p>Further information is easily obtainable to clarify the impact of the doctor's condition on their practice and if there is any unaddressed risk to patient safety.</p> <p>Only suitable if the concerns solely relate to the doctor's health. If this is not the case and other concerns about the doctor meet the threshold, promotion of all concerns to an investigation, including health, is indicated as the health issues may provide mitigation for any allegations of misconduct or poor performance.</p>
Type of provisional enquiry	Definition	Key features
Single clinical incident (SCI)	<p>A limited enquiry where the concern appears to raise a question about the doctor's fitness to practise and:</p> <ul style="list-style-type: none"> <li><b>a</b> relates to the care of a single patient, and;</li> <li><b>b</b> involves only a single consultation/shift or clinical procedure</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li><b>c</b> evidence of insight and remediation is likely to clarify whether a question is raised as to whether the</li> </ul>	<p>Evidence of remediation is needed as the threshold for an investigation appears to be met.</p> <p>If, however, we obtain evidence that the doctor has remediated the concern(s), an investigation is unlikely to be necessary as no issue of current impairment will arise. This is unless the concerns are so serious as to be difficult to remediate such that an investigation is required as, if the allegations are substantiated, action may be</p>

	<p>doctor's current fitness to practise is impaired.</p> <p>Concerns that arose during the Covid-19 pandemic about a doctor's practice and/or conduct in a clinical setting will be appropriate for allocation to a SCI PE if they meet the other criteria for the stream. The circumstances of the pandemic will be considered, alongside the other relevant information, as part of the provisional enquiry.</p>	<p>needed to maintain public confidence in the profession.</p> <p>If the concerns arose during the Covid-19 pandemic, we may need to obtain information on the circumstances which have arisen and whether and how they impacted on the systems in which a doctor was working and on how they delivered care.</p>
<b>Type of provisional enquiry</b>	<b>Definition</b>	<b>Key features</b>
Single clinical concern (SCC)	<p>A limited enquiry where the concern appears to raise a question about the doctor's fitness to practise and relates:</p> <ul style="list-style-type: none"> <li><b>a</b> to the care of a single patient, and;</li> <li><b>b</b> to a single medical condition, issue or course of treatment and;</li> <li><b>c</b> to less than five alleged clinical failings within the same concern BUT;</li> <li><b>d</b> there was more than one contact between the patient and doctor.</li> </ul> <p><b>AND</b></p>	<p>Evidence of remediation is needed as the threshold for an investigation appears to be met. However this may need to be more detailed than in SCI PE as it is not a one off, isolated incident.</p> <p>The extent of remediation evidence required in SCC PE will depend on whether the concerns were wide ranging and repeated over a significant length of time. Remediation evidence could include competency reports from supervising doctors and certificates from completed training modules. If we obtain evidence that the doctor has remediated the concern(s), an investigation is unlikely to be</p>

	<p>e evidence of insight and remediation is likely to clarify whether a question is raised as to whether the doctor's current fitness to practise is impaired.</p> <p>A concern will only be eligible for a SCC PE if there were less than five alleged failings within the course of treatment. By failing we mean distinct clinical issues such as inappropriate prescribing, inadequate infection control practices or failure to obtain properly informed consent.</p> <p>Concerns that arose during the Covid-19 pandemic about a doctor's practice and/or conduct in a clinical setting will be appropriate for allocation for a SCC PE if they meet the other criteria for the stream. The circumstances of the pandemic will be considered, alongside the other relevant information, as part of the provisional enquiry.</p>	<p>necessary as no issue of current impairment will arise. However, this will not always be the case as some concerns may turn out to be so serious as to not be easily remediable such that an investigation is required, as if the allegations are substantiated, action will be needed to maintain public confidence in the profession.</p> <p>If the concerns arose during the Covid-19 pandemic, we may need to obtain information on the circumstances which have arisen and whether and how they impacted on the systems in which a doctor was working and on how they delivered care.</p>
<b>Type of provisional enquiry</b>	<b>Definition</b>	<b>Key features</b>
Further information (please note this is distinct from the further information (FI) process at initial triage)	<p>A limited enquiry to obtain clarification where an allegation appears serious but:</p> <p>a the information we hold suggests aspects may be confused or based on a misperception or there may not be reliable evidence to support it or;</p> <p>b the allegation relates to the doctor's practice and/or</p>	<p>Local or third-party investigation information is available which could help us quickly determine whether there is a fitness to practise issue.</p> <p>Evidence of remediation cannot be taken into account at triage for these types of queries (ie unless they relate</p>

	<p>conduct in a clinical setting during the Covid-19 pandemic which does not meet the criteria for another stream. For example, concerns related to multiple patients where the specific circumstances under which the doctor was working will be relevant to the outcome of the enquiry</p> <p>and as a result enquiries are needed to gather one or two discrete pieces of information where this would clarify whether the allegation is capable of raising a question about the doctor's fitness to practise.</p>	<p>to a single clinical incident or concern).</p> <p>This type of PE can be used for concerns relating to the doctor's practice and/or conduct in a clinical setting during the Covid-19 pandemic if they do not fall under another stream, where further information about the circumstances needs to be obtained.</p>
--	---	---

## Approach to be taken

- 4 In considering which stream is appropriate, decision makers should answer the questions below in sequential order. Before doing so, they should review the key considerations outlined for each question. By key consideration, we mean things that are important to the decision maker's overall consideration of which PE stream is appropriate. A flow chart summarising the decision making process can be found [here](#).
- 5 The Assistant Registrar should note within their decision reasoning why they have decided to allocate the enquiry to a specific stream. This will assist the PE team in progressing the enquiry and with any future re-streaming if this proves necessary.
- 6 Where the concerns are about a doctor's practice and/or conduct in a clinical setting during the Covid-19 pandemic, the decision maker will need to consider whether and how the circumstances of the pandemic impacted on the systems in which the doctor was working and on how they delivered care. Enquiries should be allocated to the appropriate PE stream and the circumstances of the pandemic will be considered, alongside the other relevant information, as part of the provisional enquiry. Further information about how to take the circumstances of the pandemic into consideration is set out in the guidance for decision makers [COVID-19: assessing the risk to public protection posed by a doctor as a result of concerns about their practice during the pandemic](#).

## Public interest concerns (PIC) provisional enquiries

### *Key considerations*

#### What is a public interest concern?

- 7** A “public interest concern” is one that has been raised by a doctor in the wider public interest (sometimes referred to as ‘whistleblowing’). This may include concerns that patient safety or care is being compromised by the practice of colleagues or the systems, policies and procedures in the organisation in which the doctor works. This type of concern is distinct from a grievance or private complaint raised for personal reasons. For example, a dispute about the doctor’s own employment position would not be classed as a public interest concern as it does not raise any patient safety or wider public interest issues.

#### How can it be determined if a doctor has raised public interest concerns?

- 8** A PIC PE will most commonly be identified by the RO/employer confirming the doctor has previously raised public interest concerns on the declaration accompanying their referral. We will consider a doctor to have raised public interest concerns if they formally reported their concerns to the management team and/or recorded them on a local reporting or risk management system such as Datix.
- 9** If the referrer has not completed the declaration, they should be contacted by Triage staff and asked to complete it. If further requests and/or the involvement of the relevant Employer Liaison Adviser (ELA) do not result in the completion of the declaration, the referral should be treated as if the doctor had previously raised public interest concerns and allocation to the PIC PE stream will usually be appropriate.
- 10** Triage staff should consider the possibility that, even where the referrer has not declared that the doctor has raised public interest concerns, there may be evidence of their doing so in the documentation supporting the referral or from information gathered during the further investigation (FI) process. For example, notes of internal meetings or correspondence from third parties such as the CQC or Coroner may refer to local patient safety concerns being raised by staff including the doctor. Where this is the case, a PIC PE is likely to be suitable but we should be mindful of the need to establish the timeline of when the doctor raised public interest concerns and if this was before or after they became aware of disciplinary processes against them in order to assess the likelihood that the referral is retaliatory.

#### Did the public interest concerns raised by the doctor relate to the referring organisation?

- 11** If the public interest concerns raised by the doctor do not relate to the organisation that has referred them to the GMC, a PIC PE will not usually be appropriate.

- 12** However, caution should be exercised if there are close links between a patient making a complaint or the referring organisation and the one involved in the doctor's whistleblowing history. A patient, or someone acting on their behalf, may have been influenced in relation to a complaint by concerns expressed about a doctor by their employer or colleagues, where relationships have deteriorated following a doctor raising public interest concerns.
- 13** In referral cases, a PIC PE may be suitable even where the doctor did not raise public interest concerns about the referring organisation and does not work for or provide medical services to them. This will apply where there is evidence of close links between the referrer and the organisation about which the doctor raised concerns eg they share medical facilities or the management team sits across both organisations.
- 14** Further checks may be needed to establish the independence of the patient complaint or referral and, where this remains in doubt, a PIC PE is likely to be indicated. For example, a locum agency may refer a doctor who has raised patient safety concerns about a specific hospital where they worked, which the locum agency has then been told about, and this has indirectly influenced their decision to make a GMC referral.
- 15** A PIC PE will not be indicated if the complainant (rather than the subject of the referral) is a doctor who has raised public interest concerns either by using the confidential whistle-blowing hotline or another method. This scenario is covered by our mandatory reporting guidance.

#### Did the doctor raise public interest concerns after becoming aware of the local investigation or GMC referral?

- 16** The decision maker should seek to establish the timing of the doctor raising public interest concerns and allocate to PIC PE if they are confident they were not raised after the doctor became aware of local disciplinary procedures or the intended referral to the GMC. Where it is clear any patient safety concerns were raised after disciplinary action was started, a PIC PE is unlikely to be indicated. This is unless it seems as if the doctor's actions in raising concerns led to an escalation of disciplinary procedures, such as a referral to the GMC when any fitness to practise issues had been dealt with locally over a significant period of time until the doctor raised concerns. Where a PIC PE is unlikely to be suitable, the decision maker should go on to consider whether the criteria are met for any of the other streams.
- 17** If the timeline is disputed or difficult to ascertain, it will be appropriate to allocate the enquiry to PIC PE to enable further enquiries to be carried out.

#### Did the doctor raise public interest concerns related to the Covid-19 pandemic?

- 18** The decision maker should determine if either the doctor's public interest concerns or the concerns about the doctor's practice and/or conduct relate to the Covid-19 pandemic when establishing the timeline of events and, if so, obtain further

information about the circumstances. Obtaining the detail around the Covid-19 context should be completed in tandem with gathering the objective evidence in PIC enquiries to corroborate the concerns raised by the referring organisation. The contextual information will help to provide a complete picture for expert review and will enable the decision maker to determine whether a full investigation is necessary.

### Objectivity of evidence

- 19** Decision makers should consider carefully whether information that appears to be objective is truly independent. For example, further information may be needed to ensure that an expert appointed to review a doctor's performance is independent and and/or that the evidence on which they based their conclusions is impartial. If an independent review was based on testimony from those working for the organisation about which the doctor raised public interest concerns, rather than on obtaining and assessing impartial source evidence, it will not independently corroborate the concerns about the doctor. Where there are questions about the objectivity of evidence supporting concerns about a doctor who has raised patient safety concerns, a PIC PE is likely to be indicated.

### Exclusions from PIC PE

- 20** In general, the PIC stream can be used for all types of concerns including allegations about probity or other behavioural misconduct where the referred doctor has previously raised public interest concerns. There may be times however where a PIC PE will be unnecessary even if the doctor has a known history as a whistleblower. For example, where the referrer is notifying us of a doctor's criminal conviction and we are able to obtain a certificate of conviction and details of the underlying circumstances from the police.

### *Specific questions for decision maker and possible outcomes*

- 21** The decision maker should answer the question "has the doctor raised public interest concerns?"
- 22** In doing so, they should consider if one of the following criteria are met:
- a** the referrer has either declared\* that the doctor has raised public interest concerns or failed to provide this information within the necessary timescale, or;
  - b** there is evidence either from the doctor, a third party source or our own review of referral documentation that the doctor has raised public interest concerns about the referring organisation, or;

\* On the standard referral form

- c** the circumstances of the case lead to a material risk that the referral may be linked to the doctor's history of raising public interest concerns even though it is from a patient, a third party organisation or a third party person acting in a public capacity.
- 23** The decision maker must also be satisfied that the public interest concerns relate to the referring organisation or the complainant or referrer has links to, or may have been influenced by, the organisation that the public interest concerns relate to.
- 24** However, allocation to PIC PE may not be necessary if the risk of the referral being motivated by retaliation is low because there is evidence to suggest the doctor raised public interest concerns only after becoming aware of local disciplinary procedures or their intended referral to the GMC, and there is no evidence to suggest that a disproportionate escalation of a local matter to the GMC was motivated by the doctor raising public interest concerns following local disciplinary procedures.
  - If the criteria are met for the doctor having raised public interest concerns → allocate to the PIC PE stream.
  - If the criteria are not met → proceed to the section below.

## Health provisional enquiries

### *Key considerations*

#### Circumstances where a health PE is suitable

- 25** When a health concern has been raised, a PE may be considered suitable where any of the following apply:
  - a** the allegation is clear but there is insufficient detail provided about the nature of the doctor's health condition and how it might impact their fitness to practise. This could include allegations that relate to a more uncommon or specific medical condition (such as a brain injury) where clarification is required from a specialist with clinical expertise in that area.
  - b** a self-referral contains incomplete information and independent verification is necessary
  - c** local/third-party investigation or monitoring information is available which could help us determine whether there is a fitness to practise issue, such as a copy of an Occupational Health report or copies of a regular chemical testing schedule which support a period of remission
  - d** information from treating doctors could clarify whether a condition that could pose a risk to the public is being managed effectively

- e local employer information that the doctor is prepared to share could clarify whether any risk to patients is being managed effectively.

**26** Contextual information related to the pandemic is less likely to be required in Health provisional enquiries as the focus is on whether the doctor's health condition impacts their ability to practise safely but it may be relevant in some circumstances so should not be discounted.

#### Circumstances where a health PE is not suitable

**27** When a health concern has been raised, a PE is unlikely to be suitable and instead a full investigation will usually be appropriate where:

- a details about the doctor's condition mean a GMC health assessment is needed. This will often be required for the purpose of obtaining an up to date assessment of the risk to patients, including chemical testing and this is not otherwise available.
- b the health condition has only recently been diagnosed and:
  - i. is not well controlled and therefore any risks to patients are not being managed, and / or
  - ii. the nature of the health condition may affect the doctor's insight into any risk, or potential risks, to patients and / or may affect the doctor's conduct.
- c the doctor is working or likely to work and there have been serious concerns about clinical care that may be linked to their health or there is a risk they lack insight, are failing to comply with appropriate treatment or are not engaged with local support to manage any patient risks.
- d information indicates the condition poses a risk to patients and is not being adequately managed and needs monitoring, e.g. the doctor has no GP and isn't accessing regular support or treatment, and/or has poor insight, and/or has a condition prone to relapse or impaired judgement
- e the health condition relates to substance use, particularly in cases where:
  - the doctor concerned has taken substances that are classified as illegal
  - there is evidence of self-prescribing of drugs that are known to be highly addictive (although medical CE advice is likely to be required in these instances)
  - the drugs have been obtained illegally e.g. through theft from the workplace.

**f** the allegations are multifactorial. Health allegations should not be closed in the Health PE process if there are connected misconduct or performance allegations that require referral for investigation. Health concerns can provide mitigation where they are linked to conduct or performance concerns, so it is better to consider these in the round.

**28** When a health concern has been raised, a PE is unlikely to be suitable and instead closure will usually be appropriate where:

**a** the doctor does not have a licence to practise. Investigations are only appropriate where concerns about a doctor's health pose a risk to patients. If we close an enquiry on this basis, we should place an alert on the doctor's record so that any risk can be assessed if they apply for a licence.

**b** the health condition is already well documented with medical input from a reliable source and so a PE would not yield any new useful information.

### *Specific questions for decision maker and possible outcomes*

**29** Do the concerns solely relate to the doctor's health?

■ If none of the concerns relate to the doctor's health ➡ proceed to section below.

■ If it is a multi-factorial case involving health but there are also allegations relating to another type of impairment that meet the investigation threshold ➡ allocate to the Communications Investigation Team (CIT) for an investigation so the doctor's health can be considered in respect of all concerns.

■ If the concerns solely relate to the doctor's health ➡ is there sufficient information to assure ourselves no question of impaired fitness to practise arises as the doctor has insight, their condition is being adequately managed, their RO/employer is aware and there is no risk to patients?

➤ If yes ➡ close enquiry

➤ If no ➡ allocate to the Health PE stream if appropriate having reviewed the key considerations above.

## **SCI and SCC provisional enquiries**

### *Key considerations*

**30** The concern(s) in SCI and SCC provisional enquiries must relate to clinical practice. If there are health/language/misconduct or criminal concerns that meet the investigation threshold, the enquiry will not be suitable for a SCI or SCC PE.

- 31** When considering which stream is appropriate, decision makers should note that a single clinical incident (SCI) may encompass a doctor's whole shift, where the SCI relates to the same clinical issue, e.g. where an obstetrician is alleged to have failed to monitor a CTG trace over several hours. However, allegations about two separate single incidents (i.e. about more than one consultation, procedure or doctor's shift) can't be considered an SCI. These will more appropriately fall into the Single Clinical Concern (SCC) stream.
- 32** Although both streams relate to a single patient and a single medical issue, the key difference between an SCI and an SCC is that the latter requires more than one consultation between the patient and doctor. Decision makers should note however that an SCC PE will not be suitable if there are more than five alleged clinical failings and the enquiry should instead be promoted for an investigation. These failings should be of a separate and distinct nature rather than being inter-related concerns flowing from the same initial allegation. For example, failure to refer for specialist investigation, inadequate/inaccurate medical records, rudeness to patient and poor hygiene practices would be separate failings within a single clinical concern.
- 33** For a concern to be suitable for an SCI or SCC PE, it must, on the face of it, appear likely to meet the threshold for an investigation into a doctor's fitness to practise, as set out in section 35C(2) of the Medical Act 1983\*. If there is enough information to close a matter at triage because it does not meet the investigation threshold, the PE process should not be used to obtain more information. A *Further Information PE* may be more suitable however if the information we hold suggests that aspects of the complaint may be confused or based on a misperception or there may not be reliable evidence to support it. In these circumstances, additional information is needed to clarify whether a question is raised about the doctor's fitness to practise.
- 34** Enquiries will be suitable for either the SCI or SCC streams if evidence of insight and remediation is likely to clarify whether a question is raised as to whether the doctor's current fitness to practise is impaired. SCI/SCC streams help us to consider whether we need to open a full investigation using the principles established in the Cohen case†. These are that we can properly conclude that a doctor's current fitness to practise is not impaired if their original misconduct was easily remediable, it has been remediated by the doctor and it is highly unlikely it will be repeated.
- 35** If it is unclear whether the allegation should be closed, promoted to an investigation, or referred as a SCI or SCC PE, the decision maker may seek further information (FI) to assist in making a decision. For example, the Triage team may approach the complainant to:

\* In the context of an SCI or SCC PE, this will be that we have received an allegation that the doctor's fitness to practise is impaired on the grounds of misconduct or deficient professional performance.

† Cohen v GMC [2008] EWCH 581 (Admin)

- a identify relevant doctors
- b obtain any missing documentation
- c seek clarification of places and dates.

However, if following FI there is insufficient information to support an allegation of impaired fitness to practise, PE should not be used to validate a closure decision.

- 36** Concerns that arose during the Covid-19 pandemic about a doctor's practice and/or conduct in a clinical setting will be appropriate for allocation for a SCI PE or SCC PE if they meet the other criteria for the stream. The circumstances of the pandemic and whether and how this impacted on the systems in which a doctor was working and on how they delivered care should be considered, alongside the other relevant information in the stream.

#### Ambiguity over the nature of the concerns

- 37** Where there is ambiguity over the nature or seriousness of clinical concerns and therefore whether the investigation threshold is likely to be met, the decision maker may also seek the view of a medical case examiner (MCE).

- 38** MCE advice may be of particular use in the following situations:

- a to provide information on the frequency of a particular complication (resulting from a procedure/drug)
- b to assess the significance of drug-reported side effects
- c to help clarify the responsibility of each doctor in multi-doctor enquiries.

- 39** However, it is unlikely to be beneficial where:

- a the information is so scant, and we can't obtain more for any reason, that a MCE is unlikely to be able to comment in anything other than a very general and conditional sense, or;
- b the speciality is so niche that a MCE couldn't meaningfully comment from a general medical perspective. For example, where the concern relates to ophthalmology, complex ENT issues, specific advanced surgeries, oncologies, etc.

- 40** In these circumstances, the Triage Assistant Registrar (AR) may wish to note when referring to the PE team that they have considered obtaining MCE advice but that it is unlikely to materially assist with assessing the allegations and that an expert opinion will be needed.

- 41** The view of a lay case examiner may also be sought where there is a lack of clarity relating to non-clinical aspects of a concern.

### Enquiries involving multiple doctors

- 42** Multiple doctor enquiries can, in principle, be handled as SCI and SCC provisional enquiries and the decision maker should assess the feasibility of this on a case by case basis. In doing so, the Triage decision maker will need to consider the following factors.
- a** Whether there is clarity about the role that each of the doctors has played in the incident.
  - b** The likely complexity of the enquiries required to understand what has happened, the role that each doctor has played and whether they have remediated the concerns.

Taking the above points on board, it is possible that arising out of a single enquiry, one doctor may be investigated under the stream one process and another doctor's actions may be considered as part of a provisional enquiry.

### Doctors without a connection

- 43** Allegations relating to a doctor who has no prescribed connection (either to a Responsible Officer or Suitable Person), will still be suitable for the SCI and SCC PE streams if the other criteria are met. In these circumstances, we should seek evidence of remediation from the incident location or current employer if there is one.

### *Specific questions for decision maker and possible outcomes*

- Does the concern appear to raise a question that the doctor's fitness to practise is impaired, ie it meets the threshold for a full investigation, and does it:
  - (i) relate to the care of a single patient, and;
  - (ii) involve only a single consultation/shift or clinical procedure

### **AND**

- Is the doctor's conduct easily remediable AND could evidence of insight and remediation clarify whether a question is raised as to whether the doctor's current fitness to practise is impaired?

If yes ➡ Allocate to the Single Clinical Incident (SCI) PE stream

If no ➡ proceed to question below.

- Does the concern appear to raise a question that the doctor's fitness to practise is impaired, ie it meets the threshold for a full investigation, and does it relate:
  - i. to the care of a single patient, and;
  - ii. to a single medical condition, issue or course of treatment, and;
  - iii. to less than five alleged clinical failings within the same concern, and;
  - iv. there was more than one contact between the patient and doctor

## **AND**

- Is the doctor's conduct easily remediable AND could evidence of insight and remediation clarify whether a question is raised as to whether the doctor's current fitness to practise is impaired?

If yes → Allocate to Single Clinical Concern (SCC) PE stream

If no because there are more than five alleged failings within the concern → promote to an investigation

If the answer is no for any other reason → proceed to the section below.

## **Further information provisional enquiries (these are separate and distinct from the FI process at initial triage)**

### *Key considerations*

- 44** We often receive enquiries where on the face of it the allegation is serious enough to raise a question of impaired fitness to practise but the information we hold suggests aspects may be confused, or based on a misperception or unlikely to be supported by reliable evidence. The information needed to clarify this could include details of a local or third party investigation, an expert opinion (via a documented discussion) or medical records. It should not however include evidence of remediation as this can only support a triage closure decision if part of an SCI or SCC provisional enquiry.
- 45** Where there are concerns about the doctor's health in a multifactorial case, it could include advice from a medical case examiner and/or information from treating doctors or Occupational Health (if previous involvement is referenced) to clarify the extent of the concerns.
- 46** Where a matter involving multiple patients has arisen during the Covid-19 pandemic, it could include information about the impact of systemic issues on the doctor's practice.

- 47** The decision maker should bear in mind that it must be feasible to obtain the necessary information within a relatively short period of time as a provisional enquiry is limited and targeted. It may be necessary for the Triage team to discuss the likely timescales required with the relevant ELA.
- 48** In some circumstances, we will delay opening an investigation and seeking a doctor's comments until a PE can establish the course of events. For example, when concerns are raised about a report writer's conclusion, but we need a PE on the index event first to determine whether the report writer's view is appropriate.

*Question for decision maker and possible outcomes*

- 49** Can the concern(s) be substantiated by obtaining one or two pieces of discrete information to clarify their seriousness and therefore whether a question is raised about the doctor's fitness to practise? This information excludes evidence of insight or remediation.

If the answer is yes ➡ Allocate to the Further Information PE stream.

This is suitable for most types of allegation, including those involving misconduct, where it is unclear how serious the concerns are and if they can be supported by reliable evidence. Decision makers should note however that concerns about probity or other types of behavioural misconduct, where witness statements are likely to be important, won't usually be suitable for a Further Information PE.

The Further Information stream will also be suitable for concerns that arose during the Covid-19 pandemic which do not fall under another stream and where further information is needed about whether and how the pandemic impacted on the systems in which the doctor was working and on how they delivered care.

If the answer is no ➡ the provisional enquiry process is not suitable for this enquiry and it should be promoted to a full investigation.