General Medical Council

Decisions at the pre–initial assessment stage

Contents

Date of publication: December 2024

Last updated: December 2024

Introduction

1. The pre-initial assessment stage is where a decision is made as to whether information received about a Physician Associate (PA) or Anaesthesia Associate's (AA) behaviour, performance or impact of a health condition means that we can, and should, carry out an assessment of their ability to practise safely and effectively to protect the public i.e. assess their fitness to practise. More information about how we assess fitness to practise and what might be a fitness to practise concern, and why, can be found in the explanatory publication *What we mean by fitness to practise (Physician Associates and Anaesthesia Associates)*.

2. We can only carry out an assessment of a PA or AA's fitness to practise when they are registered with the GMC and there is a legal basis for doing so. There are two legal bases; the inability to provide care to a sufficient standard and misconduct[*]. These are known as the grounds for (us taking) action.

3. We should only carry out an assessment of a PA or AA's fitness to practise where the information received at the pre-initial assessment stage about their behaviour, performance or impact of a health condition would, if proven evidentially, be serious enough to raise a question about whether their fitness to practise is impaired.

4. Where we are satisfied that we can, and should, carry out an assessment of a PA or AA's fitness to practise i.e. because a question has arisen as to whether their fitness to practise is impaired, an initial assessment should be opened. At this point, the information we are considering about the PA or AA's behaviour, performance or impact of a health condition will amount to a "concern"[†].

5. Information received at the pre-initial assessment stage that is not about a PA or AA registered with us, does not indicate there is a ground for action and / or, if proven evidentially, would not be serious enough to raise a question about whether their fitness to practise is impaired, should not be considered further.

6. A good decision about whether we can, and should, assess a PA or AA's fitness to practise will meet our fitness to practise decision making principles. These state that all decisions should protect the public and be proportionate, transparent, and fair. These principles are explained further in the explanatory publication *Decision making principles in fitness to practise (Physician Associates and Anaesthesia Associates)*.

[*] Article 2(2)(a) of the Anaesthesia Associates and Physician Associates Order 2024 (AAPAO 2024)
[†] Article 10(1) of the Anaesthesia Associates and Physician Associates Order 2024 (AAPAO 2024)

7. This guidance, alongside the explanatory publications, supports the Regulator to make good decisions at the pre-initial assessment stage.

Making a decision at the pre-initial assessment stage

8. To decide whether information received about a PA or AA's behaviour, performance or impact of a health condition means that we can, and should, carry out an assessment of their ability to practise safely and effectively, the Regulator must answer the following questions:

    i. **Is the information received about a PA or AA who is registered with us?** Factors to consider when answering this question can be found here.

    ii. **Is there a legal basis for assessing the PA or AA's fitness to practise?** Factors to consider when answering this question can be found here.

    iii. **If proven evidentially, would the information received be serious enough to raise a question of impaired fitness to practise?** Factors to consider when answering this question can be found here.

9. At the pre-initial assessment stage, we can only make limited enquiries which are incidental and conducive to considering whether information received about a PA or AA's behaviour, performance or impact of a health condition would, if proven evidentially, be serious enough to raise a question as to whether their fitness to practise is impaired.

10. Limited enquiries include seeking clarification and / or more detail from the complainant or referrer and making a targeted disclosure to the PA or AA or a relevant third party, where necessary, to obtain further information. More information can be found in the *Making limited enquiries* section.

Is the information received about a PA or AA who is registered with us?

11. At the pre-initial assessment stage we can only consider information received about PAs or AAs who are registered with the GMC. If the information is about a doctor registered with us, the Regulator should refer to the *Guidance for decision makers on deciding whether an investigation is needed*. If the information is about someone from another profession, it should not be considered further.

12. If satisfied that the information received is about a PA or AA registered with us, the Regulator should consider if there is a legal basis to assess the PA or AA's fitness to practise.

Is there a legal basis for assessing the PA or AA's fitness to practise?

13. We can only carry out an assessment of the fitness to practise of a PA or AA registered with us where we also have a legal basis to do so. This means the information received about the PA or AA's behaviour, performance or impact of a health condition must fall under at least one of the two following grounds for action:

i. inability to provide care to a sufficient standard; or

ii. misconduct.

14. Descriptions of the grounds for action can be found in the *What are the grounds for taking regulatory action?* section of the *Decision on whether regulatory action is required* guidance. Legal advice can be sought, where necessary, to help inform the consideration of whether the information falls under either of the grounds for action at the pre-initial assessment stage.

15. If the information does not fall under at least one of these, there is no legal basis for us to consider the PA or AA's fitness to practise and so the information received should not be considered further.

16. If satisfied the information received does fall under at least one of these grounds, the Regulator should go on to consider whether, if proven evidentially, the information would be serious enough to raise a question of impaired fitness to practise.

If proven evidentially, would the information received be serious enough to raise a question of impaired fitness to practise?

17. The Regulator should consider at the pre-initial assessment stage, based on the information available, whether the information received about the PA or AA's behaviour, performance or impact of a health condition would, if proven evidentially, be serious enough to raise a question of impaired fitness to practise. This is a relatively low threshold.

18. To consider this question, the Regulator should refer to the *Decision on whether regulatory action is required* guidance. This guides on how to reach a view on the overall risk a PA or AA poses to public protection, if any, based on where on the spectrum of seriousness the information received lies, the impact of any relevant context and how the PA or AA has responded. Due to the limited information available at this stage, the Regulator will generally only be able to consider the potential seriousness of the information received.

Assessing seriousness

19. In some cases, at the pre-initial assessment stage, it will be clear from the outset that there could be no question of impaired fitness to practise. This would be where the information received is about matters that do not give rise to any current and ongoing risk to public protection, as set out in the *Matters that do not give rise to any current and ongoing risk* section of the *Decision on whether regulatory action is required* guidance.

20. In all other cases, the Regulator will need to consider, on the face of it, where on the spectrum of seriousness the information received lies (based on the starting point for assessing seriousness and considering any factors that increase seriousness). To do this they should apply the guiding information in the section *What is the seriousness of the concern?* in the *Decision on whether regulatory action is required* guidance. They will need to consider all the information available to them, which will include the information received from the complainant or referrer and checking whether the PA or AA has any relevant fitness to practise history.

Making limited enquiries

21. Where the Regulator decides further information is needed at the pre-initial assessment stage to consider seriousness, they can clarify existing, or gather further information, as permitted within our incidental and general disclosure powers under the AAPAO[*].

22. They will usually be able to get this further information from the complainant or referrer. If it cannot be sought from the complainant or referrer, the Regulator can consider whether the PA or AA, or a relevant third party, may have knowledge about the matters that will help us consider seriousness at the pre-initial assessment stage. This is likely to be the case if the information was shared anonymously, as it means we are not able to go back to the complainant or referrer unless they have chosen to correspond with us via an

[*] Schedules 1 and 3 of the Anaesthesia Associates and Physician Associates Order 2024 (AAPAO 2024)

alias. We may also encounter difficulties in obtaining further information where the information was shared confidentially.

23. A relevant third party may include the PA or AA's current or previous employer and / or contractor. Any information shared with them at the pre-initial assessment stage should be restricted to only what is necessary and proportionate to clarify the seriousness of the information received, to help us assess if the information raises a question as to whether the PA or AA's fitness to practise is impaired.

24. If a concern has been raised or request made about our use of personal information, or the information received about the PA or AA has been shared anonymously or confidentially, the Regulator should refer to the following section on *Concerns or requests about our use of personal information* to make a decision about disclosing any information to the PA or AA or a relevant third party.

25. Generally, when we make a disclosure to a third party at the pre-initial assessment stage, we will make the PA or AA aware of the information received about their behaviour, performance or impact of a health condition before or at the same time as that disclosure. Exceptionally, we may make a disclosure to a relevant third party at the pre-initial assessment stage without also disclosing the information to the PA or AA where this is considered necessary. This threshold is likely to be met in the following circumstances:

i. where a concern has been raised or request made about our use of personal information, or the information has been shared anonymously or confidentially and there is a risk of identification of the data subject (i.e. who the information is about), the complainant or referrer (if not the data subject), or other third parties, if the information is disclosed to the PA or AA; or

ii. if disclosing the information to the PA or AA could impact their welfare; or

iii. if disclosing the information could impact an ongoing third-party investigation.

Concerns or requests about our use of personal information

26. Where further information is sought from the complainant or referrer at the pre-initial assessment stage, issues relating to the disclosure of personal information do not arise. However, where further information is needed from a relevant third-party and a concern has been raised or request made about our use of the personal information, issues relevant to the disclosure of personal information will need to be considered.

27. If the information received has been shared anonymously or confidentially, it is often because an individual feels that reporting the information to us will cause them harm. Therefore, the nature of information being shared anonymously or confidentially means we should treat it as though a concern has been raised or request made about our use of the personal information, in particular disclosure of such information.

28. Information shared anonymously is less likely to contain personal information and generally can be disclosed. If personal information that could identify the data subject, or complainant or referrer (if not the data subject) is redacted, confidential information i.e. shared in confidence, is also usually likely to be capable of being disclosed. However, in every case, consideration should be given to whether the nature of the information received is such that disclosing it will risk identifying the data subject, or complainant or referrer (if not the data subject), or a third party.

29. When considering issues relevant to the disclosure of personal information, the Regulator will usually need to check with the data subject first, where possible. It may be appropriate to have further dialogue with the data subject about the proposed use of their information and explain the safeguards that will be taken (such as redaction) to protect them from identification. Where there are concerns, the Regulator will need to consider if the potential seriousness of the information received justifies the disclosure being made.

30. When making decisions regarding our use and the disclosure of personal information received about a PA or AA's behaviour, performance or impact of a health condition at the pre-initial assessment stage, where a concern has been raised or a request made (or we are treating it as though there has been) about such use, the Regulator should refer to the *Using personal information in the fitness to practise process for Physician Associates and Anaesthesia Associates* guidance.

Making a decision

31. Information received at the pre-initial assessment stage, about the PA or AA's behaviour, performance or impact of a health condition, that is about matters that do not give rise to any current and ongoing risk to public protection, should not be considered further.

32. Where the information received at the pre-initial assessment stage is sufficient to indicate a starting point of a low level of seriousness, this will usually mean a question as to whether the PA or AA's fitness to practise is impaired has arisen. However, before deciding that an initial assessment should be opened, the Regulator should consider if there are any factors (that they could reasonably be aware of) which increase the level of seriousness.

33. If there are no factors that increase the level of seriousness, and there is information available about relevant context and / or insight and remediation that decreases any current and ongoing risk posed to public protection, the information should not be considered further. If there are factors that increase seriousness and / or there is no information available about relevant context and / or insight and remediation that decreases any current and ongoing risk posed to public protection, an initial assessment should be opened. However, if there is guiding information in the *Decision on whether regulatory action is required* guidance on the specific case type, this should be followed.

34. Where the information received is sufficient to indicate a starting point of a mid-range to high-level of seriousness, an initial assessment should be opened. This is the case even where there is information available about relevant context and / or insight and remediation that decreases risk to public protection given this will usually carry less weight when assessing the overall risk posed.

35. Where the Regulator decides the information received should not be considered further at the pre-initial assessment stage, they may still decide that a PA or AA should reflect on the information about their behaviour, performance or impact of a health condition as part of their appraisal processes. In these instances, we usually disclose the information received to the PA or AA and their recent employer(s) or contractor(s). However, before a decision is made to disclose, the potential impact on the PA or AA's welfare or an on-going third-party investigation should be considered, and any information disclosed should only be what is necessary and proportionate.

36. If the complainant or referrer has raised a concern or made a request about how we use their personal information (or is being treated as having done so), the Regulator should refer to the above section on *Concerns or requests about our use of personal information* to decide if it is proportionate to disclose the information to support the PA or AA's reflective practice.