

Guidance for decision makers on assessing risk in cases involving health concerns

Introduction

- 1** The purpose of this guidance is to assist GMC decision makers when considering whether we should undertake an investigation into a doctor who is suspected of having a health problem.
- 2** Decision makers must ensure that they are mindful of the GMC's overarching objectives which are to protect, promote and maintain the health and safety of the public; promote and maintain public confidence in the profession; and promote and maintain proper standards and conduct for members of the profession.
- 3** A GMC investigation may have a significant impact on the welfare of a doctor and it should be possible, where the doctor is willing to discuss their health with their responsible officer, for the majority of health issues to be managed at local level without the need for a GMC investigation.
- 4** The guidance makes specific reference to the role of employers and responsible officers in managing concerns locally where appropriate. Particular emphasis will be placed on the role of the responsible officer, given that they have a statutory responsibility to manage concerns about doctors at a local level.
- 5** There will however be circumstances in which a doctor's health poses a risk to patients and that risk is not able to be, or is not being, effectively managed locally. The decision to open an investigation in relation to health concerns does not presuppose the outcome of such an investigation but where the level of risk posed by a doctor's health is high, or appears high and cannot be clarified, it will be appropriate to investigate and proceed with a health assessment. This guidance sets out the factors that aggravate or mitigate such risks.
- 6** If an investigation is opened, the GMC will make reasonable efforts to minimise the effect of the investigation process on a doctor's welfare and will direct doctors to appropriate support when necessary, for example the [Doctor Support Service](#).

- 7** This guidance should be considered together with our other policy statements and guidance in relation to health. The guidance includes the following statements:

'There is no need for GMC intervention if there is no risk to patients or to public confidence because a doctor with a health issue has insight into the extent of their condition, and is seeking appropriate treatment, following the advice of their treating physicians and/or occupational health departments in relation to their work, and restricting their practice appropriately.' *GMC Thresholds Guidance*

'If you know or suspect that you have a serious condition that you could pass on to patients, or if your judgement or performance could be affected by a condition or its treatment, you must consult a suitably qualified colleague. You must follow their advice about any changes to your practice they consider necessary. You must not rely on your own assessment of the risk to patients.' Good medical practice

Information available at triage

- 8** In most cases it is likely that, at the enquiry stage, the information given to the GMC about the doctor's health will be incomplete. In view of that, determining, at the point of triage, whether an investigation is necessary requires careful consideration. The level of detail provided will be influenced by the source of the enquiry; likely sources are as follows:
- a** 'self-reporting'
 - b** referral from Police
 - c** referral from Employer / Responsible Officer
 - d** referral from treating GP
 - e** referral from treating Psychiatrist
 - f** referral from Occupational Health Physician
 - g** referral from PHP/Sick Doctors Trust etc
 - h** concerned colleague, acquaintance or relative of the doctor.
- 9** Information to support the doctor's account of their health issues will be necessary before making any decision on whether or not to open an investigation.
- 10** Additionally, where a referral from a person acting in a public capacity (PAPC) or from a complainant contains insufficient detail, it may be necessary for the GMC to obtain further information or clarification (e.g. via a Provisional Enquiry) before deciding on the appropriate triage outcome. Nevertheless, if the concerns reported appear so

serious as to raise concerns about either patient safety or the doctor's welfare, then an investigation should be opened without delay.

Factors that suggest an investigation in relation to health concerns may not be necessary

11 If available at the enquiry stage, the following information is likely to suggest that we do not need to conduct our own investigation and that local management is appropriate:

- a** the type and severity of health problem reported is unlikely to affect the doctor's fitness to practise or pose a risk to patients either now or in the future
- b** there is no evidence that the doctor's health has had a significant effect on their performance or conduct to date
- c** evidence that the doctor has insight, is receiving appropriate support and is compliant with treatment.

or

- d** evidence that all of the doctor's employers, and / or their Responsible Officer, and/or Occupational Health Departments are aware of the health problems and are continuing to provide an appropriate level of support to mitigate any potential risk to patient safety
- e** the doctor is in stable, long-term employment or training or works only in appropriately supervised environments
- f** the doctor is subject to an effective locally managed action plan and is not directly providing clinical care. (eg the doctor has agreed not to work, or to has agreed to restrict their work appropriately in all clinical settings, until such time as they have been (re)assessed and given approval to resume normal working by an appropriate advisor)
- g** the doctor is not working and is not actively seeking employment
- h** there is no relevant GMC or Medical Practitioners Tribunal Service (MPTS) fitness to practise history

12 The presence of one or more of these 'positive' indicators at the time of triage will assist the decision maker by making it clear that the doctor's health problem represents little or no risk to patient safety. However, the decision maker will take all relevant factors into account when determining whether an investigation is required.

Factors that suggest an investigation in relation to health concerns may be required

- 13** The presence of one or more of the following factors is likely to indicate that fitness to practise issues may arise and an investigation is likely to be required:
- a** the severity of health problem reported is likely to affect the doctor's fitness to practise or pose a risk to patients either now or in the future (eg the health problem has only recently been diagnosed, is not well controlled and is of a type that can be associated with high rates of relapse and lack of insight or compliance on the part of the doctor)
 - b** the doctor's employers and / or Responsible Officer were previously unaware of any health concerns and have been unable to implement an adequate support plan
 - c** the doctor is not in stable employment or training or has no Responsible Officer, and is known to be seeking work
 - d** independent medical opinion raises concern, or is conflicting, in relation to the doctor's level of insight or compliance
 - e** the doctor has a related or significant GMC or MPTS fitness to practise history
 - f** the doctor is (or was) part of a locally managed action plan but is intending to leave (or has left) employment while the existing employer believes that a risk to patient safety, or the doctor's welfare, persists.
 - g** the doctor is currently or has recently been detained under the Mental Health Act 1983 but the condition is improving and the risk of relapse is not significant.

Factors indicating that investigation in relation to health concerns is likely to be required

- 14** The presence of any of the following factors indicates that an investigation should be opened in all but exceptional circumstances:
- a** there is a clear risk to patients
 - b** the doctor is currently or has recently been detained under the Mental Health Act 1983 and remains very unwell or at high risk of relapse
 - c** there are serious performance and/or conduct concerns where health is likely to have been a contributory factor
 - d** the doctor has been recently convicted, cautioned or was the subject of a determination for an offence where health may be a contributory factor (eg drugs, alcohol, violence) ¹

¹ http://www.gmc-uk.org/DC4594_CE_Decision_Guidance_Annex_D_Convictions_Guidance.pdf_58067974.pdf
www.gmc-uk.org

- e the doctor lacks insight, has failed to seek appropriate treatment, or has ceased to engage with support.

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