

Giving written advice at the end of fitness to practise investigations

Introduction

1. This guidance is intended for decision makers acting under Rule 8 of the Fitness to Practise Rules 2004 ('the rules').
2. Under the rules, the decision maker has the power to:
 - close a case with no action
 - issue a warning
 - agree undertakings with a doctor
 - refer the case to the Medical Practitioners Tribunal Service for a tribunal hearing.
3. The GMC will seek to take action against a doctor's registration where there has been a serious or persistent failure to follow the guidance in *Good medical practice* that poses a risk to patients or public confidence in doctors. Decision makers must be satisfied that a breach of *Good medical practice* does not indicate a risk to patient safety or public confidence in doctors before deciding to close the case without restricting a doctor's registration.
4. In addition to closing the case with no action, decision makers can issue tailored advice at the end of a fitness to practise investigation, as part of the GMC's wider regulatory role in maintaining and upholding standards in the profession.
5. This guidance sets out the circumstances in which advice may be appropriate and the factors to include when giving advice at the end of a case.

The purpose of issuing advice

6. Advice is intended to address a departure from *Good medical practice*, or our supplementary guidance, which does not reach the threshold for a warning or impairment. Advice should provide guidance for future practice and is not an

admonition in relation to past actions. Where an admonition is more appropriate, decision makers may wish to consider a warning should be issued. Warnings are intended to indicate the GMC's concern about significant departures from *Good medical practice* which are just below the threshold for impairment.

7. The introduction of appraisal and revalidation provides a mechanism to monitor whether a doctor has acted on advice issued by decision makers. GMC letters of advice will include a reminder to the doctor to discuss the case at their annual appraisal, if this is yet to take place. This is line with our guidance on appraisal and revalidation.*

Circumstances where it would be appropriate to issue advice

8. Decision makers should consider giving advice only where rule 7 disclosure has taken place, the doctor has made written submissions to the GMC indicating that the facts of an allegation are admitted or do not remain in dispute, and they are satisfied that the doctor's fitness to practise is not impaired in respect of this allegation.
9. Examples of cases where advice may be appropriate include where there has been a minor breach of professional standards for example, where a doctor had been discourteous towards a patient, or found to have failed to keep a contemporaneous record of a consultation (but where there is no wider pattern of poor record keeping).
10. If the evidence suggests that the doctor's conduct involves a breach of our guidance which, if the breach were repeated, would be serious enough to suggest impairment then the decision makers should consider whether a warning is indicated. The table at Annex A gives some indication of the matters to consider when deciding whether to close a case with advice or a warning.
11. Advice will not be appropriate where there are concerns about the management of a doctor's health.

Factors to consider when drafting advice

12. Bearing in mind its purpose, advice must be relevant to the doctor's future practice and tailored in a way to address the issues identified as a result of our investigation.
13. Factors to consider when drafting advice include:

* *Supporting information for appraisal and revalidation* http://www.gmc-uk.org/RT_Supporting_information_for_appraisal_and_revalidation_DC5485.pdf_55024594.pdf

- Addressing the concerns raised about the doctor
- Making clear why the deficiencies in the doctor's practice are not serious enough to satisfy the RPT
- Highlighting the area(s) of the doctor's practice which has fallen short of *Good medical practice*
- Referring to any relevant guidance in *Good medical practice* or other GMC supplementary guidance.

14. Advice should follow the format adopted in the advice template at Annex B. This is to ensure consistency with what is recorded on the doctor's fitness to practise history and to make it clear which deficiencies the GMC has asked the doctor to reflect upon as part of their appraisal.

Disclosing advice

15. Advice is recorded on the doctor's record in their fitness to practise history and the issues which gave rise to the advice being issued may be taken into consideration if the GMC receives future concerns which suggest a pattern of poor performance. Advice will also be disclosed to employers and interested parties on the case, including the complainant or referrer. Advice will not be published on the medical register or disclosed in response to enquirers.

Annex A – Advice and warnings

Advice	Warning
<p>The concerns involve a departure from <i>Good medical practice</i> that does not meet the threshold for issuing a warning or a finding of impairment</p>	<p>The concerns amount to a significant departure from <i>Good medical practice</i> but fall just below the threshold for a finding of impaired fitness to practise</p>
<p>Desirable to advise the doctor about future practice to avoid repetition of the departure from <i>Good medical practice</i></p>	<p>Need to indicate to a doctor that their conduct, practice or behaviour represents a <i>significant</i> * departure from the standards expected of members of the profession and should not be repeated</p>
<p>Patient care, public confidence in the profession or the reputation of the profession are not impacted by the departure from <i>Good medical practice</i></p>	<p>The evidence suggests that the doctor's conduct involves a breach of our guidance which, if the breach were repeated, would be serious enough to suggest impairment, and result in action on the doctor's registration</p>

* See *Guidance on Warnings* for more information about significant departures from *Good medical practice*
http://www.gmc-uk.org/Guidance_on_Warnings.pdf_25416870.pdf

Annex B

'The case is closed. We advise Dr X to [insert area for reflection/improvement]

That will ensure his future conduct complies with [insert name of relevant GMC guidance and quote relevant paragraphs].'

An example of advice might therefore be:

'The case is closed. We advise Dr X to keep up to date with minor surgery techniques and to keep full and accurate records.

That will ensure his future conduct complies with the guidance in paragraphs 8, 14 and 21 of Good medical practice:

8. You must keep your professional knowledge and skills up to date.

14. You must recognise and work within the limits of your competence.

21. Clinical records should include:

a. relevant clinical findings

b. the decisions made and actions agreed, and who is making the decisions and agreeing the actions

c. the information given to patients

d. any drugs prescribed or other investigation or treatment

e. who is making the record and when.'

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