14 July 2015

Strategy and Policy Board

To consider

**Update on response to the independent review of whistleblowing**

**Issue**

1. The development of the GMC's response to the recommendations in the independent review of how the GMC handles cases involving whistleblowers conducted by Sir Anthony Hooper.

2. The implementation of mandatory annual reporting of public interest disclosures.

**Recommendations**

3. The Strategy and Policy Board is asked to:

   a. Approve plans to take forward work in response to the recommendations set out in the draft action plan, at Annex A.

   b. Approve our approach to the possible introduction of mandatory annual reporting of public interest disclosures.
Update on response to the independent review of whistleblowing

Issue

In September 2014, the GMC asked Sir Anthony Hooper to conduct an independent review of how the GMC engages with individuals who regard themselves as whistleblowers and who have appropriately raised concerns in the public interest. We published the review in March of this year.

Hooper review and recommendations

Sir Anthony made eight recommendations in total: 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.

We have developed a draft action plan, at Annex A, setting out the recommendations and next steps in relation to each. A project board has been established and will meet for the first time to discuss this work in late July 2015.

We plan to facilitate 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.

Mandatory annual reporting of public interest disclosures

The project board will also consider the implementation of mandatory annual reporting of public interest disclosure statistics.

A public interest disclosure is a concern reported by a whistleblower to a prescribed body. The General Medical Council is a prescribed body in relation to registration, fitness to practise and other activities in relation to which the Council has functions*.

Secondary legislation is required to implement mandatory reporting†. The Department for Business, Skills and Innovation (BIS) published draft regulations when reporting on the outcome of their public consultation on mandatory reporting in March this year. BIS do not yet have a Ministerial decision about when the Government will

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* The Public Interest Disclosure (Prescribed Persons) Order 2014

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progress the regulations but estimate that the regulations will go through Parliament at some point in 2016.

11 Despite there being no definite timeframe for implementation of the regulations yet, we propose including a workstream to explore what changes would be necessary to introduce mandatory annual reporting as part of the wider project.

*Next steps*

12 Taking into account any comments from the Board, we will finalise and publish the action plan.

13 We will take forward work to implement the proposed plan (including the implementation of mandatory annual reporting) and update the Board on progress at regular intervals.
Supporting information

How this issue relates to the corporate strategy and business plan

14  Strategic aim three: to taking forward the recommendations from the review will improve the level of engagement and efficiency in the handling of complaints and concerns raised by whistleblowers.

How the issues support the principles of better regulation

15  Implementing the recommendations included in the review of how we handle cases involving whistleblowers will ensure we take a proportionate, transparent and consistent approach to concerns raised in the public interest.

What engagement approach has been used to inform the work (and what further communication and engagement is needed)

16  We will engage with key stakeholders as appropriate as we develop the work required to take forward Sir Anthony Hooper’s recommendations.

What equality and diversity considerations relate to this issue

17  We know that between 2010 and 2013, a higher proportion of complaints about non-UK graduates and BME doctors were from employers. The review of our processes in relation to Sir Anthony Hooper’s recommendations may benefit these doctors. We will consider the equality and diversity considerations relating to whistleblowers as the project develops.

If you have any questions about this paper please contact: Andy Lewis, Assistant Director - Employer Liaison Service, alewis@gmc-uk.org, 0161 250 6849.
5 - Update on response to the independent review of whistleblowing

Draft Action Plan

1 The plan attached shows the recommendations from Sir Anthony Hooper’s review of how we handle cases involving whistleblowers, the action we have identified in response and indicative timeframes for completing this work.
27 April 2015 (amended 25 June 2015)

**Sir Anthony Hooper Review**

**Draft Action Plan**

The table below sets out a draft action plan for us to consider the recommendations contained in Sir Anthony’s report.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Action planned</th>
<th>Indicative timeframe (subject to confirmation of the project board)</th>
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<tbody>
<tr>
<td>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.</td>
<td>We will carry out a review of our guidance on how to make a referral to us to include what information organisations need to provide about doctors who have raised concerns about patient safety or the integrity of the system.</td>
<td>March 2016</td>
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<td>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”.</td>
<td>As part of the review above we will discuss with responsible officers and employers how we would include a signed statement.</td>
<td>December 2015</td>
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<td>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.</td>
<td>We will explore how we would consider the circumstance where a referring organisation did not provide any information encouraged under our guidance on how to make as referral to us.</td>
<td>June 2016</td>
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<td>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.</td>
<td>We will carry out a review of how we currently use our powers under rule 4(4) to obtain material which is relevant to an understanding of the context in which the referral is made.</td>
<td>June 2016</td>
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<td>Recommendation 5: Investigators assessing the credibility of an allegation</td>
<td>We will explore how we might further develop how we consider information that indicates failure of an organisation</td>
<td>June 2016</td>
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<td>Recommendation 6:</td>
<td>We will explore how we can use our powers under rule 4(4) to understand the context in which a referral has been made to us where the doctor being referred may have been a ‘whistleblower’.</td>
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<td>Recommendation 7:</td>
<td>We will develop a training package for investigation staff in 2015 to enhance their understanding of ‘whistleblowing’.</td>
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| 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. | to investigate the concern raised by a ‘whistleblower’ and/or have proper procedures in place to encourage and handle the raising of concerns. | June 2016 |

| 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. | We will explore how we can use our powers under rule 4(4) to understand the context in which a referral has been made to us where the doctor being referred may have been a ‘whistleblower’. | June 2016 |

<p>| 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. | We will develop a training package for investigation staff in 2015 to enhance their understanding of ‘whistleblowing’. | June 2016 |</p>
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<th>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.</th>
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<td>We will facilitate a workshop to allow stakeholders to explore the possibility of an externally hosted and resourced voluntary online facility to record details about concerns raised by healthcare professionals.</td>
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