To consider

Guidance on reporting convictions and regulatory proceedings

Issue
1. Changes to our guidance on reporting convictions and regulatory proceedings.

Recommendation
2. The Strategy and Policy Board is asked to approve the updated guidance *Reporting criminal and regulatory proceedings within and outside the UK*, at Annex A.
Guidance on reporting convictions and regulatory proceedings

Issue

4 When an update of *Good medical practice* (GMP) was published in April 2013, it contained a new requirement to report criticism by an official inquiry.

5 In response to queries from doctors and all three medical defence organisations about how we defined criticism by an official inquiry, we made changes to our guidance on reporting convictions and regulatory proceedings in order to provide clarification. We have been in discussion with the medical defence organisations since early in 2014 about how we define an official inquiry and to discuss their concerns about how to advise doctors in relation to this requirement.

6 As a result of those discussions we have a draft of amendments to our reporting guidance that the medical defence organisations have confirmed is helpful. Our guidance *Reporting criminal and regulatory proceedings within and outside the UK*, is at Annex A.

7 Some of the challenges in providing advice on this issue has been in providing broad but clear guidance about what constitutes an ‘official inquiry’ in relation to the wide range of inquiries that may be conducted in relation to healthcare and in clarifying what types of criticism need to be reported and what criticism would not need to be reported.

8 We have defined an official inquiry as one which is in the public domain, is publicly funded, investigates matters in the public interest and publishes its findings, and we have given some examples.

9 We have clarified that doctors only need to report criticism that calls into question their fitness to practise (i.e. about serious matters) and where it is issued by the person leading an enquiry and not for example, criticism of a doctor by an opposing party in civil proceedings, by the prosecution where a doctor is subject to criminal proceedings or by any party in proceedings in which a doctor provides expert evidence.

10 We have also updated the guidance to clarify that doctor must report to us if they are part of a management team that enters into a deferred prosecution agreement (DPA). DPAs have more recently been introduced as a means for the Serious Fraud Office and the Crown Prosecution Service to combat corporate fraud, bribery and money laundering.

11 The purpose of the amendments to the guidance is to provide clarification of existing guidance in GMP, not to introduce any new requirements. We have also considered
changes to the Rehabilitation of Offenders Act Exceptions Order and these do not impact on disclosure of convictions and cautions in fitness to practise procedures.
Supporting information

How this issue relates to the corporate strategy and business plan

12 This issue relates to Strategic Aim 3 of the Corporate Strategy: to improve the level of engagement and efficiency in the handling of complaints and concerns about patient safety.

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

13 We have worked closely with the Standards team in developing the guidance. We have consulted the medical defence organisations in relation to our approach.

14 Once is approved, this revised guidance will be republished on our website to replace the existing guidance.

If you have any questions about this paper please contact: Anna Rowland, Assistant Director - Policy and Planning, ARowland@gmc-uk.org, 020 7189 5077.
Reporting criminal and regulatory proceedings within and outside the UK (2013)

1 In Good medical practice* we say:

‘75. You must tell us without delay if, anywhere in the world:

a you have accepted a caution from the police or been criticised by an official inquiry

b you have been charged with or found guilty of a criminal offence

c another professional body has made a finding against your registration as a result of fitness to practise procedures.’

2 In this guidance, we explain how doctors can put these principles into practice, and what you should inform us about. Serious or persistent failure to follow this guidance will put your registration at risk.

3 The duty to report criminal and regulatory proceedings does not change the circumstances in which the GMC will investigate a doctor’s conduct, or the threshold for taking action on registration.

What you must report

Criminal records, cautions and relevant civil orders

4 You must tell us without delay if, anywhere in the world, you:

a are found guilty of a criminal offence

* General Medical Council (2013) Good medical practice London, GMC.
are charged with a criminal offence

formally admit to committing a criminal offence (for example, by accepting a caution*, a community resolution, in Northern Ireland a discretionary disposal, or in Scotland a fiscal fine, or by entering into a contractual disclosure facility agreement with HM Revenue and Customs, which involves admitting you have committed fraud)

accept the option of paying a penalty notice for disorder at the upper tier penalty level† (in England and Wales), a penalty notice under the Justice Act (Northern Ireland) 2011 or a fixed penalty notice under the Antisocial Behaviour, etc. (Scotland) Act 2004‡

receive a cannabis warning (in England and Wales)

receive a formal adult warning (in Scotland)

are given an anti-social behaviour order§ whether as the result of civil or criminal proceedings

have had your registration restricted, or have been found guilty of an offence, by another medical or other professional regulatory body

your conduct (including as part of a management team) has directly contributed to an organisation that has entered into a deferred prosecution agreement.

Official Enquiries

If you have been criticised by an official inquiry anywhere in the world, you must tell us without delay.

By this we mean that you must tell us if you have received criticism that relates to serious matters that could call your fitness to practise into question by the person leading either:

- a public/formal inquiry or
- a tribunal in the public domain.

* This includes a conditional caution under the Criminal Justice Act 2003 or the Justice Act (Northern Ireland) 2011.
† A list of offences can be found at the Home Office website.
‡ A list of offences are set out in Part 11 of the Antisocial Behaviour, etc. (Scotland) Act 2004.
§ Applies across the UK.
7 Public/formal inquiries and tribunals in the public domain; are publicly funded, investigate matters in the public interest and publish their findings.

8 Examples of public/formal inquiries include but are not limited to:
   a an inquiry conducted under the Inquiries Act 2005
   b a Parliamentary Commission or Select Committee
   c any other non-statutory inquiries investigating matters in the public interest (sometimes known as departmental inquiries) for example, the Hutton inquiry (circumstances surrounding the death of Dr David Kelly) and the Bichard inquiry (issues arising from the Soham murders)
   d a Royal Commission
   e a Coroner’s Inquest

9 In relation to tribunals in the public domain, you must tell us if you know or ought to know that you have been the subject of judicial criticism (for example in civil or criminal proceedings) relating to serious matters that could call your fitness to practise into question.

10 You must also follow any reporting requirements in place at your employing or contracting organisation. If you are not sure about whether, or whom, you need to tell, you should ask for advice from a defence body or medical association.

What you don’t have to tell us about

11 You do not need to tell us about:
   a a fixed penalty notice for disorder unless it is specified in paragraph 4
   b payment of a fixed penalty notice for a road traffic offence,
   c Payment of a fixed penalty notice issued by local authorities (for example, for offences such as dog fouling or noise)

If in doubt, seek advice

12 If you are not sure whether or not to tell us about any of the matters set out in paragraph 4 or 5, you should ask for advice from a defence body or medical association or from us.