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

Introduction

1 The purpose of this guidance is to assist decision makers when considering whether we should undertake an investigation where a doctor may have a health condition that poses a risk to public protection.

2 Decision makers must ensure that they are mindful of our 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 conditions 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 is 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 However there will be circumstances where a doctor’s health condition poses a risk to patients and that risk is not able to be, or is not being, effectively managed at a local level.

6 If an investigation is opened, we will make reasonable efforts to minimise the effect of the investigation process on a doctor’s welfare and will direct doctors to appropriate support, 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 our intervention if:

   - there are no concerns about the doctor’s conduct, and
- there is no risk relating to the clinical care they provide and the doctor is not working or likely to work or, if working, they are seeking and following treatment and advice, and taking steps locally to manage any potential risk to patients.’ 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 we have about the doctor’s health will be incomplete. Deciding at the point of triage whether an investigation is necessary therefore requires careful consideration. The level of information we have 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 NHS Practitioner Health/Sick Doctors Trust etc
- **h** concerned colleague, acquaintance or relative of the doctor.

9 Information to support details provided by a doctor about their health condition will be needed before making any decision on whether or not to open an investigation.

10 Where a referral from a person acting in a public capacity (PAPC) or from a complainant contains insufficient detail about a doctor’s health condition, 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 pose a risk to patient safety, public
confidence 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 the doctor’s health condition means it is unlikely to pose a risk to patient safety either now or in the future

b there is no evidence that the doctor’s health condition has had a significant impact on their performance or conduct to date

c there is evidence that the doctor has insight into any risk, or potential risks, their health condition poses because they are seeking and/or following treatment and advice, and/or are engaging with local support put in place to manage any risks to patients

d 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 (e.g. the doctor has agreed not to work, or to have 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 or likely to work

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 the triage decision are likely to indicate that the doctor’s health condition represents little or no risk to public protection. However, the decision maker must 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 an investigation is required:
a the doctor’s health condition has only recently been diagnosed, is not well controlled and it is too soon to know if risks to patients can be appropriately managed by the doctor seeking and following treatment and advice and / or engaging with local support and steps to manage risk

b the doctor’s employers and / or Responsible Officer were previously unaware of the doctor’s health condition and have been unable to implement an adequate support plan

c 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

d the doctor is not in stable employment or training, or has no Responsible Officer, and is known to be seeking work

e independent medical opinion raises concern, or is conflicting, about the doctor’s level of insight or compliance with treatment and advice

f the doctor has a related or significant GMC or MPTS fitness to practise history

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 there are serious performance and/or conduct concerns where the doctor’s health condition may be a contributory factor

c 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 or alcohol)\(^1\)

the doctor may lack insight into any risk, or potential risks, their health condition poses, for example because they have failed to seek or follow treatment and advice and / or engage with local support and steps to manage risk.

This was last updated in February 2021