

KINGSLEY NAPLEY
WHEN IT MATTERS MOST

General Medical Council's fitness to practise procedures

An overview of the General Medical Council's (GMC)
fitness to practise procedures



Whilst not every case will follow each of these steps or occur in this order, this guide provides an overview of the General Medical Council's (GMC) fitness to practise procedures.



STEP

► 1 Self-referral/notification of a concern

Complaints regarding a doctor can come from a number of sources; commonly they are made by patients, NHS organisations, the police or whistleblowers. In accordance with Good Medical Practice (GMP) paragraph 75, a doctor must promptly notify the GMC if anywhere in the world they have:

- accepted a caution from the police or been criticised by an official inquiry (i.e. a Coroner's Inquest)
- been charged with or found guilty of a criminal offence
- another professional body has made a finding against their registration as a result of fitness to practise procedures.

Upon receipt of information about a doctor, the GMC will review the matters raised to see if there are issues which require investigation.

The types of concerns the GMC may investigate are as follows:

- misconduct
- poor performance
- a criminal conviction or caution in the UK (or elsewhere for an offence which would be a criminal offence if committed in the UK)
- physical or mental ill-healtha determination (decision) by a regulatory body either in the UK or overseas
- lack of the necessary knowledge of English language to be able to practise medicine safely in the UK.

Paragraph 76
of GMP states:

'If you are suspended by an organisation from a medical post, or have restrictions placed on your practice, you must, without delay, inform any other organisations you carry out medical work for and any patient you see independently'

STEP

► **2 Notification to the doctor**

The GMC will notify the doctor concerned that a complaint has been made about them. The GMC will also request details of the doctor's employer and/or any agencies or private organisations for which they provide medical services.

If the GMC decides that it is not the right

organisation to investigate the complaint, it may refer it to the doctor's Responsible Officer (if they have one).

It is not a requirement for the doctor to comment on the concerns at this stage, but it is advisable they seek advice.

STEP

► **3 Interim Orders Panel (IOP) (referral pursuant to Rule 6)**

The adjudication of cases is dealt with by the Medical Practitioners Tribunal Service (MPTS).

At any stage during an investigation, if the GMC is of the view that the Interim Orders Panel (IOP) should give consideration as to whether the doctor's registration should be subject to restriction whilst the investigation is on-going, it can refer them to an independent hearing before an IOP.

In accordance with section 41A of the Medical Act 1983, where satisfied that it is 'necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a fully registered person' the IOP can suspend or make a doctor's registration subject to conditions for a period not exceeding 18 months. These orders are subject to review (ordinarily every 6 months).

STEP

► **4 Investigation**

The initial steps the GMC will take to investigate concerns will be dependent on the circumstances and the specific allegation, but may include obtaining documentary evidence/witness statements from the complainant(s) and/or third parties (the Police, an employer), obtaining an expert report or commissioning an assessment

of the doctor's performance, health and/or knowledge of the English language.

This stage of the process can take some time, during which the GMC will send periodical letters to provide updates.

STEP

► **5 Rule 7 of the GMC (Fitness to Practise) Rules Order of Council 2004 (the Rules)**

The Registrar will write to the doctor providing them with the documentation in support of the allegation and to inform them of the allegation.

The doctor will be given a 28 day period to respond (extensions can be requested and will be provided in appropriate circumstances). In

accordance with paragraph 23a of GMP, doctors must cooperate with investigations.

At this stage, a solicitor or medico-legal adviser should be consulted to assist with the preparation of a response to the Rule 7 letter.provide updates.

STEP

► **6 Rule 8**

The matter will be referred to the case examiners (one medical, one lay). They will decide whether to:

- conclude the case with no
- further action
- issue a warning
- agree undertakings, or
- refer the case to the MPTS for a hearing.

If the case examiners are not unanimous in their decision about whether to close a case or refer it to the MPTS, the case will then be considered by the Investigation Committee (IC).

If the case examiners or the IC decide that the doctor's fitness to practise is not currently impaired, but they were in breach of GMP and/or other guidance, they can issue the doctor with a warning.

STEP

► **7 Referral to the MPTS**

If the case is referred to the MPTS for a hearing, the GMC will invite the doctor to take part in its pre-hearing processes during which the timetable for disclosure is set, any preliminary matters are discussed and a listing window for the hearing is found.

An MPTS panel, made up of lay and medical members, will hear all the evidence and decide whether the facts are found proven, the statutory grounds are met and whether the doctor's fitness to practise is currently impaired. Each stage is taken separately.

If the MPTS panel decides the doctor's fitness to practise is not impaired, they may invite submissions on whether a warning is appropriate.

→ impose conditions on the doctor's registration

→ suspend the doctor's registration

→ erase the doctor from the medical register.

If the panel decides that the doctor's fitness to practise is impaired they can:

STEP

► 8 Post hearing

Any sanction will usually come into effect 28 days after the hearing, unless the MPTS panel imposes an interim order (as above).

A doctor has 28 days in which to appeal to the High Court or Court of Sessions (Scotland) against a decision or sanction issued by a MPTS panel.

Professional Standards Authority for Health and Social Care/Section 60

The Professional Standards Authority for Health and Social Care (PSA) oversees the work and operation of statutory bodies that regulate health and social care professionals in the United Kingdom (UK). It reviews the decisions from hearing before statutory committees such the MPTS panel.

If the PSA reviews the outcome of a MPTS hearing and considers that the decision is not sufficient for the protection of the public (i.e. too lenient), it can refer the decision to the High Court or Court of Sessions within the 28 day appeal period.

Additionally, in March 2015, the UK Parliament approved a Section 60 Order amending the Medical Act 1983. The Order allows the GMC the right to appeal to the High Court or Court of Sessions if it considers that decisions made by the MPTS Panel are too lenient.

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