Council

23 July 2014

Development of Guidance on Threshold Criteria for Unacceptable Professional Conduct

Annex B:

Examples of Threshold Criteria from other Health Care Regulators

General
Pharmaceutical
Council

The threshold criteria

Cases are not to be referred to the Investigating Committee unless one of the following statements is true:

Principle 1: Make patients your first concern

- There is evidence that the registrant's conduct or performance caused moderate or severe harm or death, which could and should have been avoided.
- There is evidence that the registrant deliberately attempted to cause harm to patients and the public or others.
- There is evidence that the registrant was reckless with the safety and wellbeing of others.

Principle 2: Use your professional judgment in the interests of patients and the public

- There is evidence that the registrant put their own interests, or those of a third party, before those of their patients.
- There is evidence that the registrant culpably failed to act when necessary in order to protect the safety of patients.

Principle 3: Show respect for others

- There is evidence that the registrant failed to respect the human rights of patients, or demonstrated in their behaviour attitudes which are incompatible with registration as a pharmacy professional.
- There is evidence that the registrant failed to maintain appropriate professional boundaries in their relationship with patients and/or others.

Principle 4: Encourage patients and the public to participate in decisions about their care

- There is evidence that the registrant damaged or put at significant risk the best interests of patients by failing to communicate appropriately with patients or others.

Principle 5: Develop your professional knowledge and competence

- There is evidence that the registrant practised outside of their current competence.
- There is evidence that the registrant failed to maintain their knowledge and skills in a field relevant to their practice.
- There is evidence of a course of conduct, which is likely to undermine public confidence in the profession generally or put patient safety at risk, if not challenged by the regulatory body.

Principle 6: Be honest and trustworthy

- There is evidence that the registrant behaved dishonestly.

- There is evidence of behaviour on the part of the registrant which is likely to undermine public confidence in the profession generally, if not challenged by the regulatory body.

Principle 7: Take responsibility for your working practices

- There is evidence that the registrant has practised in a way that was systemically unsafe, or, has allowed or encouraged others to do so, where he or she has responsibilities for ensuring a safe system of working.
- There is evidence of adverse physical or mental health which impairs the registrant's ability to practise safely or effectively.

If the Registrar is in doubt as to whether the above criteria have been met, he shall refer the case to the Investigating Committee.

General
Pharmaceutical
Council

Guidance on the General Pharmaceutical Council's Threshold Criteria Policy

Introduction

This document provides guidance on how the Threshold Criteria Policy agreed by the General Pharmaceutical Council's (GPhC's) Council is applied to allegations that a pharmacy professional's (pharmacist or a registered pharmacy technician) fitness-to-practise is impaired.

Any examples provided in this document are intended to form guidance only, and are not exhaustive, but will provide a benchmark in identifying the kinds of allegations which are likely to be referred to the Investigating Committee (IC) and the kinds of allegations which are not likely to be referred to the IC.

The guidance is a 'living document' which will be updated and revised as the need arises.

Equality and Diversity Statement

The GPhC is committed to promoting equality and valuing diversity and to operating procedures and processes which are fair, objective, transparent and free from unlawful discrimination.

Purpose

The purpose of this guidance is to encourage consistent and criteria-based decision-making.

The Pharmacy Order 2010 ('the Order') recognises that purposeful, proportionate regulation does not require the referral of allegations to the IC in an indiscriminate or mechanistic way. The Order allows the GPhC's Council to define 'threshold criteria', which the Registrar (including the Registrar's delegates) must use to determine whether the allegation should be referred to the IC[1]. These criteria are published and can be found at: [insert weblink].

The threshold criteria and this supporting guidance have been aligned and developed in accordance with the Council's vision and strategy. Of particular relevance to the threshold criteria and this guidance is the Council's vision that regulation is risk-based, proportionate and focused on improvement.

This guidance will:

- Explain what threshold criteria are;
- explain what it means if an allegation(s) falls below the threshold for referral to the IC;

[1] Pharmacy Order 2010, Article 52(2)(a)

- explain how letters of advice from the Chief Inspector of the Royal Pharmaceutical Society of Great Britain (RPSGB) will be considered by the GPhC;
- explain in more detail what the threshold criteria mean and how these will be applied to allegations against pharmacy professionals received by the GPhC;
- give case examples to exemplify how the threshold criteria are applied to allegations that a pharmacy professional's fitness-to-practise is impaired;
- explain how this process will be monitored for consistency and the quality of decision making.

Scope

The threshold criteria and this guidance will be applied to all allegations that a pharmacy professional's fitness-to-practise is impaired.

This guidance will assist those who are involved in assessing allegations against the threshold criteria. They include:

- Regional Lead Inspectors;
- Professional Standards Inspectors (including Investigators);
- Fitness to Practise Manager (Investigations);
- Case Managers.

What are threshold criteria?

The Order allows the GPhC's Council to set threshold criteria. The threshold criteria must be published[2] and can be found at [insert link or appendix].

Rule 6(2)(a) of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc Rules) Order of Council 2010 provides that allegations that a pharmacy professional's fitness-to-practise is impaired must <u>not</u> be referred to the IC if the allegation is of a type stated in the threshold criteria that should not be referred.

The threshold criteria have been developed against the principles in the Standards for conduct, ethics and performance which all pharmacy professionals must comply with.

Allegations will not be referred to the IC unless one (or more) of the threshold criteria are met.

What happens to allegations which are <u>not</u> referred to the IC?

If an allegation is not referred to the IC the matter is closed. The GPhC is able to issue advice to the pharmacy professional involved when an allegation(s) is not referred to the IC.

Therefore allegations that are not referred to the IC have two outcomes:

1) The matter is closed with no further action and the registrant and the complainant are informed that the matter is closed[3].

[2] Pharmacy Order 2010, Article 52(2)(a)
[3] Pharmacy Order 2010, Article 51; The General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010, Rule 6.

2) The matter is closed but the registrant receives advice on how to improve their practice. The registrant and complainant are informed that the matter has been closed but that the registrant was given advice on how to improve their practice.

When a case is closed, regardless of whether advice was given or not, this does not form part of a pharmacy professional's legal history. However, this information does provide 'soft intelligence' which may be used by the GPhC when assessing any future allegations against the threshold criteria. This information will also be used when delivering the programme of monitoring and inspection visits.

What is the status of a Chief Inspector's letter of advice accepted by a registrant when the pharmacy regulator was the RPSGB?

Since the 27 September 2010 the GPhC has been the regulator for pharmacists, pharmacy technicians and pharmacy premises. The Pharmacist and Pharmacy Technicians Order 2007 and the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and disqualification etc) Rules 2007 which underpinned much of the regulatory work of the RPSGB also provided for allegations of a certain type, as agreed by the RPSGB's Council, not to be referred to the IC.

The RPSGB made a policy decision that an allegation which resulted in a pharmacy professional accepting a letter of advice from the Chief Inspector would form part of the registrant's legal history. Under the RPSGB's policy, if a new allegation, of a similar nature to the one which resulted in the pharmacy professional accepting a letter of advice from the Chief Inspector, was received within 5 years that would automatically result in the new allegation being referred to the IC.

The GPhC is not bound by this RPSGB policy. Therefore, the GPhC has decided that when assessing any new allegations about a pharmacy professional's fitness to practise it will not view a letter of advice issued by the Chief Inspector of the RPSGB as legal history. However, the GPhC will view this as 'soft intelligence' and may take this into account as a 'course of conduct' when deciding whether or not an allegation should or should not be referred to the IC.

Applying the threshold criteria

The threshold criteria have been developed against the seven principles in the Standards for conduct, ethics and performance. The threshold criteria are a series of statements which sit under each of the seven principles. If one, or more, of the statements are true in relation to an allegation then the allegation must be referred to the IC.

Many of the statements are self-explanatory; however this guidance will provide further clarity on the meaning of some of these statements and help decision makers apply the threshold criteria but they are not intended to be exhaustive lists or rigid rules. Every allegation must be examined against the threshold criteria on a case-by-case basis. For cases involving more than one allegation, the explanations of the threshold criteria are set out in the text boxes below the threshold criteria statements.

Investigators should note that if one allegation meets the threshold criteria for referral to IC the whole case (minus allegations that meet the criteria for closure with no further action) should

be referred to the IC even if the other allegations do not meet the threshold criteria. Not to do so may hinder the ability of the IC to make an informed decision.

If the Registrar is in any doubt as to whether the above criteria have been met, s/he shall refer the case to the Investigating Committee.

Principle 1: Make patients your first concern

- **There is evidence that the registrant's conduct or performance caused moderate or severe harm or death, which could and should have been avoided.**

The GPhC utilises the National Patient Safety Agency's categories and definitions of harm.

- Moderate harm:
  Any patient safety incident that resulted in a moderate increase in treatment and that caused significant but not permanent harm to one or more patients. Moderate increase in treatment is defined as a return to surgery, an unplanned readmission, a prolonged episode of care, extra time in hospital or as an outpatient, cancelling of treatment, or transfer to another area such as intensive care as a result of the incident.
- Severe harm:
  Any patient safety incident that appears to have resulted in permanent harm to one or more patients. Permanent harm directly related to the incident and not related to the natural course of the patient's illness or underlying condition is defined as permanent lessoning of bodily functions, sensory, motion, physiologic or intellectual, including removal of the wrong limb or organ or brain damage.
- Death:
  Any patient safety incident that directly resulted in the death of one or more patients. The death must be related to the incident rather than to the natural course of the patient's illness or underlying condition.

This statement does not apply to 'potential' for harm as this is covered elsewhere within the threshold criteria.

See case examples 1 and 2

- **There is evidence that the registrant deliberately attempted to cause harm to patients and the public or others.**

An isolated lapse from high standards of conduct – such as an atypical rude outburst – would not normally, in itself, suggest that the pharmacy professional's fitness to practise should be in question.

- **There is evidence that the registrant was reckless with the safety and wellbeing of others.**

This statement may apply if there is evidence that a pharmacy professional who, being aware that their conduct may create a risk in relation to the safety and wellbeing of others, and that it would be unreasonable to take that risk, nevertheless goes on to take the risk. This statement would not apply if the pharmacy professional was unaware that their conduct may create a risk in relation to the safety and wellbeing of others.

Principle 2: Use your professional judgment in the interests of patients and the public

- **There is evidence that the registrant put their own interests, or those of a third party, before those of their patients.**

This statement may apply if there is evidence that a registrant put financial interests or their own personal interests ahead of the best interests of their patient(s). A third party may include a friend, partner, business partner or another individual or group of individuals who the registrant put their interests ahead of the best interests of their patients.

- **There is evidence that the registrant culpably failed to act when necessary in order to protect the safety of patients.**

This statement may apply if there is evidence that a registrant failed to act to protect patients from harm, for example, by not acting when a colleague is a risk to patients.

Principle 3: Show respect for others

- **There is evidence that the registrant failed to respect the human rights of patients, or demonstrated in their behaviour attitudes which are incompatible with registration as a pharmacy professional.**

This statement may apply if there is evidence that a registrant subjected patients to attitudes/behaviours to which they could be reasonably expected to be protected. This statement may apply if there is evidence that the pharmacy professional acted without regard for patients' human rights or feelings or has abused their professional position as a pharmacy professional.

This statement may apply if there is evidence of a failure to obtain necessary consent, for example, consent to perform a medical procedure/intervention. However, this statement would be unlikely to include minor misunderstandings about issues relating to failure to obtain consent to dispense repeat prescriptions, for example.

This statement may apply if there is evidence of a failure to respect patient confidentiality.

See case examples 3 and 4

- **There is evidence that the registrant failed to maintain appropriate professional boundaries in their relationship with patients and/or others.**

This statement may apply if there is evidence of a registrant pursuing improper emotional or sexual relationships with patients.

This statement may apply if there is evidence of any violence or sexual offence.

Principle 4: Encourage patients and the public to participate in decisions about their care

- **There is evidence that the registrant damaged or put at significant risk the best interests of patients by failing to communicate appropriately with patients or others.**

This statement may apply if there is evidence of a serious failure to communicate effectively. However, this may not apply to minor misunderstandings.

This statement may apply if there is evidence of persistent failures to listen to or explain matters to patients.

This statement may apply if there is evidence of failure to deal with complaints appropriately and effectively.

See case example 5

Principle 5: Develop your professional knowledge and competence

- **There is evidence that the registrant practised outside of their current competence.**

This statement may apply if there is evidence that a registrant performed tasks or was responsible for activities beyond the limits of their competence despite advice from managers and/or colleagues.

This statement may apply if there is evidence that the registrant ignored a foreseeable risk of harm to patients.

See case examples 6 and 7

- **There is evidence that the registrant failed to maintain their knowledge and skills in a field relevant to their practice.**

This statement may apply if there is evidence that the registrant failed to practice in manner which is consistent with current best practice and as a result put patient and/or public safety at risk.

This statement may apply if the pharmacy professional failed to provide evidence to the GPhC of complying with continuing professional development (CPD) requirements. However, it is unlikely that this statement would apply if the reason for the failure to provide evidence of CPD is because of a misunderstanding, for example the registrant had moved address and therefore did not receive the request to submit CPD.

- **There is evidence of a course of conduct, which is likely to undermine public confidence in the profession generally or put patient safety at risk, if not challenged by the regulatory body.**

This statement may apply if the registrant has previous legal history attached to their registration.

This statement may apply if 'soft intelligence' gathered from previous allegations which were not referred to the IC (i.e. matters which were 'closed') indicated a pattern of behaviour which may pose a risk to patient safety or undermine public confidence in the profession if the allegation was not referred to IC.

This statement may apply if 'soft intelligence' gathered from an inspection of registered pharmacy premises indicates a pattern of behaviour which may risk patient safety or undermine public confidence in the profession if the allegation was not referred to IC.

This statement may not apply if there is evidence of a series of minor and/or unrelated incidents.

Principle 6: Be honest and trustworthy

- **There is evidence that the registrant behaved dishonestly.**

This statement may apply if there is evidence of dishonest or fraudulent behavior which may or may not be related to the work of the pharmacy professional.

This statement may apply if there is evidence of deception, this may include trying to deceive an Inspector or covering up an incident.

This statement may apply if there is evidence of misleading behaviour, for example, claiming false qualifications or misleading an Inspector.

- **There is evidence of behaviour on the part of the registrant which is likely to undermine public confidence in the profession generally, if not challenged by the regulatory body.**

This statement may apply if there is evidence of a dispensing error that had the potential to cause severe harm or death. Note - it is acknowledged that all medicines have the 'potential' to cause harm. However, this statement applies when the nature of a dispensing error would undermine public confidence in the profession if this was not challenged by the regulatory body.

This statement may apply if there is evidence of that the pharmacy professional has been convicted of an offence.

This statement may include behaviours that take place outside of the pharmacy professional's professional practice. This will often be as a result of a caution or conviction.

See case examples 8 and 9

Principle 7: Take responsibility for your working practices

- **There is evidence that the registrant has practised in a way that was systemically unsafe, or, has allowed or encouraged others to do so, where he or she has responsibilities for ensuring a safe system of working.**

This statement may apply if there is evidence that the registrant seriously departed from and/or intentionally disregarded standard operating procedures.

This statement may apply if there is evidence of poor practice in record keeping or other administrative tasks essential to patient safety.

This statement may apply to pharmacy professionals who are pharmacy owners and/or superintendent pharmacists as they are responsible for ensuring that all the standards set by the GPhC are met, whether they do that directly or delegate to someone else.

See case example 10

- **There is evidence of adverse physical or mental health which impairs the registrant's ability to practise safely or effectively.**

This statement does not necessarily apply merely because a pharmacy professional is unwell, even if the illness is serious. However, this statement may apply if there is evidence that a pharmacy professional's physical and/or mental health has an adverse effect on the pharmacy professional's area of practice which may pose a risk to patient and public safety. This statement may apply if there is evidence that the pharmacy professional's physical and/or mental health poses a risk to their own personal safety.

Case Examples

This section provides some brief case examples to demonstrate how the threshold criteria may be applied to real allegations.

Case example 1

A patient who was prescribed MST 10mg tablets was supplied with MST 100mg tablets in error by a pharmacist. The patient took three doses of the incorrectly supplied medicine. Evidence from the patient's medical records showed that the patient had felt unwell and was admitted to hospital and required treatment with naloxone. After a few days in hospital the patient made a full recovery. The treating doctor confirmed that the patient suffered significant but not permanent harm.

Considerations

The patient took the incorrectly supplied medicine and as a result was admitted to hospital. Applying the NPSA definitions of harm this would be classed as moderate harm.

Decision

The following threshold criteria statement is true:

There is evidence that the registrant's conduct or performance caused moderate or severe harm or death, which could and should have been avoided.

Therefore the allegation should be referred to IC.

Case example 2

A patient who was prescribed atenolol 25mg tablets was supplied with amoxicillin 250mg capsules in error by a pharmacist. The patient took the incorrectly supplied medicine. The patient alleged in their complaint that they suffered harm as a result of this error. The investigation showed that the patient's medical records showed that the patient did suffer from mild diarrhoea for a few days.

Considerations
The patient did take the incorrectly supplied medicine but did not suffer moderate or severe harm as defined by the NPSA definitions of harm.

Decision
None of the threshold criteria statements are true. Therefore the allegation should be closed and the registrant will receive a letter of advice.

Case example 3
A patient alleged that when they went into a pharmacy to get their prescription dispensed the pharmacist refused to serve them because they were black. The investigation showed that members of staff working in the pharmacy had concerns about the pharmacist as he often refused to speak to patients who were not white.

Considerations
Patients have a right not to be subjected to attitudes which they could be reasonably expected to be protected from.

Decision
The following threshold criteria statement is true:

There is evidence that the registrant failed to respect the human rights of patients, or demonstrated in their behaviour attitudes which are incompatible with registration as a pharmacy professional.

Therefore the allegation should be referred to IC.

Case example 4
A mother hands in a prescription for her fourteen year old daughter to the pharmacy and waits for the medication to be dispensed. The prescription was for Concerta XL 18mg tablets for the treatment of attention deficit hyperactivity disorder. The investigation provided evidence that the pharmacist came out and shouted at the patient's mother and said that she was a bad mother and accused her of 'drugging' her daughter up on this type of medication.

Considerations
Patients have a right not to be subjected to attitudes which they could be reasonably expected to be protected from.

Decision
The following threshold criteria statement is true:

There is evidence that the registrant failed to respect the human rights of patients, or demonstrated in their behaviour attitudes which are incompatible with registration as a pharmacy professional.

Therefore the allegation should be referred to IC.

Case example 5

A patient goes to collect their dispensed medication from a pharmacy. The trained counter-assistant hands them the bag containing their medication and the patient leaves the pharmacy. The patient did not ask to speak to the pharmacist. The patient subsequently complains that the pharmacist did not counsel them on how to use their medication.

Considerations

The pharmacist did not personally counsel the patient on how to take their medication but this does not represent a serious failure or a persistent failure to communicate with patients.

Decision

None of the threshold criteria statements are true. Therefore the allegation should be closed and the registrant will receive a letter of advice.

Example 6

A pharmacist who had been working in a research laboratory for 25 years for a pharmaceutical company was made redundant. The pharmacist decided to do some locum work in a community pharmacy to earn some money until she could find another research job. In her first day as a locum pharmacist she failed to spot an overdose on a prescription for a child. The child took the medication but did not suffer moderate or severe harm and fully recovered. The investigation showed that the pharmacist had not had any experience of community pharmacy since she did her pre-registration training year 25 years ago. She had also not done a return to practice course or any other form of re-training.

Considerations

The child who took the overdose did not suffer moderate or severe harm. The key issue in this case is not the fact that there has been a dispensing error; bur the error has highlighted that the pharmacist was practising outside of her current competence.

Decision

The following threshold criteria statement is true:

There is evidence that the registrant practised outside of their current competence.

Therefore the allegation should be referred to IC.

Example 7

A pharmacist who had been working in a research laboratory for 25 years for a pharmaceutical company was made redundant. The pharmacist decided to do some locum work in a

community pharmacy to earn some money until she could find another research job. In her first day as a locum pharmacist she failed to spot an overdose on a prescription for a child. The child took the medication but did not suffer moderate or severe harm and fully recovered. The investigation showed that the pharmacist had not had any experience of community pharmacy since she did her pre-registration training year 25 years ago. However, she had done a return to practice course and had spent a period of time in a community pharmacy 'shadowing' the pharmacist before she did her first locum.

Considerations

The child who took the overdose did not suffer moderate or severe harm. There was evidence that the registrant has taken appropriate steps to ensure she was competent to work in a community pharmacy.

Decision

None of the threshold criteria statements are true. Therefore the allegation should be closed and the registrant will receive a letter of advice.

Example 8

An allegation was received that a pharmacist had made a dispensing error. During the investigation the GPhC's records showed that the same pharmacist had been the subject of four separate allegations involving dispensing errors in the previous five months. All these allegations were closed and the pharmacist received advice.

Considerations

The GPhC has evidence that the pharmacist has been subject to a number of allegations of dispensing errors in the past five months. It is not possible to define how many dispensing errors over a certain period of time may result in a pharmacist's fitness-to-practise being impaired. However, it is possible to assess on a case-by-case basis whether or not there is evidence of a 'course of conduct' which may pose a risk to patient safety or undermine public confidence in the profession if the regulator were not to act.

Decision

The following threshold criteria statement is true:

There is evidence of a course of conduct, which is likely to undermine public confidence in the profession generally or put patient safety at risk, if not challenged by the regulatory body.

Therefore the allegation should be referred to IC.

Example 9

A patient who was prescribed methotrexate 2.5mg tablets, with a dose of '7.5mg to be taken once weekly', was supplied with methotrexate 2.5mg tablets, labelled incorrectly with a dose of

'take 7.5mg daily', in error by a pharmacist. The patient's carer noticed the error before the patient took any of the incorrectly supplied medicine.

Considerations

Although the patient did not take the medicine and therefore did not suffer moderate or severe harm or death; the error did have the potential to cause severe harm or death. Consideration has to be given to whether their behaviour (i.e. the error) is likely to undermine public confidence in the profession if the regulator did not take action.

Consideration has to be given to referring such allegations where there was potential for severe harm and/or death, or if the pharmacist should have been more careful when dispensing the medicine in question due to the nature of that medicine.

Decision

The following threshold criteria statement is true:

There is evidence of behaviour on the part of the registrant which is likely to undermine public confidence in the profession generally, if not challenged by the regulatory body.

Therefore the allegation should be referred to IC.

Example 10

A pharmacist made a dispensing error which did not result in any harm to the patient. However, during the investigation it became apparent that the pharmacist did not use the 'dispensed by' / 'checked by' boxes on the dispensing label which provides an audit trail of who dispensed by medicine. The Standard operating procedures for the pharmacy state that the pharmacist must use the 'dispensed by' / 'checked by' boxes on the dispensing label at all times.

Considerations

A pharmacist made a dispensing error which did not result in any harm to the patient. However, consideration should be given as to whether or not the pharmacist practised in a way that was systemically unsafe by seriously and/or recklessly departing from standard operating procedures. It is unlikely that failing to use the 'dispensed by' / 'checked by' boxes on the dispensing label would represent a serious or reckless departure from standard operating procedures.

Decision

None of the threshold criteria statements are true. Therefore the allegation must be closed and the registrant will receive a letter of advice.

Recording decisions

In most cases the Investigator and Case Manager must agree how an allegation against a pharmacy professional should proceed. This proposed disposal route must be agreed and signed off a Regional Lead Inspector and the Fitness to Practise Manager (Investigations).

The agreed decision must be fully explained and documented on the Case Report Form. This document must be recorded on the case management system. All parties (i.e. the complainant and the pharmacy professional against whom the allegation(s) has been made) should be able to understand why a decision has been taken, even if they do not agree with the decision.

Quality assurance and review

For the first year of GPhC operations, Council will receive a report on the implementation of the Threshold Criteria Policy at least four times in the year. The report will include:

- A statistical report on the use of the policy;
- A report on any significant challenges received, either to the policy or its interpretation or implementation;
- An anonymised illustration of the uses of the policy;
- A critical evaluation of the impact of the policy.

The Inspectorate Case Manager is responsible for reviewing how the threshold criteria are applied to allegations. The Inspectorate Case Manager is responsible for producing quarterly reports reviewing how the threshold criteria have been applied. This will help monitor the quality of decision making and identify trends which can be used to identify learning points for the profession as well as developing the threshold criteria policy and guidance to ensure it remains fit for purpose.

Date guidance came into effect: 27 September 2010

Date of review: 27 December 2010

Responsibility for this guidance: The Inspectorate

hcpc health & care professions council

Allegations: Standard of Acceptance

Introduction

The Health and Social Work Professions Order 2001 (the **Order**) provides that the HCPC's primary function is to set and maintain standards for the professions it regulates with the objective of protecting the public. An important and visible part of that work is the investigation and adjudication of allegations which are made against registrants.

To ensure that allegations are considered appropriately, this document sets out a modest and proportionate threshold which allegations must normally meet before they will be investigated by the HCPC. That threshold is known as the "Standard of Acceptance".

In relation to allegations, our primary concern is that registrants are 'fit to practise', in the sense that they have the knowledge, skills and character to practise their profession safely and effectively. However, fitness to practise is not just about professional performance. It also includes acts by a registrant which may have an impact on public protection or confidence in the profession or the regulatory process. This may include matters not directly related to professional practice.

Our proceedings are designed to protect the public from those whose fitness to practise is "impaired". They are not a general complaints resolution process, nor are they designed to resolve disputes between registrants and service users or to punish registrants for past mistakes.

Although allegations are only made against a small minority of HCPC registrants, investigating them properly is a resource-intensive process. Therefore, it is important to ensure that the available resources are used effectively to protect the public and are not diverted into investigating matters which do not raise cause for concern. Importantly, we recognise that registrants do make mistakes or have lapses in behaviour and we will not pursue every minor error or lapse.

The Standard of Acceptance is an important safeguard against the diversion of resources but, as the HCPC's primary concern is public protection, it is not a rigid and unbending rule. Under Article 22(6) of the Order, the HCPC has a discretion (which has been delegated to the Registrar) to investigate relevant information even when it does not meet the formal requirements for an allegation.

Allegations

Part V of the Order enables the HCPC to consider:

fitness to practise allegations: to the effect that a registrant's fitness to practise is impaired by reason of:

- misconduct;
- lack of competence;
- conviction or caution for a criminal offence;
- physical or mental health;
- a fitness to practise or similar determination by another health or social care regulatory or licensing body; or
- being included in a 'barring' list under the Safeguarding Vulnerable Groups Act 2006, the Safeguarding Vulnerable groups (Northern Ireland) Order 2007) or the Protection of Vulnerable Groups (Scotland) Act 2007);

register entry allegations: to the effect that an entry in the HCPC register relating to a registrant has been fraudulently procured or incorrectly made.

Fitness to practise allegations are comprised of three elements:

- the facts upon which the allegation based;
- the 'statutory ground' (e.g. misconduct, lack of competence, etc.) which it is alleged those facts constitute; and
- the proposition that, based upon that statutory ground, the registrant's fitness to practise is impaired.

If the allegation proceeds to a final hearing, it will be for the HCPC to prove the facts to the civil standard of proof (the balance of probabilities). The other two elements, the statutory ground and impairment, do not require specific proof but are matters for the judgement of the Panel hearing the case, based on the proven facts.

Importantly, the applicable test is that fitness to practise is impaired. The fitness to practise process is not about punishing registrants for past acts but is about public protection going forward. The need to establish impairment at the time a case is heard is often an important factor in deciding whether to pursue fitness to practise allegations.

Register entry allegations are relatively rare. They are not fitness to practise allegations, in the sense that as they are simply concerned with whether an entry was made in error or obtained by fraudulent means. They are subject to simpler investigative and adjudicative processes and are only subject to limited further consideration in this policy document.

Standard of Acceptance

A fitness to practise allegation meets the Standard of Acceptance if:

- It is made in the appropriate form; and
- In respect of the registrant against whom it is made, it provides credible evidence which suggests that the registrant's fitness to practise is impaired.

A register entry allegation meets the Standard of Acceptance if:

- It is made in the appropriate form; and
- In respect of the registrant against whom it is made, it provides credible evidence which suggests that an entry in the HCPC register was incorrectly made or fraudulently procured.

The "appropriate form"

Article 22(5) of the Order requires allegations against registrants to be received "in the form required by the Council"(the **appropriate form**). A fitness to practise allegation or register entry allegation is in the appropriate form (and thus meets the first requirement of the Standard of Acceptance) if it:

1. Is received by the HCPC in writing;
2. sufficiently identifies the registrant against whom the allegation is made; and
3. sets out:
   (a) the nature of the allegation; and
   (b) the events and circumstances giving rise to it;

   in sufficient detail for that registrant to be able to understand and respond to that allegation.

Where a registrant has been convicted of, or received a caution for, a criminal offence or has been the subject of a determination by another regulatory or licensing body, a certificate of conviction, notice of caution or notice of determination issued by a court, the police or any other law enforcement, regulatory or licensing body is also regarded as being in the appropriate form.

"in writing"

The requirement that allegations must be made in writing is intended to assist in obtaining all relevant information from complainants, not to act as an obstacle to the making of allegations.

If a complainant's initial contact with the HCPC is by other means, the complainant should be advised about the Standard of Acceptance and assisted to submit any allegation in writing. This may be achieved by:

- giving the complainant advice on how to put the allegation in writing;
- sending the complainant a copy of the HCPC brochure *How to raise a concern* and a complaint form to complete (which may be partly completed using the information already provided); or
- taking a statement of complaint and sending it to the complainant or their representative for verification and signing.

"sufficiently identifies"

The requirement that an allegation "sufficiently identifies" a registrant recognises that, for good reason, complainants may not always be able to provide a registrant's full name. This is particularly so for service users, who may encounter registrants in circumstances where they may not be given the registrant's name.

In such cases, if the complainant is able to provide information which is sufficient to enable the HCPC by reasonable efforts to trace the registrant concerned (for example, a first name and the date and professional setting in which the events took place) then this requirement should be regarded as met.

If an allegation is found not to relate to a current HCPC registrant but the person concerned may be registered with another regulator, the complainant should be given appropriate advice and, with their consent, any relevant documents should be passed to that regulator.

Similarly, where a complaint does not raise concerns about the fitness to practise of a registrant but where the complainant has raised issues which should be investigated by another body (e.g. a facility regulator or ombudsman). The complainant should be provided with appropriate signposting and other advice to assist them to pursue the matter.

"the nature of the allegation"

It would be unreasonable for the HCPC to assume that complainants, particularly service users, are familiar with the technical detail of its fitness to practise process.

The requirement to set out "the nature of the allegation" is about substance and not form. It does not require complainants to specify the statutory ground of an allegation or to state that a registrant's fitness to practise is impaired.

Credible evidence

The second requirement of the Standard of Acceptance - that an allegation provides "credible evidence" which suggests that fitness to practise is impaired or a register entry was fraudulent or incorrect - deliberately imposes a relatively low threshold.

The Standard of Acceptance is not intended to act as a barrier to the making of allegations, but simply to act as a filter to ensure that resources are not expended on pursuing matters which do not raise a credible cause for concern.

The requirement that evidence is "credible" does not require a complainant to prove at the outset that it is true. The test is that the information provided needs to be sufficient to cause a reasonable person to consider that it is worthy of belief.

"fitness to practise"

Fitness to practise is not just about professional performance. It also encompasses acts by registrants in both their professional and personal life which may have an impact upon public protection, the reputation of the profession concerned or confidence in the regulatory process.

An over-strict interpretation should not be adopted, as there will often be circumstances in which matters seemingly unconnected with professional practice may nonetheless have a bearing on fitness to practise. Any doubts on this point can usually be resolved by allowing the allegation to proceed and to be investigated further.

Case closure

Every allegation received by the HCPC must be considered on its merits and, as the HCPC's main objective is public protection, there is a presumption in favour of making further inquiries about an allegation unless it clearly does not meet the Standard of Acceptance.

A decision not to proceed with an allegation on the basis that it does not meet the Standard of Acceptance should only be taken after consideration of all the available information. At this stage in the process, any doubts should be resolved in favour of public protection, by allowing the allegation to proceed.

If an allegation is found not to meet the Standard of Acceptance and the case is closed, it is important that clear reasons for the decision are recorded.

Where an allegation is closed at this stage, although it does not form part of a registrant's formal HCPC record, it is intelligence which may be taken into account if a further allegation is made against that registrant.

Time limit

Article 22(3) of the Order allows the HCPC to investigate allegations relating to events which occurred at any time, even at a point before the person concerned was a registrant.

However, significant practical difficulties may arise when allegations are not reported to the HCPC in a timely manner. These include the destruction or loss of records and other physical evidence and witnesses having a poor recollection of events or being untraceable.

Normally, allegations will not be regarded as meeting the Standard of Acceptance if they are made more than five years after the events giving rise to them.

That time limit does not apply to:

- an allegation based upon a criminal conviction or caution or regulatory determination (which does not present the same potential evidential difficulties, as there is no need to 'go behind' the decision of the court or tribunal which imposed the conviction etc.);
- an allegation which, in the opinion of the Director of Fitness to Practise, appears to be serious and in respect of which the time limit should be waived in the public interest or in order to protect the public or the registrant concerned.

Anonymous allegations

Anonymous allegations may take two forms:

- an allegation made by a person whose identity is unknown to the HCPC; and
- an allegation made by a person whose identity is known but who has asked the HCPC not to disclose his or her identity.

The procedures set out in the Order and the rules made under it require the HCPC to provide registrants with details of any allegations made against them, to allow the registrant to comment and then enable the HCPC to seek any necessary clarification from the complainant before proceeding further.

It is extremely difficult to operate such a process in a fair and transparent manner if the complainant is unknown or refuses to be identified. Generally, the HCPC will not take action in respect of anonymous allegations and complainants need to be made aware that a request for anonymity may prevent the case from progressing further.

This policy should not be applied in an over-rigid manner. The primary function of the HCPC is to protect the public and there may be circumstances in which an anonymous allegation raises concerns which are so serious that action should be taken. In such circumstances the Director of Fitness to Practise (or a person authorised by the Director) has the discretion to authorise further investigation.

Matters resolved locally

Often, issues may have been resolved satisfactorily at a local level before they are brought to attention of the HCPC. In such cases it is unlikely that there will be evidence to suggest that the fitness to practise of the registrant concerned is impaired and, therefore, the Standard of acceptance will not be met.

Credible evidence of current impairment is unlikely to be found in cases:

- relating to relatively minor conduct, competence or health issues;
- where the registrant has acknowledged, and has insight into, any failings;
- where appropriate remedial action has been taken; and
- which do not raise any wider public protection issues, such as confidence in the profession or regulatory process or the deterrence of other registrants.

Minor employment issues

In most cases, complaints involving minor employment issues which do not compromise the safety or well-being of service users will not meet the Standard of Acceptance. Typical examples are:

- lateness or poor time keeping, (but not if it has a direct impact on service users, such as delaying handovers or leaving service users at risk);
- personality conflicts, provided that there is no evidence of bullying or harassment;
- sickness or other absence from work, provided that there is no misconduct (e.g. fraudulent claims) and the registrant is managing his or her fitness to practise.

Consumer complaints and business disputes

Where the substance of a complaint involves consumer related issues or a business dispute, and there is no evidence of misconduct or risk to public protection, it is unlikely that the matter will satisfy the requirement that the allegation relates to fitness to practise. Such cases will include:

- complaints about minor differences in the pricing of goods or services;
- disputes about business or personal debts;
- complaints which have no public protection implications but are simply made on the basis that the complainant is aware that the other party to a dispute is a registrant (e.g. boundary disputes between neighbours).

If there is any evidence of abuse of a registrant-service user relationship, the matter should be treated as a potential fitness to practise issue.

Internet social networks

Allegations which relate to a registrants' participation in internet social networks (e.g. Facebook, Myspace, Bebo) should be treated in a similar manner to any other allegation but, in considering whether such allegations meet the Standard of Acceptance, the following should be taken into account:

- In many cases there may be insufficient evidence to identify with any certainty the registrant concerned;
- the allegation may relate to comments which are taken out of context (for example, which were jocular, qualified in some way or withdrawn) and may not be a balanced reflection of the views expressed by the person concerned;

Motoring offences etc

Other than in exceptional circumstances (for example, where there is associated evidence that the safety of the public or service users has been compromised), the following should not be regarded as the basis of a fitness to practise allegation:

- parking and other penalty charge notice contraventions;
- fixed penalty (and conditional offer fixed penalty) motoring offences; and
- penalty fares imposed under a public transport penalty fare scheme.

In respect of other motoring offences, the information received should be assessed on a case by case basis. Other than in cases involving serious offences or where there is evidence of the public or service users being put at risk (for example, failing to stop at, or leaving the scene of, a road traffic collision), it is unlikely that an offence will meet the final element of the standard of acceptance; that the allegation relates to fitness to practise.

Drink-driving offences should be regarded as meeting the standard of acceptance if:

- the offence occurred in the course of a registrant's professional duties, en-route to or directly from such duties or when the registrant was subject to any on-call or standby arrangements;
- there are aggravating circumstances connected with the offence (including but not limited to failure to stop or only doing so following a police pursuit, failure to provide a specimen, obstructing police, etc.);
- the penalty imposed exceeds the minimum mandatory disqualification from driving (12 months, with or without a fine); or
- it is a repeat offence.

Complaints against registrants acting as expert witnesses

In acting as expert witnesses, registrants do not enjoy any general immunity from fitness to practise proceedings. However, in dealing with allegations against such registrants, the HCPC must be careful not to interfere in matters which are properly for another court or tribunal to determine.

As a general principle, the admission of expert evidence is a matter for the court or tribunal in question. It is for that body to decide what expert evidence (if any) it needs and to control experts, their reports and evidence. Consequently, complaints about a registrant who is acting as an expert witness should, in the first instance, be raised with the court or tribunal concerned and not the HCPC.

HCPC fitness to practise proceedings should not be used as a forum for re-trying cases heard elsewhere, nor for settling differences of professional opinion which are often a reality of legal proceedings and, of themselves, will rarely be sufficient to sustain a fitness to practise allegation.

The requirement that an allegation must include credible evidence which suggests that fitness practise is impaired is unlikely to be met unless it can be shown that, in acting as an expert witness, the registrant departed from the professional obligations imposed upon experts, such as:

- making false claims of expertise or giving evidence outside of the registrant's expertise;
- breaching the expert's paramount duty to assist the court or tribunal; or
- breaching the obligation to produce an objective, unbiased, independent report based upon all material facts.

Drafting formal allegations

Practical guidance on the drafting of fitness to practise allegations, for HCPC Case Managers and Investigating Committee Panels, is set out as an annex to this policy document.

December 2011

ANNEX

Drafting Fitness to Practise Allegations

Introduction

The right to a fair hearing requires registrants to be given adequate prior notice of any allegation against them, so that they have a fair opportunity to:

- understand the allegation, including the material facts upon which it is based;
- properly consider whether to admit or deny the allegation and, at the appropriate stage in the proceedings, if they so choose,
    - to make representations;
    - to prepare any defence or mitigation;
    - to answer the case against them by presenting evidence and making submissions on the applicable law and standards, etc.

That right is protected by Article 6 of the European Convention on Human Rights and reflects the common law principles of natural justice.

The HCPC's approach

The approach adopted by the HCPC is that a formal allegation should be drafted and put to the registrant concerned as early as possible in the process, so that the registrant understands what is being alleged and has the opportunity to submit representations on that allegation when a Panel of the Investigating Committee considers whether, in respect of that allegation, the registrant has a 'case to answer'.

In reaching its decision, the Investigating Committee Panel is expected to consider each element of the allegation, to see whether there is evidence to support the facts alleged and whether those facts would amount to the statutory ground and establish that fitness to practise is impaired. Panels should also consider allegations 'in the round' to ensure that they strike the right balance in terms of the case which the registrant must answer.

As part of that process the Panel may amend of omit elements of an allegation. As allegations are drafted at an early stage, whilst information is still being gathered in a dynamic investigative process, it is important that Panels give critical scrutiny to the drafting of allegations put before them. Investigating Committee Panels must ensure that any allegation which proceeds further is a fair and proper representation of the HCPC's case and is fit for purpose.

If an Investigating Committee Panel allegation varies or extends an allegation to a material degree, the registrant concerned should be given a further opportunity to make observations on the revised allegation to the Investigating Committee before a final case to answer decision is made.

Drafting allegations

Every fitness to practise allegation must be drafted so it alleges that, based upon one or more of the statutory grounds set out in Article 22(1) of the Order, the registrant's fitness to practise is impaired.

Allegations must be drafted in clear and unambiguous language which enables the registrant concerned and anyone else reading them to understand what is being alleged. So far as possible, the elements of the allegation should be set out:

- briefly, concisely and in ordinary language which avoids the unnecessary use of technical terms or jargon;
- in separate paragraphs, each dealing with a single element of the allegation;
- with the facts in chronological order (unless there is good reason to do otherwise),
- in the logical decision-making sequence of facts, statutory ground and, impairment.

So, for example:

Allegation

1. *In the course of your employment as a [profession] by [Employer] (XYZ) you were provided with access to a computer at [place of work] belonging to XYZ.*
2. *Between [dates], contrary to XYZ's Internet Access Policy, you used that computer to:*
   A. *search for the terms of a sexual nature identified in Schedule 1;*
   B. *access websites containing pornographic material;*
   C. *download pornographic images from such websites and store them in the files on the computer identified in Schedule 2.*
3. *Each of the matters set out in paragraphs 2A, B and C constitutes misconduct.*
4. *By reason of that misconduct, your fitness to practise is impaired.*

Practical drafting points

An allegation is not a case summary

Formal allegations should not be a simple repetition or paraphrasing of the allegation as it was received from the complainant. The information provided is likely to include statements of opinion, details of minor employment issues and other material which is not relevant to the fitness to practice process.

An allegation does not need to contain every last detail provided to the HCPC but should be limited to material which is or may be relevant to the issue of impaired fitness to practise and any sanction which may be imposed.

A well-structured allegation will help the Panel to identify the salient facts, to reach determinations and to provide reasons for them. If an allegation is written in a narrative style or contains unnecessary detail, the Panel will have to engage in needless fact-finding and reasoning.

If an allegation is indirectly based upon a large number of events over an extended period of time, there is no need to set out every event unless a Panel needs to make a finding of fact in respect of each event. For example, where an allegation is based upon the outcome of a workplace capability process, the Panel's focus is likely to be on the overall findings and outcomes from that process, rather than the detail of each of the events that led to it. In such cases, the detailed information can be set out in a schedule to the allegation.

Organise, logically and chronologically

Panels must reach decisions in a logical sequence; are the facts proved, do they amount to the statutory ground and, if so, is fitness to practise impaired? Consequently, it will rarely be appropriate to deviate from setting out an allegation in that sequence.

Where an allegation contains more than one statutory ground, the facts should still be set out first and the grounds then set out after all of the facts, but identifying which facts are alleged to meet which ground (for example "The matters set out in paragraphs 1-4 constitute misconduct. The matters set out in paragraphs 5 to 9 constitute a lack of competence").

It is important to be clear about whether the HCPC is alleging that all the facts cumulatively need to be proved in order to amount to the statutory ground. This can usually be resolved by using the phrases "the matters set out" or "each of the matters set out" and careful use of "and" and "or" in the paragraph which contains the statutory ground.

Unless there is good reason to do otherwise, facts should be set out in chronological order, so that events can be understood in the time sequence in which they occurred.

Strike the right balance

Allegations needs to be a balanced and proportionate reflection of the case against a registrant, so that Panels do not have to engage in pointless fact-finding and reasoning. That balance will not be achieved by including every last detail known to the HCPC or by adopting a superficial approach which leaves out salient facts. A common sense balance must be struck.

Allegations must also reflect the appropriate level of seriousness, so that the registrant understands the case they must answer. If the registrant's action can be interpreted in more than one way, then those interpretations may need to be alleged 'in the alternative'. For example, it would be unfair to allege that certain facts amounted to misconduct but then to find that they amounted to a lack of competence when the latter option had not been put to the registrant.

Take care with adjectives.

Except where specific findings of fact need to be made on professional performance, terms suggesting that a registrant's actions were, for example, "inappropriate", "inadequate" or "not of the standard expected" are rarely necessary. The appropriateness or adequacy of a registrant's action is not a question of fact but a matter for the judgement of the Panel based upon the facts found proved.

The same is not true of allegations that a registrant's actions were, for example, "dishonest" or "sexually motivated". These are questions of fact on which the Panel will need to make specific findings, as they go to the registrant's state of mind at the time of the allegation.

Dishonesty and other 'state of mind issues' must be specifically alleged unless they are already clearly encompassed within the words of the allegation, for example "you stole X" or "you sexually assaulted Y".

Be as specific as possible

Allegations should not be overloaded with detail, but important detail – dates, locations, words said, etc. - should be included and be as specific as possible. If there is any uncertainty then this should be made clear (for example, "on or around [date]", "at or near to", "...or words to that effect").

Care should be taken not to confuse "failed" for "did not". The former requires a finding that a registrant should have done something as well as not doing it, the latter only that a registrant did not do something.

Refer indirectly to sensitive information

Service users should not be identified by their names or their initials, but simply as Client A etc. Similarly, in health allegations, the details of a registrant's health should not appear in the allegation but should be specified in a confidential schedule to the allegation.

General Medical Council

Regulating doctors
Ensuring good medical practice

GMC thresholds

Introduction

1 This guidance is for medical directors, responsible officers and other relevant staff who are involved in the employment, contracting or management of doctors and has been designed to clarify those matters where we can, and cannot, take action. This guidance explains the thresholds for referral to the General Medical Council (GMC). The GMC's overriding obligation is to ensure patient safety – we do not aim to resolve individual complaints, but rather to take action where we need to in order to protect patients or the public interest.

2 A detailed explanation of our fitness to practise procedures, including decision making at the end of a GMC investigation, can be found on our website.

3 The GMC can act on any information it receives from any source, which raises a question about a registered doctor's fitness to practise. Common sources of information include patient complaints, referrals from employers and notifications from the police.

Cases closed at an early stage

4 In some cases, it is clear from the outset that there is no need for the GMC to investigate because the complaint is about matters that cannot raise an issue of impaired fitness to practise. We will normally close these cases without taking any further action.

5 Examples of cases closed without any investigation are:

a minor motoring offences not involving drugs or alcohol

b a delay of less than six months in providing a medical report

c a minor non-clinical matter

d a complaint about the cost of private medical treatment.

6 We also conclude many other cases after discussing the concerns with the doctor's employer or contractor. By checking with the employer or contractor, we can satisfy ourselves that a complaint is not part of a wider pattern of concerns. Where the employer or contractor reassures us that there are no grounds to investigate further, and the matters complained of are not, in themselves, serious enough to require any action by the GMC, the case will be closed.

7 Examples of cases closed after we have checked with the doctor's employer that they have no concerns are:

a complaints about the quality of treatment received where there is no indication of any risk to the patient or that the doctor acted significantly below appropriate standards

b complaints about doctors' poor attitudes to patients, or failing to take their preferences into account.

Cases that involve an investigation

8 For the remainder of cases, we carry out an investigation into the doctor's fitness to practise before we decide what action to take. This may include taking witness statements, obtaining an expert report, or undertaking an assessment of the doctor's health or performance. We must then decide whether we should conclude the case with no further action, issue a warning, offer the doctor undertakings or refer the doctor for a hearing by a fitness to practise panel. In deciding what action to take, our decision makers must consider the test at paragraph 11 below.

9 Section 35C(2) of the Medical Act 1983 as amended states that a doctor's fitness to practise can be impaired by any or all of the following:

a misconduct

b deficient professional performance

c a criminal conviction or caution in the British Isles (or elsewhere for an offence which would be a criminal offence if committed in England or Wales)

d physical or mental ill-health

e not having the necessary knowledge of English.

e a determination (decision) by a regulatory body either in the UK or overseas to the effect that fitness to practise as a member of the profession is impaired.

10 During an investigation we consider all aspects of a doctor's fitness to practise. In many cases we may consider not only the matters raised in the original complaint, but also any other concerns that have come to light during the investigation.

The test applied

11 For cases that proceed to an investigation, our decision makers will apply the following test at the conclusion of our investigation.

The investigation committee or case examiner must have in mind the GMC's duty to act in the public interest which includes the protection of patients and maintaining public confidence in the profession, in considering whether there is a realistic prospect of establishing that a doctor's fitness to practise is impaired to a degree justifying action on registration.

Cases where the GMC is likely to take action

12 In some cases, the allegations about a doctor are so serious that, if proven, they are likely to result in us taking action on the doctor's registration. These types of case tend to fall within five main headings:

a sexual assault or indecency

b violence

c improper sexual or emotional relationship with a patient or someone close to them

d dishonesty

e knowingly practising without a licence.

13 Therefore any allegations that fall within any of these four categories are likely to meet the threshold for referral to the GMC.

Concerns about the standard of the doctor's clinical care and practice

14 Many of the cases we investigate concern the standard of the doctor's medical practice, including the quality of the care and treatment provided by the doctor. Whilst not all breaches of *Good medical practice* will require formal action by the GMC, because many issues can be dealt with adequately by the employer or contractor, GMC action is more likely to be required where the allegations are of serious or persistent failures to meet the standards set out in *Good medical practice*.

15 Allegations of serious or persistent failures to practise in accordance with the principles set out in *Good medical practice* can be categorised under the following domains:

a knowledge, skills and performance

b safety and quality

c communication, partnership and teamwork

d maintaining trust

16 The GMC threshold for referral is likely to be met when any of the following features occur.

a A doctor's performance has deviated from the guidance set out in *Good medical practice* and as a result has harmed patients or put patients at risk of harm.

b Attempts to improve a doctor's performance locally have failed and the employer or contractor identifies a remaining unacceptable risk to patient safety.

c A doctor about whom the employer or contractor has developed significant concerns leaves the employer or contractor's employment and the employer or contractor is not confident that alternative safeguards are in place.

d A doctor has shown a deliberate or reckless disregard of clinical responsibilities towards patients.

e A doctor has abused a patient's trust or violated a patient's autonomy or other fundamental rights.

f A doctor has behaved dishonestly, fraudulently or in a way designed to mislead or harm others.

g The doctor's behaviour was such that public confidence in doctors generally might be undermined if the GMC did not take action.

h A doctor's health is compromising patient safety –see below.

g A doctor's lack of knowledge of the English language is compromising patient safety.

Health

17 Only a relatively small number of doctors with a health concern are referred to the GMC each year. There is no need for GMC intervention if there is no risk to patients or to public confidence because a doctor with a health issue has insight into the extent of their condition, and is seeking appropriate treatment, following the advice of their treating physicians and/or occupational health departments in relation to their work, and restricting their practice appropriately.

18 The GMC will seek to restrict a doctor's registration in these circumstances:

a if significant concerns arise about their fitness to practise or patient safety, for example, where a doctor's ill-health (including addiction) appears to be uncontrolled or where there is evidence that the doctor is not following advice

b if there is a significant risk of relapse or loss of insight, which may be characteristic of a condition, for example, addiction or certain mental health conditions

c in respect of significant misconduct issues, for example, where a doctor is convicted of a drink-driving offence.

Summary

19 If a doctor working for or contracted by your organisation appears to have reached, or be close to, any of the thresholds (see paragraphs 12–18), you should contact the GMC for advice on how to proceed. You can contact your employer liaison advisor on 0845 375 0022 or by email at liaison@gmc-uk.org. Should you wish to make a referral you can contact the Fitness to Practise directorate on 0845 357 0022 or by email at practise@gmc-uk.org.

Further information

20 This guidance summarises other guidance we have produced for our decision makers. More detailed guidance for case examiners, the investigation committee and our fitness to practise panels is available on our website, as is all our other guidance on the standards expected of doctors (including *Good medical practice*). Hard copies can be obtained from our publications department.

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