Under Investigation :

What to do when things go wrong

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We share the privilege of working as doctors, savouring fulfilment of delivering a successful outcome, and but often feel unsupported when things go wrong. We are all human, we all make mistakes but we are fortunate in that our profession is still respected and held in high esteem. The bad press around the GMC often masks the fact that the GMC's role is to protect the public and uphold confidence in the medical profession, not to punish doctors. With this article I was hoping to shed some light on the GMC processes which all of us should be aware of .

When a case is escalated to the GMC it will look at whether A) there is evidence of serious failings in conduct or practice and, if so, B) whether the concerns have been or may be remediated and C) whether they are likely to pose an ongoing risk to patients and/or impact on confidence in the medical profession

The GMC receives approximately 9000 referrals, complaints and other matters a year . Complaints made to the GMC about doctors continue to fall. Over the five years from 2012 to 2017 complaints reduced by 13%. Complaints from people acting on behalf of organisations reduced by over 40% between 2012 and 2017 and complaints from members of the public reduced by 10%

Most matters raised with the GMC come from patients and the public (around 75%) but only 15% of those result in a full investigation. While people acting in a public capacity, such as responsible officers and the police, only make up small minority (<20%)of matters raised, these account for the majority of matters investigated..

Key stages of the process the GMC employs on receipt of complaint.

Enquiry: information that may raise concerns about the fitness to practise of a doctor.

Triage: initial assessment of an enquiry to decide if it raises a concern about the doctor's fitness to practise .This has a 1 week turn around. If negative the enquiry is closed .

Provisional enquiry: A provisional enquiry is a limited, initial enquiry at the outset of the fitness to practise process which helps the GMC decide whether to open an investigation. This is designed to assess risk and to avoid unnecessary investigation.

Where a full investigation is carried out approximately 75% are closed with no action or advice ,5% result in a warning 8% result in undertakings agreed with a doctor 12% are referred to the MPTS for a hearing.

Between 2010 and 2013, 85% of investigations were closed with no formal action against a doctor. There was acknowledgement that fitness to practise processes in place were not proportionate and the system of provisional enquiry was initiated. The GMC aims to complete provisional enquiries within 63 days compared with six months for a full investigation

In cases where a healthcare organisation has referred the doctor ,the GMC also confirms whether the doctor has previously raised any concerns about patient safety or systems to reduce the risk of doctors being disadvantaged for raising concerns.

Explanation of what a few commonly encountered terms is likely to help when one has the misfortune of being involved in an investigation.

Case examiners: 2 senior GMC staff (1 medical and 1 non-medical) review each case at the end of the GMC investigation into the allegations against a doctor.

They can either close the case with no further action ,close the case with advice given to the doctor , issue a warning ,agree undertakings with the doctor or refer the case to a medical practitioner tribunal.

Investigation Committee hearings are held when the case examiners determine that they wish to conclude the investigation by issuing a warning and but the doctor is not in agreement .

Assistant registrars: GMC staff who can refer a case to a medical practitioner tribunal if the doctor: [1].has been convicted of a serious offence [2].refuses to agree to undertakings [3]. fails to comply with a request for a performance or health assessment.

Interim orders tribunal: an MPTS interim hearing that can suspend or restrict a doctor's practice while an investigation is underway.

Medical practitioners tribunal: final hearing which decides whether the facts are proven and, if so, whether the doctor's fitness to practise is impaired, and decides what, if any, sanctions are appropriate.

Outcome of medical practitioner tribunals in 2013 - 17

	2013	2014	2015	2016	2017
Erasure	55	71	72	70	62
Suspension	86	86	95	93	76
Conditions	32	22	24	17	13
Undertakings	0	3	1	0	0
No Impairment - Warning	13	10	6	11	13
Impairment - No further action	1	4	2	2	4
No Impairment	38	37	38	34	27
Voluntary Erasure	4	4	1	2	0
Total	**229**	**237**	**239**	**229**	**195**

With the current black lives matter protests there has been a lot of focus on impact of race and issues around institutional racism. The GMC and the MPTS has been ahead of the game and have done a lot of work to ensure that proceedings are fair and just .

In terms of diversity of the Medical Practitioner Tribunal Service's 306 members, 46% are female and 19% identify as BAME. This compares favourably with the most recently published

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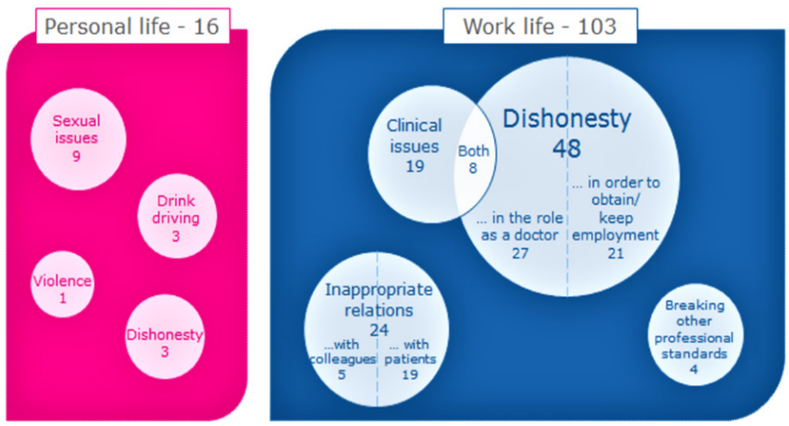
figures for courts in England and Wales (28% female and 7% BAME) and tribunals in England and Wales (46% female and 14% BAME).

It also compares well with the UK population (51% female and 13% BAME)

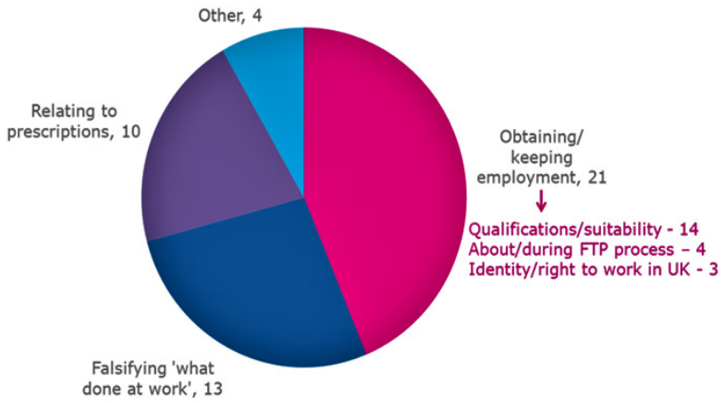
Looking at demographics of doctors appearing before tribunals,males were much more likely to feature in these cases than females (82% of cases featured a male in comparison to 18% of cases featuring a female). Doctors of BAME origin were more likely to feature than white doctors (50% of doctors were BAME and 23% were white, of the remaining 27% ethnicity was unknown).

Research has found that male doctors, doctors over the age of 50 and BAME doctors are also more likely to be complained about (The state of medical education and practice in the UK (SoMEP), 2014) The cases were more likely to involve doctors that qualified abroad (69%) than UK qualified doctors (31%)

This diagram shows the types of cases and their incidence.



Work life – Dishonesty case types (48 cases relating to dishonesty (only) at work)



Lessons learnt from most serious cases

There are around 230,000 licensed doctors in the UK .To put things in context less than 150 cases concluded in erasure or suspension The majority of cases that resulted in suspension or erasure from the medical register were in relation to an incident in a doctor's working life, but there were some cases in relation to a doctor's personal life

Where doctors have received censure over clinical issues ;cases tended to be very complex. Theyhave often involved a series of diagnosis and treatment failings. A clinical issues case could also involve poor record keeping or be brought about following notification of a doctor's performance being below par (when assessed).

Cases where there was an element of dishonesty as well as a clinical issue usually resulted from a doctor attempting to hide their clinical failings or being dishonest to patients

Inappropriate behaviour with patient or colleagues was the third most frequent type of case, after dishonesty and clinical issues.

Most inappropriate relations of this kind were with patients and tend to be of a sexual nature

Non-medical stress was identified as any kind of difficult circumstances (outside of the case) which the doctor was experiencing at the time of the incident. This tended to be things going on in the doctor's personal life, such as grief, financial problems and relationship problems. It was often referenced in the doctor's defence. Those experiencing non-medical stress tended to be suspended rather than erased

Doctors experiencing non-medical stress were more likely to admit to the allegations made ,show evidence of insight , and demonstrate remediation in comparison to doctors not thought to be experiencing non-medical stress.

In the event one is involved in an investigation, replying to requests from the GMC for information as quickly as possible (subject to obtaining legal advice), attempts at remediation and providing evidence of this as soon as possible, taking steps to decrease the risk of recurrence, such as retraining to address knowledge or skills gaps, will be taken into account and, if provided early, may help avoid a formal investigation.

We should look after our health. If we become unwell, seek and follow treatment and, if our health poses a risk, limit our practice. Honesty is the best policy Never try to cover up a mistake or failing or role in an incident.If we recognise our self and our family in our patients we likely to do what is right .Patients are vulnerable and worried .If we can provide assurance that we have tried to be sincere ,up to date and tried provide a reasonable standard of care while acting within the limits of our competence all the time being open and honest ,we are unlikely to fall foul of our regulator.

References

1. Analysis of cases resulting in doctors being erased or suspended from the medical register Report prepared for: General Medical Council October 2015 : DJS Research R Harris,K Slater
2. Fitness to practise statistics 2017 :GMC
3. The state of medical education and practice in the UK (SoMEP), 2018

NOW YOU KNOW

What to do If You are Under Investigation at Work