

Raising concerns about dental professionals

This self-help guide contains useful information should you wish to raise a concern about a dental professional.

If you have any further questions, please visit our website where you will find more advice and a range of specialised self-help guides, or call our helpline.

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The **charity** for patient safety and justice

AvMA is the charity for patient safety and justice. We provide specialist advice and support to people when things go wrong in healthcare and campaign to improve patient safety and justice.

For advice and information visit **www.avma.org.uk**

Or call our helpline
*10am-3.30pm Monday-Friday
(03 calls cost no more than calls to geographic numbers (01 or 02) and must be included in inclusive minutes or there can be a cost per minute)*

0345 123 2352



Freedman House,
Christopher Wren Yard,
117 High Street,
Croydon CR0 1QG



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Registered charity in England & Wales (299123) and Scotland (SCO39683)

Disciplinary action

It is important to note that it is not the role of regulatory bodies to investigate concerns which might be serious but do not call into question a health professional's fitness to practise. If you are seeking an explanation and apology about dental treatment, you need to make a complaint using the relevant complaints mechanism. You can find more information in our specialist guides:

- NHS funded dental treatment:
www.avma.org.uk/help-advice/guides/#complaints
- Privately funded dental treatment:
www.avma.org.uk/wp-content/uploads/Private-healthcare.pdf

Issues which may require action by a regulatory body include:

- Serious professional misconduct
- Criminal offences
- Repeated poor performance calling into question the professional's competence
- Health problems such as addictions or mental illness.

If you consider that a dental professional's conduct goes to his or her fitness to practice or raises patient safety issues, you can consider reporting them to their professional body, the General Dental Council (GDC).

You should usually have raised your concern or given your feedback to the dental professional or practice using the appropriate complaints system before contacting the GDC.

Which professions does the GDC regulate?

- All dentists
- Clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists, dentists and orthodontic therapists
- They can also deal with cases where someone is providing dental treatments but is not registered with the GDC (which is illegal) and this includes teeth whitening – which is defined by the courts as dental treatment.

What type of avoidable harm would the GDC deal with?

- Serious or repeated mistakes in clinical care, for example mistakes in diagnosis or dental procedures which cause significant harm to the patient. An example would be failure to diagnose or treat periodontal (gum) disease and as a result you go onto to lose more than one tooth.
- Not obtaining your consent to treatment
- Failure to respond reasonably to a patient's needs. An example would be if someone has a suspicious lesion in their mouth and the dentist fails to refer you for further investigations and you are then diagnosed with oral cancer.

The GDC **cannot**:

- Help you with a claim for a refund or compensation
- Give you a detailed explanation of what happened to you – this can only come from the dental professional or the dental organisation concerned
- Fine a dental professional
- Make a dental professional give you access to your dental records
- Make a dental professional apologise to you
- Make a dental professional reinstate or add you to their practice's list of patients
- Make a dental professional change their fees for private treatment
- Make changes to your dental records
- Investigate general concerns about how a dental practice is run
- Change the outcome of a local investigation into your complaint
- Look into complaints about healthcare professionals who are not dentists or dental care professionals
- Take action against a dental professional if there is no risk to patient safety, or to public confidence in the dental profession.

How to report your concerns to the GDC

You can raise your concern online:

<https://contactus.gdc-uk.org/Complaint/Process/1>

You can write to the GDC at:

37 Wimpole Street
London W1G 8DQ

You should give the following information:

- Your name, address and contact details
- The full name and address of the dental professional(s) concerned and, ideally, their registration number
- Details of the complaint, including dates and events
- Your view on what the dental professional has done wrong and details about any harm that has occurred
- The details of any other dental professionals you visited immediately before or after the treatment that you wish to complain about.

How does the GDC investigate?

This is intended to be an overview of the process; individual cases may vary.

Stage 1: An assessment of whether the GDC is the right organisation to deal with your concern

If it is, you will go on to Stage 2. If not, it will write to you to tell you why it is not proceeding

Stage 2: Casework

The GDC will ask your consent to send a copy of your complaint to the dental professional for a response. It may also gather other information, such as your dental records if appropriate. It may also obtain clinical advice at this stage and you need to be aware that your personal information will be shared with such third parties.

The GDC will then decide whether the matter needs to go to Stage 3 or not. If not, it will write to you.

How long will this take?

From when your concern has been received, this stage should take no longer than 4 months.

Stage 3: Case examiners

Once all the relevant information is received, case examiners will review the allegations. They should send you a copy of all the documentation they are considering and give you an opportunity to add any additional comments.

The case examiners will then decide whether to refer the allegation to a practice committee for a full public inquiry or, alternatively, agree a set of undertakings with the registrant.

They can decide to:

- Take no further action
- Give the dental professional advice or a warning
- Ask the dental professional to agree a series of undertakings on their registration.

How long will this stage take?

From when your concern has been received, this stage should take no longer than 6 months.

Practice committee hearings

If a decision is made that a hearing will be held, you may have to attend the hearing to give evidence. The GDC will provide you with further information on the process and you can also read information on witness support officers at:

www.gdc-uk.org/docs/default-source/witness-advice/about-the-witness-support-officer.pdf

The committee can:

- Give the dental professional a warning (private or published)
- Restrict, through conditions, the type of work carried out or how the dental professional works for a period of time (of up to 3 years)

- Stop the dental professional from doing any dental work for a fixed period of time (of up to 12 months) by suspending them from the register
- Take the dental professional off our register (known as erasure), which means they can no longer work in dentistry in the UK.

You will be given a written record of the decision.

What if I am unhappy with how my concern is handled?

Review of a decision - Rule 9 review

The Rule 9 process allows you to challenge the way in which a decision has been made. It looks at whether the original decision-maker correctly applied the law and followed the right procedures. It is not an opportunity for the same concern to be presented to a new decision-maker, with a view to obtaining a different decision.

What decisions can be reviewed?

- A decision not to refer a concern (or part of a concern) to the case examiners (Stage 3),
- A decision by the case examiners/investigating committee that an allegation referred to them ought not to be considered by a practice committee (i.e. a case is closed with no further action, advice to the registrant, or a warning).

How long do I have to ask for a Rule 9 review?

You should request this within 2 years of the decision. In exceptional circumstances this period can be extended. Whether a review will be carried out for a concern submitted later than 2 years will depend on factors such as whether evidence is still available, how serious the concern was, whether there is a continuing risk to the public and if you have sought other remedies such as legal action.

What are the grounds to request a review?

- The decision to close the case may be materially flawed, in whole or in part
- There is new information which may have led to a different decision
- A review is necessary to protect the public, prevent injustice to the respondent or it would be otherwise necessary in the public interest to conduct a review.

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You need to provide all the information you can in support of your request as the GDC's decision at this stage is final and you cannot ask for a second review.

Stage two

If the GDC decides a review is necessary, the person who made the application and other relevant people will be made aware in writing and given an opportunity to make written representations. The registrar (the Chief Executive of the GDC) will then conduct a review.

If a review is conducted, the registrar will ask:

- Was the decision for any reason, materially flawed in whole or in part?
- Is there new information which probably would have led, wholly or partly, to a different determination?
- Is a fresh determination:
 - necessary for the protection of the public?
 - necessary to protect the interests of the respondent?
 - otherwise necessary in the public interest?

There are only two possible outcomes at this stage:

- The decision being reviewed is upheld and no further action is taken.
- The decision being complained about is not upheld and a fresh determination is ordered.

How do I ask for a review?

Before you complete the Rule 9 application form, you should read the information factsheet and guidance documents. If you still wish to apply for a review; please download and complete the Rule 9 application form and either email to the Rule 9 legal adviser or post to:

Rule 9 Legal Advisor
General Dental Council
37 Wimpole Street, London W1G 8DQ.

What if I am not happy with the outcome?

The Registrars decision is final and there is no appeal against this.

What other remedies may I have?

Judicial review

Judicial review is a legal process by which the courts assess whether a public body or quasi-judicial body such as the GDC has reached or failed to reach a decision fairly. The grounds for this can include:

- There has been an unfair or biased process, such as failure to review evidence presented by one side or to give a fair hearing on the basis of the written information
- The decision is irrational.

The most important point about judicial review is that it must be sought very quickly after the decision has been made. You should seek legal advice as quickly as possible if you are considering this route. The latest that an application can be made is three months, but this should not be taken as meaning you have three months to seek advice as you may be too late by that stage.

Judicial review proceedings can be very expensive if you lose your case.

You can find more information on judicial reviews at:

<https://publiclawproject.org.uk>.

Professional Standards Authority

This is the body which oversees the work of the GDC. They do not have legal powers which would allow them to investigate complaints about the health and care professional regulators and are not a complaint handling organisation. They do, however, invite feedback from the public on how the GDC has handled your concerns to inform their work.

The PSA may send certain concerns raised with them about a regulator to the regulator and ask for its comments.

You will usually have to have taken your concern through the regulator's organisational complaints process and given it the opportunity to respond. If this has not happened, the PSA will advise you to use the GDC complaints procedures.

Also, the following conditions will apply:

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- Your concern cannot be dealt with by another organisation
- Dealing with your concern could help to improve health and care professional regulation and public protection.

Concerns the PSA may take forward:

- Delays in the handling of fitness to practise referrals
- Failures in the management of a fitness to practise case
- Poor customer service
- Failures in the process of quality assuring educational institutions.

Concerns that the PSA will not take forward:

- Those relating to business or financial arrangements e.g. setting of fees or charges set by the regulator
- Decisions not to refer a complaint for a formal hearing in front of an investigation committee or final fitness to practise committee
- Decisions to refer or impose an interim order on a registrant's practice
- Support for clinical techniques
- Registration application decisions

You can contact the PSA at:

Professional Standards Authority
157 -197 Buckingham Palace Road
London SW1W 9SP

020 7389 8030

info@professionalstandards.org.uk

How can AvMA help me?

AvMA may be able to:

- Help you to understand whether to raise a concern to the GDC such as whether your concern is a fitness to practice issue
- Help you to understand any response the GDC gives to your concern or any decision the GDC reaches
- Help you to understand how to request a review of the GDC's decision.

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better patient safety and justice

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AvMA wants to build on the support we enjoy from people all round the country who share our passion for making healthcare safer and fairer for those who do suffer harm.

By signing up to be a Friend of AvMA you will belong to a growing movement for change. Join injured patients and their families, healthcare professionals, lawyers and many more who share our goals.

Becoming a Friend of AvMA costs from as little as £5 a month.

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£10/month could help train a volunteer helpline advisor

£50/month could help support a family through an inquest hearing

Benefits of membership

- Regular newsletter keeping you up-to-date with our work
- Invitations to special events
- Share your thoughts on our work and policy issues

Your help could make a real difference to patient safety in the UK

Please sign up today at www.avma.org.uk/friends

avma
action *against* medical accidents

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