

Raising concerns about doctors

Health professional fitness to practise:
General Medical Council

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

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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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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Making a complaint to the GMC

What is fitness to practise?

Most health professions have a regulatory body which maintains a register of those qualified to work in that professional capacity in the United Kingdom. Part of a regulatory body's role is to investigate serious complaints about individual professionals to establish whether they are 'fit to practise'.

It is important to note that it is not the role of regulatory bodies to investigate complaints which might be serious, but do not call into question a health professional's fitness to practise.

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

The regulatory body for doctors is the General Medical Council (GMC).

In order to practise medicine in the UK, doctors must be registered with the GMC and hold a current GMC licence to practise.

Who can you raise concerns to the GMC about?

You can only raise concerns about doctors who are registered with the GMC. You will need to give the full name and GMC registration number in order to raise your concerns. If you know the doctor's name, you can find their registration number on the GMC website at www.gmc-uk.org. If you are not sure of the doctor's name, you can use the following sources to try and find this (These links will take you to external sites)

NHS Choices site for GPs working in England:

www.nhs.uk/Service-Search/GP/LocationSearch/4

IDS Scotland list of GPs working in Scotland:

www.isdscotland.org/Health-Topics/General-Practice/Workforce-and-Practice-Populations/Workforce/

NHS Wales directory:

www.wales.nhs.uk/ourservices/directory

HSC Business Services Organisation lists for Northern Ireland:

www.hscbusiness.hscni.net/services/1816.htm

What type of cases can the GMC consider?

The GMC only considers cases where the doctor's fitness to practise is in question. "Fitness to practise" means whether they are currently fit to practise as a doctor (i.e. whether by continuing to practise they would seriously damage confidence in the profession or put patients at risk). The fitness to practise procedures are not intended to deliver punishment for past mistakes or behaviour.

Examples of the types of cases the GMC are prepared to consider include:

- Serious or repeated mistakes in patient care
- Failure to respond reasonably to patient needs (e.g. not referring for further investigations where necessary)
- Violence, sexual assault or indecency
- Fraud or dishonesty
- A serious criminal offence
- Abuse of professional position (e.g. an improper sexual relationship with a patient)
- Discrimination against patients, colleagues and others
- Serious breaches of patient confidentiality
- Serious concerns about knowledge of English

Are there any initial steps I should take?

You should consider raising your concerns about the doctor to their employer first. All NHS organisations have to follow the NHS complaints procedure. A complaint response may address your concerns and the GMC normally expect this route to be followed first before they will investigate.

Please see AvMA's guide to making a complaint to the NHS at www.avma.org.uk/guides.

Raising concerns about doctors

Before you start to raise your concerns to the GMC, you should read the GMC's guide to good medical practice:

www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice

This describes the professional values and behaviours the GMC expects of a doctor registered with them. By understanding these values and expectations, this will better enable you to present your concerns. For example, section 55 states:

"You must be open and honest with patients if things go wrong. If a patient under your care has suffered harm or distress, you should:

- i. *put matters right (if that is possible)*
- ii. *offer an apology*
- iii. *explain fully and promptly what has happened and the likely short-term and long-term effects."*

If you believe that your doctor has not complied with this, you can raise specific concerns that they did not try to put things right; did not offer an apology; did not provide a full and prompt explanation of what happened; or did not explain what the short- or long-term effects would be. Therefore the doctor has not met the values and behaviours expected by the GMC.

How soon do I have to raise a concern to the GMC?

You should raise a concern as soon as possible. The GMC will only consider complaints raised within five years of the incident giving rise to the concern. Whether more than five years have passed is worked out by:

- Pinpointing the date when the allegation was "first made or first came to the GMC's attention".
- Identifying the "most recent events giving rise to the allegation" and the date when they occurred.

It is only if this period is calculated as being less than five years that the GMC will look at the concerns. After this time, the GMC will only consider concerns in exceptional circumstances and where it is in the public interest to investigate. You will need to explain to the GMC why they should investigate if more than five years have passed.

They do have to take into consideration issues such as:

- The reason(s) for the lapse of time
Factors you could present on this can include problems you have had in clarifying the facts and collecting necessary evidence. If you consider that the extent to which the alleged impairment of fitness to practise has been deliberately concealed by the practitioner or a third party, you would need to tell the GMC this and what evidence you have to support this, if any.
- The seriousness of the allegation
- The extent of any continuing unwarranted risk to the public posed by the practitioner
For example, whether the practitioner is still practising within the relevant specialty or at all
- The adverse impact on the evidence of the lapse of time
Such as if the medical records will still be available or if witnesses are alive.
- The extent to which the public interest warrants the allegations being raised and investigated in order to maintain public confidence in the medical profession.

If the GMC refuses to investigate your concerns because more than five years have passed and you think that the decision is unreasonable, you should write to the Registrar (the chief executive of the GMC) to ask for a review of the decision. This is known as a 'Rule 12 review'. (See "What happens if I am not happy with a decision by the GMC not to investigate?" on page 8).

If my care or a family member's care has been found to be negligent does this mean the doctor is unfit to practise?

In general, the GMC will only investigate concerns about a doctor if the matters complained of go to the practitioner's fitness to practise or raise issues of patient safety. In relation to single clinical incidents involving one patient, there would have to be something more than 'ordinary' negligence. Case law has established that only negligent acts or omissions which are particularly serious are capable of supporting a finding of impaired fitness to practise.

Even if the negligence is serious or gross, it may also be appropriate that the GMC consider whether there is evidence that the doctor has learnt lessons from the incident and has remedied serious deficiencies in practice; so that the alleged wrong doing is unlikely to be repeated. They may also look at the time which has passed since the incident in deciding whether to proceed.

If there is a pattern of such incidents or more than one patient involved, the GMC may be more likely to investigate.

How do I raise my concerns?

Usually you do need to have raised your concerns through NHS or private providers complaints procedures first. You can find information on these on our website at www.avma.org.uk/guides.

NHS and private complaints procedures are separate from disciplinary proceedings against individual members of staff. A complaint to a healthcare provider is not a process through which action is taken against individual members of staff. In some cases staff may undertake further training or reflection and learning as a result of the complaint. In the most serious cases, disciplinary proceedings may be triggered by a complaint, which can include referral to regulatory bodies.

You can refer your concerns directly to the GMC, but in order to convince them to investigate straight away you will have to convince them that why the matter is so urgent that it needs to be addressed immediately or explain why it is not feasible to make a complaint to the doctor's employer first.

What can't the GMC do?

- Give you an explanation of what happened to you
- Order a doctor to give you the treatment you want or access to your records
- Help you with a claim for compensation
- Fine a doctor or make a doctor apologise
- Make changes to your medical records
- Make a doctor apologise to you
- Make a doctor reinstate or add you to their practice's list of patients
- Make a doctor change their fees for private treatment
- Investigate general concerns about how a hospital or GP service is run

- Change the outcome of a local investigation into your complaint

How do I report my concerns to the GMC?

You can complete a form online at:

www.gmc-uk.org/concerns/raise-a-concern

You can also download a form to print off and complete.

You need to provide any information you have such as your letter of complaint and the response to this. We recommend that you keep all the original documents and only send copies to the GMC. This is in case the documents get lost or are misplaced.

GMC investigations

You should note that most concerns the GMC receives do not result in an investigation, either because the concerns do not meet their threshold or they are matters the GMC cannot investigate. The GMC will share the concern with the doctor and their responsible officer (the individual designated to help the doctor with appraisal and revalidation processes) and ask for this to be considered as part of the doctor's ongoing appraisal and revalidation.

If the GMC consider that the doctor might not be fit to practise, they will open an investigation.

From the point the GMC decide to investigate you become a 'witness' in their fitness to practise procedure. This is different to a complaints process, which is driven by your own complaint.

You will be given:

- Information on what they are investigating
- An opportunity to discuss, on the phone or in person, details of what happens in a GMC investigation.

The meetings are held in the GMC offices and you can take someone with you and have reasonable travel costs reimbursed. You will be told what is happening and be given an opportunity to ask questions.

Within two weeks the GMC will give you a decision on whether they will be investigating.

There will be circumstances where the GMC will need to ask the doctor's employers if they have concerns about the doctor. This is in order to help the GMC to decide whether there are grounds to investigate further. The doctor will be told about this first.

What happens if the GMC decide not to investigate?

They will give you the reasons why they are not able to investigate. If you are not happy with this decision you should refer to "What happens if I am not happy with a decision by the GMC not to investigate?" on page 8 of this leaflet.

They will share the concerns with the doctor and their responsible officer and ask that this be considered as part of the doctor's appraisal and revalidation.

How long will an investigation take?

It can take up to twelve months to investigate a concern. In complicated cases, this can take longer.

You will be updated every 8 weeks on what is happening.

If the GMC decide to investigate, what will happen?

The GMC will gather evidence on which to base their assessment of your concerns. This may in certain circumstances include an assessment of the doctor's professional skills. You need to be aware that this is likely to include a review of your medical records relating to the concern you have raised. This information will be shared with third parties such as medical experts who may be asked to comment. You will be asked to consent to the GMC obtaining your records.

You may be asked to provide a witness statement.

If there are hearings held, you may be asked to appear as a witness and can be cross-examined by lawyers representing the doctor.

Can I get any support during the investigation?

Being involved in raising a concern about a doctor can be stressful. Please contact AvMA if you would like any advice on the procedural aspects of the process.

At any stage of the investigation you can contact the Witness Support Service for emotional and practical support but they cannot provide legal advice or discuss the details of the investigation with you. This is provided by the charity Victim Support on behalf of, but independent of, the GMC.

Contact Witness Support by calling 0161 200 1956 or emailing witnesssupport@gmc-uk.org.

What happens when the GMC conclude the investigation?

At the end of the investigation, GMC case examiners will review the evidence and decide what action should be taken. (If the case examiners cannot agree what action to take, the case will be referred to the Investigations Committee.) The GMC case examiners or Investigations Committee may decide to:

i. Take no action

They can reach this decision because:

- The doctor has made an effort to ensure they will not repeat their mistakes and there are no current patient safety risks
- A lack of evidence means there is no real chance a tribunal would take action against a doctor

ii. Take action against the doctor

The main actions the GMC can take are:

Interim sanctions

If the GMC believes that immediate action needs to be taken to protect patients whilst the investigation is being undertaken, it may refer the case to the Medical Practitioners Tribunal Service (MPTS) for an interim orders tribunal hearing. The GMC may apply for an order to have the doctor immediately suspended from practise or to have restrictions placed on their practise. Examples of such restrictions can be to stop the doctor operating unsupervised or without seeking agreement as the necessity of the surgery with a colleague.

Issue a 'warning'.

This is not a finding that the doctor poses a risk to the public but that their behaviour or performance was below the standards expected of doctors in the UK. If a doctor refuses to accept a warning the GMC will refer the matter to an Investigation Committee hearing who can impose a warning or decide to take no further action. Warnings are published on the GMC website for two years but can also be disclosed to future employers on request.

iii. Undertakings

In more serious cases but ones which fall short of the threshold for a doctor to be removed ('struck off') from the medical register, the GMC may require the doctor to agree to 'undertakings'. This is a formal agreement between the doctor and the GMC that the doctor will abide by specific conditions being attached to their medical practise. The doctor will need to demonstrate that they recognise the failings in their practise and that they are committed to improving the way they work. The undertakings may include restrictions on the type of work that the doctor can do, where they can work, how their work will be supervised and any additional training that should be undertaken. The doctor will normally be required to keep the GMC informed of any changes to their practise. The GMC will also liaise with the doctor's employer and responsible officer to make sure that the doctor honours this agreement.

Undertakings are published on the GMC's website and will remain visible for 10 years after the expiry of the undertakings.

If a doctor fails to agree to an undertaking or fails to comply with the conditions of an undertaking, the GMC will refer the case to the Medical Practitioners Tribunal Service (MPTS) for a hearing.

Examples of undertakings:

- That the doctor notifies the GMC if they change jobs,
- That they only work at a certain level, say as a junior doctor under supervision,
- That they notify any employer of the undertaking,
- That they do not work as a locum.

iv. Refer a doctor to a hearing at the Medical Practitioners Tribunal Service (MPTS).

Will I be told what is happening?

You will again be offered an opportunity to meet with staff from the GMC to explain the decision and to allow you to ask questions

The Medical Practitioners Tribunal Service

The MPTS (www.mpts-uk.org) runs hearings to decide whether to take action against doctors referred to them by the GMC. The GMC will only refer cases where there is a realistic chance that a tribunal hearing might erase the doctor from the register or cases where a doctor has not agreed to undertakings or has failed to comply with the undertakings. The MPTS is independent of the GMC. Medical practitioners tribunals hear evidence and decide whether a doctor's fitness to practise is impaired.

Who sits on a medical practitioners tribunal?

There will be at least one medical tribunal member and one non-medical tribunal member.

The tribunal will be assisted by either a legal assessor (LA) or a legally qualified chair (LQC) to advise the tribunal on questions of law and of mixed law and fact, including the procedure and powers of the tribunal.

How do medical practitioners tribunal hearings work?

The GMC – which brings the case against the doctor – and the doctor are both invited to attend the hearing. The GMC is normally represented at the hearing by a barrister. The doctor is usually present and legally represented. The doctor may decide not to attend and the tribunal will then decide whether they can proceed with a hearing in the absence of the doctor.

You may therefore be called to give evidence to the tribunal and it is not usual for you to be legally represented. You may be cross-examined by the doctor's lawyer. The tribunal may also ask you questions. It may be possible to give evidence via video link.

The tribunals meet in public, except where they are considering confidential information concerning the doctor's health. These proceedings are often reported in the press and you may be named and information about you be made public

The tribunal's decision

Once the tribunal has heard the evidence, it must decide:

- Whether the facts alleged have been found proved
- Whether, on the basis of the facts found proved, the doctor's fitness to practise is impaired
- If so, whether any action should be taken against the doctor's registration.

If the tribunal concludes that the doctor's fitness to practise is impaired, the following sanctions are available:

- To take no action
- To accept undertakings offered by the doctor, and agreed with the GMC, provided the tribunal is satisfied that such undertakings protect the health and wellbeing of the public
- To place conditions on the doctor's registration
- To suspend the doctor's registration
- To erase the doctor's name from the medical register, so that they can no longer practise

Warnings

If a tribunal concludes that the doctor's fitness to practise is not impaired, it may issue a warning to the doctor. This will only be where there has been a significant departure from the standards set out in good medical practise or there is a cause for concern following an assessment of the doctor's performance.

What happens if I am not happy with a decision by the GMC not to investigate?

Request a Rule 12 review

You can request what is known as a Rule 12 review. (GMC's Fitness to Practise Rules 2004 as amended). Such requests need to be made within two years of the GMC decision. This can only be extended in exceptional circumstances.

Such a review can only be carried out if:

- i. The decision in question is materially flawed and/or
- ii. There is new information which may have led to a different decision and/or
- iii. The review is necessary for the protection of the public or in the public interest.

You would need to make your request in writing to the Registrar of the GMC, identifying the material flaw and the new evidence you are relying on.

AvMA's advice and information service can review the decision of the GMC and offer advice on making a request for a Rule 12 review. If you would like AvMA's support, please complete a new client form:

www.avma.org.uk/new-client-form

After further enquiries the Registrar can:

- Conclude that there was a material flaw or new information and can either replace the original decision with a fresh decision or refer the matter to the case examiners for reconsideration
- Decide that there are no grounds to change the original decision and this will stand.

Make a complaint to the GMC

You can raise a customer complaint to the GMC if you are unhappy with the way in which your concerns have been handled. Reasons for a complaint may include:

- The way in which a procedure or policy has been applied
- The way the GMC communicated with you
- The actions of GMC staff
- Any service the GMC provided that you feel wasn't satisfactory.

As with any complaint, you need to raise your concerns as soon as possible.

You can find out how to raise your customer complaint and how the GMC will deal with this at:

GMC contact details

www.gmc-uk.org/concerns

London

Monday to Friday, 8.30 am–4.30 pm.
Regent's Place, 350 Euston Road, London NW1 3JN

Manchester

Monday to Friday, 8.30 am–5 pm.
3 Hardman Street, Manchester M3 3AW

Cardiff

Fourth Floor, Caspian Point 2, Caspian Way, Cardiff Bay CF10 4DQ

Edinburgh

5th Floor, The Tun, 4 Jackson's Entry, Edinburgh EH8 8PJ

Belfast

9th floor, Bedford House, 16–22 Bedford Street, Belfast BT2 7FD

What other remedies may I have?

Professional Standards Authority (PSA)

This is the body which oversees the work of the GMC. They do not have legal powers which would allow them to investigate complaints about the health and care professional regulators and are not a complaints handling organisation. However, they can and sometimes do challenge decisions made by the MPTS where they judge that the decision is too lenient. You can write to them asking them to do so, setting out your reasons why. They also invite feedback on how the GMC has handled your concerns.

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

You will usually need 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 GMC complaints procedures.

The following conditions will also apply:

- 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 practise

- Support for clinical techniques
- Registration application decisions

Contact details

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

020 7389 8030

info@professionalstandards.org.uk

www.professionalstandards.org.uk

Judicial review

Judicial review is a legal process by which the courts assess whether a public body or quasi judicial body such as the GMC or MPTS has reached or failed to reach a decision reasonably or 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 after the decision you are challenging 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 Review at:

<https://publiclawproject.org.uk>

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£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

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The **charity** for patient safety and justice

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

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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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