

Annex C to the MoU between the ACPO, CPS, NMC, and GMC – overview of GMC investigation processes

The Meaning of Fitness to Practise

To practise safely, doctors must be competent in what they do. They must establish and maintain effective relationships with patients, respect patients' autonomy and act responsibly and appropriately if they or a colleague fall ill and their performance suffers.

But these attributes, while essential, are not enough. Doctors have a respected position in society and their work gives them privileged access to patients, some of whom may be very vulnerable. A doctor whose conduct has shown that he cannot justify the trust placed in him should not continue in unrestricted practice while that remains the case.

In short, the public is entitled to expect that their doctor is fit to practise, and follows the GMC's principles of good practice described in Good Medical Practice (GMP). It is in the light of these principles that we make a decision on a doctor's fitness to practise.

Good Medical Practice

GMP sets out the standards of competence, care and conduct expected of doctors, under the following main headings:

Good clinical care – doctors must provide good standards of clinical care, must practise within the limits of their competence, and must ensure that patients are not put at unnecessary risk.

Maintaining good medical practice – doctors must keep up to date with developments in their field, maintain their skills and audit their performance.

Relationships with patients – doctors must develop and maintain successful relationships with their patients, by respecting patients' autonomy and other rights.

Working with colleagues – doctors must work effectively with their colleagues.

Teaching and training – where doctors have teaching responsibilities they must develop the skills, attitudes and practices of a competent teacher.

Probity – doctors must be honest and trustworthy.

Health – doctors must not allow their own health condition to endanger patients.

Most doctors measure up to these high standards but a small number fall seriously short and thereby put patients at risk, cause them serious harm or distress or undermine public confidence in doctors generally. For that reason, the GMC has legal powers to take action where it appears that a doctor's fitness to practise may be affected by poor skills or performance, ill health, misconduct or a criminal conviction.

Criminal Investigations, Convictions and Cautions

The GMC will typically open its own investigation file upon hearing about an ongoing criminal investigation of a registered doctor. The same will apply upon notification of a caution or conviction. It is important to note, however, that an ongoing police investigation will have primacy over our own investigation and the GMC will not seek to hinder or obstruct the criminal process in any way. In more serious police investigations, the GMC may seek to take action to restrict or suspend the doctor's registration (ability to practise) whilst the criminal investigation is ongoing. This will usually be because there is a suggestion of a risk to patient safety or significant public interest in the case.

What criminal convictions, cautions or police investigations would warrant interest from the GMC?

Where a doctor is/was subject to a criminal investigation or has received a conviction/caution this would usually be of interest to the GMC. Such behaviour on the part of the doctor may justifiably raise concerns about the doctor's probity or be such that public confidence in doctors generally might be undermined if the GMC did not take action. Police investigations can also point to wider concerns about a doctor's fitness to practice which may in turn lead to potential breaches of GMP and/or legitimate concerns for patient safety or the well being of the doctor.

The GMC, recognising the importance of this area of Fitness to Practise, introduced the following requirement within the body of GMP;

Para 58

You must inform the GMC without delay if, anywhere in the world, you have accepted a caution, been charged with or found guilty of a criminal offence.....

The following section of Good Medical Practice is one which is often found to be applicable upon receipt of information from the police and points to the doctor's probity;

Para 57

You must make sure that your conduct at all times justifies your patients' trust in you and the public's trust in the profession.

What sort of offences would the GMC be of interest to the GMC and would typically trigger an investigation into the doctor's fitness to practice?

- offences where there is an element of violence (for example common assault, ABH, GBH) on part of the doctor;
- offences where there is an element of *dishonesty* (for example shoplifting, fraud, theft);
- offences involving inappropriate sexual behaviour;
- drink drive offences;

- drugs offences; and
- offences with a racial motivation.

The list is not exhaustive. The GMC would not normally be interested in offences involving unlawful parking or fixed penalty offences committed under Road Traffic Offences Act 1988.

The GMC does not routinely hold information on doctors' previous convictions or cautions. This would be an unwieldy task given the number of registered doctors, circa 226,000. With this in mind the GMC will routinely ask the police for information on any previous cautions/convictions where there has been a police investigation of a doctor.

Interim Orders Panel

The GMC has the power to take interim action to restrict or suspend a doctor's registration during the course of a fitness to practice investigation. The GMC will often consider this course of action during an ongoing police investigation, especially where there is any suggestion of a risk to patient safety.

A referral to Interim Orders Panel (IOP) is appropriate where the doctor faces allegations of such a nature that it may be necessary for the protection of members of the public or in the public interest, in order to preserve public confidence in the profession and maintain good standards of conduct and performance, or in the interests of the doctor, for his registration to be restricted whilst those allegations are being fully investigated.

It will be important for the police to notify the GMC in a timely manner so that action may be taken under the IOP process. The GMC recognises that the police may justifiably wish to restrict disclosure of information especially in the early stages of a criminal investigation.

Please see the three case studies below which provide an overview of the GMC investigative process in criminal cases;

Case Study 1 – Drink Drive Conviction

- police notify GMC under Home Office Circular
- We open an investigation and write to the doctor and inform the doctor's employers
- We invite the doctor to undergo two separate health assessments
- We seek additional information from the police, including an account of the arresting officer, what the doctor said and confirm levels of alcohol in blood/breath.
- Doctor was not traveling to/from work at the time of the incident which could be an aggravating factor and he/she cooperated with the police. The doctor was 1 ½ times over the limit. The police confirm that the doctor has no previous convictions/cautions.

- The health assessments indicate that the doctor does not have an alcohol addiction and is fit to practise without restriction.
- The GMC concludes its investigation by issuing the doctor with a “Warning” which stays on the doctor’s GMC record (and is published) for a period of 5 years but does not restrict the doctor’s ability to practise. The warning will incorporate elements of paragraphs 57 and 58 of Good Medical Practice (GMP).

Case Study 2 – Caution for Shoplifting

- doctor notifies the GMC
- GMC opens an investigation and writes to the doctor’s employers and the police.
- the police disclose information concerning the offence, interview transcript and account of the arresting officer. The police confirm that the doctor has no previous convictions or cautions.
- The doctor regrets the incident and there is no suggestion from the police evidence of any aggravating factors or ongoing health issues.
- The GMC concludes the investigation by issuing the doctor with a ‘Warning’.

Case Study 3 – Police investigation into offence of manslaughter

- police notify GMC (Dr has been arrested, interviewed and is being held in custody).
- GMC opens an investigation, writes to doctor’s employer and initiates the IOP procedure (see above).
- Dr is charged by police
- The Interim Orders Panel is convened and the Dr’s registration is suspended for a period of 18 months (whilst police investigation continues).
- Dr is convicted
- Dr is referred to a Fitness to Practise Panel and is erased from the Register.