

Medical Protection Society (MPS) submission to Professional Standards Authority (PSA) performance review of General Medical Council (GMC)

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Text of submission in full:

Thank you for inviting the Medical Protection Society (MPS) to respond to the Professional Standards Authority (PSA) review of the of the General Medical Council's (GMC's) performance in the past 12 months. We have set out our comments below.

Fitness to Practice (FtP)

Without question, the GMC's FtP function is what causes MPS members the most concern. FtP proceedings can have career altering implications for doctors, as well as adverse effects on their health.

On an individual case-by-case basis, this year – as every year – has seen us having to raise some concerns directly with the GMC, about their handling of specific cases.

We welcome steps by the GMC to be more transparent with regards to publishing information about the number of deaths during fitness to practice investigations. The GMC have made good progress in this area which should be acknowledged.

The GMC are receptive to our feedback and proposals for how improvements could be made. We very much value the direct lines of communication we have with senior officials in the FtP division – specifically Anthony Omo (Director of FtP), Anna Rowland (Assistant Director of Policy), Amanda Downing (Head of Policy and Planning), Joanna Farrell (Assistant Director of Investigations) and Emily Fisher (Assistant Strategic Relationships Manager) – who are always constructive and helpful in finding resolution to specific points of concern.

Legislative reform

We understand that following the UK government consultation on *Regulating healthcare professionals, protecting the public*, that the Department of Health and Social Care's latest intention is to finally strip the GMC of its right of appeal MPTS cases in Spring 2023, alongside the introduction of regulation for Physician Associates and Anaesthesia Associates. While certainly this is welcome news, we are disappointed that yet again we are seeing further delays to wider reforms to the Medical Act, as changes are not due to be implemented until 2024 at the earliest.

Good Medical Practice review

We have actively engaged with the GMC on their review of *Good Medical Practice (GMP)*.

The GMC have proposed wide ranging changes to GMP many of which we welcome.

This document is marked **MPS Public** by MP.

We have however raised strong concerns about the proposal to replace the existing statement in Good Medical Practice which sets out the threshold for regulatory action. We believe this change risks significantly increasing the number of cases which fall well short of the threshold. The draft proposes removing the existing threshold statement: ‘only serious or persistent failure to follow this guidance will put your registration at risk’ and replacing it with an explanation that it acts: ‘where there is a risk to patients, or public confidence in medical professionals, or where it is necessary to maintain professional standards.’ In our view, this statement is open to interpretation and is not sufficient in setting out the seriousness of concerns that the GMC is focused on.

In recent years the GMC has received an average of 8,600 enquires a year in relation to a doctor’s fitness to practise but less than 2% of this number result in erasure or suspension each year. This would suggest there is already a significant disconnect between the expectations of those referring doctors to the GMC and the purpose of the regulator. Removing the existing threshold statement will only exacerbate this issue. While the GMC is yet to decide on the wording of the final draft, we are satisfied that efforts have been made from their side to liaise with us and listen to our concerns. We, however, remain vigilant as to whether our recommendations would be taken into account when drafting the final version.

Another area within GMP that we had concerns with is the new draft’s emphasis on teamwork and interaction with colleagues. We of course support the principle of effective collaboration and positive interaction with colleagues but in seeking to optimise team dynamics we believe that the GMC is expanding the areas under the purview of the regulator which could be dealt with more proportionately at a local and managerial level.

Our concern is that patients, employers and colleagues can point to the requirements in GMC guidance when considering a doctor’s actions, including whether to refer a complaint about a doctor to the GMC; and the regulator considers whether action is required based on the requirements set out in Good medical practice and other guidance. Therefore and based on our experience and expertise in supporting doctors who are faced with a regulatory investigation, we have serious concerns that the proposed updates to this guidance could be misused by employers, colleagues and patients, leaving medical professionals increasingly subject to distressing referrals and investigations.

An example is the addition of a requirement for healthcare professionals to be ‘courteous’. While ideally we would all aim to be courteous, compassionate, inclusive and supportive at all times, the reality of practice sometimes makes it highly difficult to showcase these attributes. We are concerned that these changes could see the door being left open to a deluge of subjective referrals raised by disgruntled colleagues, which could be followed by tit-for-tat complaints, with prolonged legal debates about what is and is not considered ‘courteous’ or ‘compassionate’.

Diversity, inclusion and Equality

We acknowledge and welcome GMC efforts in recent years to tackling persistent inequalities, making it part of their corporate strategy for 2021-25, including the aim to eliminate disproportionate FtP referrals from employers in relation to ethnicity.

We also welcome the work they have done in collaboration with MPS and others to create a standardised induction programme for international medical graduates. This is a good example of a regulator working proactively collaborating with others to highlight the support that is needed by a segment of doctors on the register who are more likely to receive a referral.

However, it continues to be the case that individual MPTS cases continue to raise concerns and create further distrust on the regulator.

As the recent PSA report, Safer care for all acknowledges, inclusive working and training environments are crucial to doctors' wellbeing and to safe patient care. The report also highlights something that we have been consistently mentioning for a few years, that a toxic workplace will likely have a negative impact on patient experience, patient outcomes and patient safety.

We support the PSA's recommendations, and we share the belief that the professional regulators should record and make available demographic data on complaints made to the health and care services across the UK for all bodies to use in order to identify disproportionate impacts and risks to protected groups.

MPS, as a membership organisation, will always remain a constructive but critical stakeholder of the GMC. It is vital that the regulator always looks to how it can improve.

If MPS can be of any further assistance to the PSA in its review of the GMC's performance, or in any other matter, then please do not hesitate to contact us.

ENDS