

Panellist Circular



27 May 2014

To: All Panellists
Legal Assessors
Medical Defence Organisations

cc: Panel Secretaries

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Meetings with Doctors

The GMC has recently reminded Investigation Committee panellists of the meetings with doctors pilot. We attach a copy of the communication for your information.

Kind regards

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The MPTS makes impartial decisions in doctors' fitness to practise hearings. The MPTS is part of the General Medical Council, but it is operationally separate and it is accountable to Parliament.

The GMC is a charity registered in England and Wales (1089278) and Scotland (SC037750)

Investigation Committee Panellist Circular 01/2014

20th March 2014

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All IC Panellists
All IC Panel Secretaries

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Copy To: All IOP / FTP Chairs
All IOP / FTP Panellists
All IOP / FTP Panel Secretaries

Meetings with doctors

In September 2012, the GMC commenced a pilot project to meet with doctors at the end of the investigation to ensure full understanding of the doctor's position in relation to the concerns before making a decision about whether the case needs to go to be referred to a Fitness to Practise hearing.

The purpose of the meeting is to encourage the earlier sharing of information that may impact on the outcome of the case.

More specifically, the meeting aims to:

- a. Provide an opportunity for the GMC to explain the factors that would tend to aggravate and mitigate the gravity of the alleged misconduct: for example: any evidence of insight, any evidence of remediation planned or undertaken since the events in question, the likelihood of repetition, any element of dishonesty within the allegations.
- b. Give the doctor an opportunity to explain why the alleged misconduct is not as serious as it might otherwise appear, including why it is not sufficiently serious or well-founded to justify referral to a hearing.
- c. Ascertain whether there is any information which we do not already hold which may affect the GMC's view of the seriousness of the matter which the doctor can share with us.
- d. Explain the types of written evidence that would be required in order to substantiate information provided by the doctor in support of their case.

The purpose of the meeting is not to assess the doctor's demeanour or credibility.

It is important to note that following a pilot meeting, the decision about the outcome of the case at the end of the investigation can only be made after the meeting on the documentary evidence available. Anything said at the meeting is not relied on or taken into account unless it is supported by written documentation. The meeting does not in and of itself affect decisions but is a mechanism to ensure that the documentary evidence available to decision makers is of better quality. With this in mind the meeting is not a relevant factor to be taken into account in any adjudication. Adjudication should as always be made based on the documentary evidence available and any oral evidence presented at a hearing.

The meeting itself is not an indication that the GMC is minded not to refer the case to a Fitness to Practise Panel and whether or not a doctor has attended a meeting and the nature of the discussions are not matters which are relevant to the decision that the panel is being asked to make at either an FTP or IOP hearing or at an Investigation Committee hearing.

Nothing is decided at the meeting and in the normal course of events, the GMC will not present information about the meeting to the panel.

Attendance at the meetings is wholly voluntary and there is no inference, either positive or negative, to be drawn from a doctor:

- a. Being invited or not being invited to a meeting
- b. Choosing to attend or not to attend a meeting
- c. Agreeing to share or not to share information at or after a meeting.

The meeting is attended by a Case Examiner making a decision on the doctor's case, and a Legal Adviser from GMC Legal. As part of the pilot, the meeting has also been attended by an independent facilitator in 50% of the cases to aid discussion and the sharing of information.

In order to ensure that decisions are based only on the available documentary evidence, the Case Examiner who has not met the doctor considers the appropriate outcome of the case at the end of the investigation first. The Case Examiner who attended the meeting is then the 2nd decision maker.

Prior to the start of the meeting, the doctor and their representative (if applicable) are given copies of a briefing sheet which explain the key tenets upon which the meeting is held:

- a. The meeting is not without prejudice. The GMC, as a regulator, cannot have an 'off the record' meeting with doctors under investigation.
- b. The Case Examiners can only take into account material which is provided in writing by the doctor as part of their Rule 7 Response. Nothing that the doctor says in the meeting (short of self-incrimination) forms part of the decision making process. The purpose of the meeting is to identify documentary evidence which the doctor can provide in the Rule 7 Response.

- c. The only note that the GMC takes of the meeting is a list of types of information that the doctor should consider providing with their written Rule 7 Response. No other formal record of the meeting is kept. The doctor and/or their representative are free to take their own note.

Matters relating to the meetings are not likely to be relevant issues for inclusion in Panellist decisions.