

## ***Disciplinary Procedures***

Divided into Local, & GMC with NCAS (National Clinical Assessment Service) somewhere in-between.

### **Local**

Vary, if trusts don't have their own procedures, then follow Health Circular HC(90)9 (Disciplinary procedures for Hospital and Community medical Staff) 1990.

Covers 3 main things:

1. *Professional Misconduct* (-clinical, eg illegal prescribing)
2. *Personal Misconduct* (-stealing, assault etc)
3. *Professional Incompetence* (-clinical eg poor record keeping)

• All allegations investigated by line manager/medical director- may be suspended\* if patient at risk. If a pattern or serious, direct referral to GMC

• **Disciplinary hearing panel** (line manager/medical director and HR manager, may have non-legal friend/union rep.). 4 days warning & 2 days warning for what evidence/witnesses. Outcome:

- Nothing proven/no action
- Informal resolution & review 3-6/12
- Counselling
- Oral Warning (first time minor)
- Written Warning (more serious or second minor within 3 months) on file 12/12
- Final written warning (>1 serious/yr)-on file 18/12

If sufficiently serious, Chairman of Trust warns that at least 21/7 time...

• **Formal Inquiry Panel** (legal chairman from Lord Chancellor +2 others, 1 medical/1 trust non-executive lay person or if 'incompetence' 2 medical at least 1 from same specialty, entitled to legal rep.). Evidence in private under oath, burden of proof is civil (balance of probabilities) but goes up with increasing seniority of accused. Conclude in 1/52, report to Trust Board 4/52, copy to accused, who can request amendment in 4/52, final report 4/52. Panel has no power but reports to Trust Board:

- Dismissal with notice (serious but pts not at risk)
- Action short of dismissal (4 weeks unpaid leave, transfer, demotion)
- Summary dismissal (very serious/pts at risk)

Appeal <21/7, heard by 3 Trust board members (1 specialist knowledge)

\*Suspensions done in private with witness, substantiated <10/7, reviewed every 2/52, complete <3/12. Doesn't stop private work.

If performance consistently declined and unlikely to improve, Trust can retire a doctor prematurely +/- <6/12 'gardening leave' usually for sick doctors (>50 and worked >2 years)

If performance reduced due to physical/mental ill health, can be dealt with by 'Three Wise Men' (3 senior clinicians, Chaired by Chairman of the Hospital Medical Staff Committee) & accused colleague/defence rep). Reports to Chairman of Trust

## **GMC Fitness to Practice Procedures**

(from 1 Nov 2004)

[http://www.gmc-uk.org/concerns/the\\_investigation\\_process/index.asp](http://www.gmc-uk.org/concerns/the_investigation_process/index.asp)

No longer separate streams for conduct, health and performance:

1. Initially try and follow **local** complaints procedures. Outcomes:

- No action required
- Internal/local action
- Information exchange
- Referral to the GMC

2. 2 GMC case examiners- '**further investigations**'. Outcomes:

- conclude with no action
- issue a warning
- refer to an FTP panel
- agree undertakings
- refer to the Interim Orders Panel (IOP)

3. **Investigation Committee**, doctor has rights to this if disagrees with eg warning above. Outcomes:

- Conclude with no action
- Issue a warning
- Refer to an FTP panel
- Agree undertakings
- Refer to the Interim Orders Panel (IOP)

**Interim Orders Panel**, only if required for public/doctor protection. Outcomes:

- No order directed
- IOP directs interim conditions (restricting practice)
- IOP directs interim suspension with immediate effect for <18/12, must review <6/12

4. **Fitness to Practice Panel** adjudication, final stage. 3-5, at least 1 medical and 1 non-medical panelists from pool of 300 and a legal assessor. Doctor legally represented, Outcomes:

- put conditions on the doctor's registration;
- suspend the doctor's name from the medical register;
- erase the doctor's name from the medical register;
- issue a warning to the doctor;
- conclude the case with no action.

## **National Clinical Assessment Service**

<http://www.ncas.npsa.nhs.uk/>

Division of National Patient Safety Agency (a special health authority), which gathers resources and provides advice to practitioners and trusts on how to proceed in particular cases. Can also carry out formal assessments of professional practice.