

The General Medical Council investigations process



A Londonwide LMCs guide

Published: 26.6.2023, version 1.0

The GMC investigation (rule 4 Stage)

The GMC operate what is in effect a triage system in that there may be some complaints that they do not need to investigate at all. The GMC's guidance on their [investigation process is here](#) and they also [publish statistics on their investigations](#).

If a doctor receives correspondence from the GMC, it may indicate that they are undertaking a provisional enquiry (to decide whether an investigation is indicated) or an investigation.

The doctor will usually be asked to complete and return a Work Details Form (WDF) with a 7-day timeframe – this is likely to prompt the GMC to contact any the practice(s) at which the doctor is working together with any other employers or agencies referenced on the WDF.

There is an obligation under regulation 9(2)(j) of the National Health Service (Performers Lists) (England) Regulations (2013) to inform the NHS England Area Team if a doctor becomes the subject of an investigation by a regulatory body (such as the GMC) within 7 days and to provide an explanation of the facts giving rise to the matter and copies of any relevant documents.

There is not the same legal obligation to report being the subject of a provisional enquiry, simply because this process started after the legislation was written. However, it would ordinarily be in a doctor's interest to ensure they do notify the NHS England Area (especially given that NHS England are notified of provisional enquiries by the GMC in any event).

Medical defence organisations (MDOs)

The doctor is not under any obligation to make comments to the GMC at this stage and should contact their MDO without delay.

The MDO representative will usually advise the doctor not to make substantive comment at this stage for the following reasons:

- The doctor will not have had full disclosure of all potentially relevant information/documents or any disclosures potentially made by their employer (which may be added to the GMC's investigation).
- Any comments that you make will be shared with the complainant.
- The complainant may use any comments that you make to further embellish their concerns and may highlight any factual errors.
- It is usually unlikely that making comments at this stage will either curtail the GMC investigation or prompt them (the GMC) to close the case with no further action.
- There is a risk that providing comments may widen the scope of the GMC investigation.

Please note that no adverse inference is drawn by the GMC from a no comment response from the doctor at this stage.

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Interim orders tribunal (IOT)

If the GMC have a concern that action is required on a doctor's registration prior to the outcome of the investigation, then the doctor can be invited to [appear before the IOT](#).

The IOT panel consider if there is a risk to patients or to the doctor during the investigation process if the final outcome of the investigation is that the allegations are found to be true.

The IOT does not determine the facts of a case, but they can:

- Impose no order.
- Impose an interim order of conditions on a doctor's registration.
- Impose an interim order of suspension on a doctor's registration.

If an order is imposed, it will usually be for 18 months and it will be reviewed at 6-monthly intervals unless:

- Significant new evidence comes to light (please note that the doctor [preferably with assistance from their MDO] can request a review of the interim order if new evidence comes to light that suggests that the order could be favourably varied).
- The Case Examiners or the Medical Practitioners Tribunal Service (MPTS) reach their substantive decision (in which case the interim order will be revoked and substituted with the substantive decision).

If the IOT wish to impose an interim order for in excess of 18 months, then they need to make an application to the High Court for an extension.

The GMC investigation (rule 7 Stage)

The GMC routinely instruct an expert in relation to professional performance cases – if the expert has no criticisms of the doctor's involvement in the case, then (on the assumption that no other issues arise in the context of the GMC investigation), it is likely the case will be closed without proceeding to Rule 7 Stage.

If the GMC expert does identify concerns and/or if there are concerns about a doctor's health and/or conduct, then the GMC are likely to write to the doctor in accordance with Rule 7 of the General Medical Council (Fitness to Practise) Regulations 2004 (this is otherwise known as a Rule 7 Letter).

Appended to the Rule 7 Letter will be an annex outlining the allegations, together with a further annex containing the supporting documentation.

There is a 28-day period in which to provide a response (albeit, an extension of time can be sought if there are reasonable reasons why the deadline cannot be met) and MDOs tend to instruct a solicitor to prepare and submit the response on behalf of the doctor, after meeting with them to discuss their position on the allegations.

Once the response has been received by the GMC, the papers will be considered by two Case Examiners (one medical and one lay) who will decide on the next steps.

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The decision of the case examiners

The options available to the Case Examiners are as follow:

- To conclude the case with no further action (or a letter of advice).
- To invite the doctor to agree a warning.
- To invite the doctor to agree to a set of undertakings.
- To refer the matter for hearing before the [Medical Practitioners Tribunal Service](#) (MPTS*).

*The MPTS is the independent adjudication arm of the GMC established in June 2012 and accountable both to the GMC and Parliament.

A guide to the timescale for the GMC investigation

- If the matter proceeds to Rule 7 stage, then the doctor should expect to receive the Rule 7 letter within **3 to 6 months** (of receiving the Rule 4 letter).
- Upon receipt of the Rule 7 letter there is a **28-day period** in which to prepare and submit the response (please refer to the above comments re time extensions to this deadline).
- The decision from the Case Examiners will usually be available within **4 to 8 weeks** of them having received the Rule 7 response (if the case is referred to a Medical Practitioners Tribunal it may be in the region of 6 months before it is listed for hearing).

Can a decision made by the GMC be reviewed and/or reopened?

Following the conclusion of a GMC investigation in certain circumstances the decision taken by the GMC can be reviewed in the following circumstances:

- At the request of their Registrar (Rule 12). A review may take place only if the decision is held to be materially flawed, new information has come to light or it is necessary for the protection of the public. A review will not take place after 2 years except in exceptional circumstances. If a review is held the practitioner will be given a further opportunity to make representations.
- The [Professional Standards Authority](#) (PSA) oversees health and care regulatory bodies, including the GMC. The PSA reviews all the decisions made by the Medical Practitioners Tribunal and if they feel that they are unduly lenient or do not protect the public, the decision can be referred to the Court, in which case, the Judge may:
 - Dismiss the PSA appeal.
 - Allow the PSA appeal and quash the relevant decision.
 - Substitute another decision in place of the original decision.
 - Remit the case back to the MPTS for reconsideration.