Performance Procedures

All GPs want to do their best when seeing patients. It is unlikely that a practitioner will end up in difficulties with performance procedures if they actively engage in the appraisal process, have an open and supportive practice environment, positively respond to patient concerns, observe their duty of candour and work in an environment where learning from mistakes is encouraged and shared via significant event analysis.

There are over 1,000,000 consultations per day taking place in general practice. Most are of high quality and repeated patient satisfaction surveys show that over 85% of patients rate their experience when seeing a GP as good and with nearly 50% saying it was very good. Compared with the volume of patients we see, the number of complaints a GP receives is very low.

GPs are all too aware that a serious performance issue could be referred to the GMC. Are you equally aware of the local performance procedures or what could happen if a complaint ended up with NHS England or the Ombudsman?

NHS England has a role to protect patients, ensure services are run efficiently and effectively and support general practitioners when they are struggling in delivering safe, efficient and effective services.

Every NHS region has medical directorates that have the power to investigate individual GPs and practices to the extent that they deem necessary. All GPs, whether partners, salaried or locums, are obliged to co-operate with the investigation process.

In more serious cases NHS directorates may impose restrictions on practice, refer for clinical assessment by NHS Resolution Practitioner Performance Advice Service (formally known as the National Clinical Assessment Service) or suspend doctors.

An NHS performance investigation can be triggered by an adverse incident, a safeguarding referral, reports from other health organisations or by local monitoring of performance and quality of care. An investigation may also result from a complaint made by anybody working in, attached to or associated with a practice. This would include clinical, administrative and managerial staff, pharmacists and community staff (such as health visitors, midwives or district nurses). In addition, patients and/or their relatives can also bypass normal practice complaints procedures and complain directly to NHSE.

When a GP’s performance is questioned it is important to understand the context of the issues that are raised. Experience has shown that some of these issues are because of health issues, some are caused by employment or partnership issues and some are because of an individual’s performance falling below an acceptable standard. Inevitably, there are also some concerns raised that do not have any basis in fact.

If a GP has health issues they are required, under their registration with the GMC, to ensure this does not put patients at risk. The LMC often gets approached by GPs with health issues and can offer advice, help and support for those who need it.

If a GP has partnership issues or employment issues, again the LMC can offer help and advice.

The LMC has two roles in terms of performance, firstly, to support the individual GP and, secondly, to represent the profession in defining the standard of care that it would normally be acceptable for a GP to provide.

The LMC would always advise any GP that has been referred to the NHS Performance Team to co-operate openly and honestly.

Local Performance Procedures

Following the Shipman Enquiry, a document was published called “Supporting Doctors, Protecting Patients”. This led the way, not only to the introduction of Revalidation, but also to the Performers List and locally based performance procedures. To work in general practice as a GP you must be registered with the GMC and be included on the Performers List. There is
one single Performers List for England, managed by the Area Teams via PCSE. There are similar lists in Scotland, Wales and Northern Ireland. In order to practice within England you will need to be included on the England Medical Performers List.

In 2013, the NHS introduced a National System of Performance Regulations that are now applied across England to provide fairness and consistency.

These procedures cover some but not all primary care performers, namely: GPs, Dentists and Optometrists. Pharmacists are not included on a performers list currently and therefore work under slightly different policies and procedures.

There are two stages to the procedures:

1. The Performance Advisory Group (PAG)
2. The Performers List Decision Panels (PLDP)

When a concern is raised about a GP, that concern will usually be referred to the Performance Team in the local office of NHS England. The referral may come from a variety of sources.

It can feel uncomfortable raising concerns about a colleague but we have a professional duty to do so in order to protect patients. Serious concerns often come to light as a result of multiple, recurrent issues observed by colleagues.

The Performance Team consists of people who specialise in this area and will include GPs, other Clinicians, and Managers. The team have trained investigators, both clinical and non-clinical.

When instructed, a case investigator will visit a practice to collect evidence, possibly over the course of several visits. This may include viewing patient records, hospital letters, complaint letters, audits, witness statements, practice policies and procedures, and can include emails, social media posts and even CCTV or telecommunications data. Often the practice are asked to provide the information for review before a visit takes place.

They may undertake a random case review, with assessment of a random selection of consultations. Evidence may also be collected at interviews with clinicians, members of staff or other relevant individuals, with the provision of signed statements by those involved.

Clinicians who are interviewed as part of an investigation have the right to be accompanied, for example by a representative of their medical defence organisation. It is strongly advisable for clinicians to cooperate with the interview, as this is one opportunity in the process for them to set out their side of the case. A refusal to cooperate would invariably be a harmful strategy.

Most concerns will then have a period of fact finding and potentially an investigation and then the resulting information will be presented to the PAG. If a formal investigation becomes necessary, the GP will be informed of the criteria for investigation and a “Terms of Reference” document will be shared with them.

The Performance Advisory Group (PAG)

The PAG meets regularly and consists of 4 voting members:

1. A senior NHS Manager with a performance role who will chair the PAG.
2. A discipline-specific practitioner nominated by the NHS England Area Team’s Medical Director.
3. A senior manager with experience in primary care and/or patient safety and experience.
4. A lay member.

In the Wessex LMCs area, the LMC is always invited to Medical PAG meetings, generally to represent the LMC as a non-voting member. On Occasion an LMC GP will be present as a discipline-specific practitioner. The role of the LMC representative is not to represent the individual GP but to represent the profession to provide a view as to what the normal standards expected of a GP would be.

Most cases that are presented to the PAG are dealt with at that point and outcomes may include:

1. No action is required.
2. There are some issues which are not serious and advice is given.
3. There are issues which are deemed to be more serious and are referred to the PLDP.
4. The issues are serious and pose a potential threat to patients and these may be referred to a panel who have the power to suspend a GP.

It must be remembered the purpose of the PAG is to provide advice, support, and act where performance concerns have been raised. The PAG can choose to review cases after a period...
of time if advice has been given to a GP, to ensure that advised actions have been undertaken. Action or inaction by the GP on advice given may cause the PAG to change its decision.

Doctors do not attend the PAG but will be informed of the outcomes shortly after the meeting.

**The Performers List Decision Making Panel (PLDP)**

The PLDP will consider fewer cases than the PAG and follows a much more formal structure.

Membership of the PLDP consists of the following individuals:

- A lay member who will be the Chair of the PLDP
- A discipline-specific practitioner (i.e., a GP)
- The Medical Director for NHS England or their nominated deputy.

All members have a vote and the chair has the casting vote if necessary.

Additional non-voting members and advisors may also be invited by the Chair from time to time.

The GP will be informed of the date and timing of the PLDP and would not be expected to attend in person. These meetings are held to discuss any paper evidence, and the GP is asked for their comments in advance of the meeting unless the concerns raised identify an immediate patient safety issue or an incident has been identified that would otherwise be in the public interest. If a proposal is made to take regulatory action the performer would then be invited to attend an “oral hearing”. The performer may be accompanied by a legal representative, or an advocate or an LMC member.

Note that there are two potential reasons why an LMC GP may be present. They may be there at the request of the individual GP. In this scenario they are present in a supportive and advisory capacity for the individual GP. If an LMC GP is on the Panel, however, they will be representing a view of the acceptable standards of the profession and not there making representation for the individual GP.

**What can the PLDP do?**

Once a case is considered, the Panel have many options:

- Exonerate the GP and essentially say that there is not a performance issue.

- Detail concerns and suggest that the GP voluntarily undertakes some learning or change in practice.

- Propose or invoke Regulatory action: e.g., Decide that there are more serious concerns and place conditions on the GP’s registration. So, this for example may be restricting the prescribing of controlled drugs or working under supervision etc. or it may be that there is a recommendation of training which the individual must undertake or risk being removed from the performers list.

- Suspend the GP. This is meant as a neutral act – (the GP would be prevented from working but may be entitled to receive 90% of their NHS income whilst under suspension). This is usually implemented where there are serious performance concerns and the facts are being investigated.

- Referral to the Occupational Health Service and/or NHS Resolution to establish if there are any underlying health issues and if the practitioner needs support or special measures for them to continue working.

- In the most serious circumstances, NHS England can remove a GP from the performers list and prevent them from working as a GP. It should be noted that only the GMC can prevent a doctor working as a doctor.

The important thing to remember is that this procedure is still about supporting doctors and protecting patients.

Most doctors will be unaware of the high level of collaboration and information sharing between NHS directorates and the GMC. As a regulatory body the GMC does not itself undertake detailed investigations, and relies on the findings of NHS investigations. Practitioners have a right to appeal against PLDP decisions and to take these to tribunal.

In cases when immediate suspension is required under Regulation 12 (6) a decision may be taken outside of the PLDP meetings by the medical director, with one other director. This decision must be reviewed by two members of the PLDP or a complete panel, who have not been previously involved in the decision to suspend, or have any other conflict of interest.
within two working days, beginning on the day the decision was made. The case must then be considered by the PLDP. Considerations will include whether further investigation is necessary, or if further regulatory action is appropriate.

The LMC have sat on many of these panels and we believe them to be fair and proportionate. We recognise that to go through this process for anyone is hugely stressful and not something that anyone would wish to have to undergo. The Panels are not ‘out to get you’, nor are they ‘anti’ the profession but there are some important factors you should be aware of:

- The Panel is looking objectively at the evidence to see if the GP’s performance has fallen below an accepted standard and

- If this is the case, the Panel asks if the inadequate performance put patients at risk?

- The Panel also looks for evidence that the practitioner shows insight – you would be amazed how many practitioners try to justify what is clearly indefensible – the Panel is looking for insight, humility and reflection.

- If something has gone wrong, it is important to consider what you have learnt and what you will do to prevent this happening again and if changes to your current practice are appropriate.

- Remember, this is largely about support, patient safety and not punishment!

More detailed information about the performance process is available here:

GMC guidance on raising and acting on concerns about patient safety:

NHS Resolution’s Practitioner Performance Advice Service:
They provide impartial advice to healthcare organisations to effectively manage and resolve concerns raised about the practice of individual practitioners. This may include independent assessment of the GP’s health, behavior and clinical competencies.

Practitioner Performance Advice (formerly the National Clinical Assessment Service, NCAS) was established in 2001 and is now a service delivered by NHS Resolution under the common purpose, to provide expertise to the NHS on resolving concerns fairly, share from learning for improvement and preserve resources for patient care.

Practitioner Performance Advice provide a range of core services to NHS organisations and other bodies in England, Wales and Northern Ireland such as advice, assessment and intervention, training courses and other expert services.

Further details:
https://resolution.nhs.uk/resources/guide-for-healthcare-practitioners/

Financial entitlements for suspended GP Partners
Suspension is supposed to be a neutral act, but it is incumbent upon practices to ensure that they know exactly what to do in terms of obtaining the best financial position should a GP be suspended from practice.

Click here to access guidance produced by LMC Law.

Useful Contacts Details

If you are a General Practitioner in the south west of England you will connect to the local office that manages the performers list for that area:

South West – Bath, Gloucester, Swindon & Wiltshire

Email: england.md-bgsw@nhs.net  Telephone Number: 0113 825 3500

Iona Neeve, Head of Professional Performance, Bath, Gloucestershire, Swindon & Wiltshire (email: iona.neeve@nhs.net)
Responsible Officer: Dr Elizabeth A Mearns FRCGP LLM

**South West – Dorset**

Email: englandwessexpcp@nhs.net  Telephone Number: 0113 824 9906

NHS England & NHS Improvement South East - Hampshire, Isle of Wight, Thames Valley (& Dorset)

Moira Philpott, Assistant Director Revalidation and Performance (email: moiraphilpott@nhs.net)

Responsible Officer: Dr Elizabeth A Mearns FRCGP LLM

If you are a General Practitioner in the south east of England you will connect to the local office that manages the performers list for that area:

**South East – Hampshire and Isle of Wight** englandwessexpcp@nhs.net, 0113 824 9906

NHS England & NHS Improvement South East - Hampshire, Isle of Wight, Thames Valley (& Dorset)

Moira Philpott, Assistant Director Revalidation and Performance, (email: moiraphilpott@nhs.net)

Responsible Officer : Dr Shahed Ahmad