

Memorandum of Understanding between the General Medical Council and the Pathology Delivery Board

Introduction

1. The Memorandum of Understanding (MoU) is intended to define the responsibilities of, and the relationship between, the Pathology Delivery Board (PDB) and the General Medical Council (GMC).
2. This document sets out our approach to sharing information where there are concerns about a member of the Home Secretary's Register of Forensic Pathologists (the "Home Secretary's Register") such that, for example, there may be a risk to public safety or public confidence in the criminal justice system or medical profession. It is a prerequisite of membership of the Home Secretary's Register that a forensic pathologist must be registered with the GMC and licensed to practise.

Roles and responsibilities of each organisation

The Pathology Delivery Board

3. The Pathology Delivery Board is responsible for maintaining the Home Secretary's Register. This register includes forensic pathologists personally recommended by the Home Secretary and considered to be of sufficient skill and standing to provide credible expert assistance to police forces, coroners and courts in cases involving violent or suspicious death.
4. The PDB is an oversight body appointed by the Home Office to maintain national standards for forensic pathology. It supervises the arrangements for training of potential members of the Home Secretary's Register. It makes recommendations on which doctors should be admitted to join the Home Secretary's Register. It operates disciplinary procedures under the Disciplinary Rules set by the Home Secretary. The PDB may take any action within the Disciplinary Rules necessary to maintain the integrity of the Home Secretary's Register and the criminal justice system. The PDB Chair may take action outside the Disciplinary Rules including suspension of members and recommending removal, to the Home Secretary.
5. The PDB is the Designated Body for all forensic pathologists on the Home Secretary's Register in accordance with The Medical Profession (Responsible Officers) (Amendment) Regulations 2013.
6. The Responsible Officer appointed by the PDB will be responsible for making recommendations to the GMC in respect of revalidation of forensic pathologists and in overseeing practitioners whose practice is subject to local and/or GMC sanctions including supervision, undertaking or conditions.

General Medical Council

7. The General Medical Council (GMC) is an independent organisation that helps to protect patients and improve medical education and practice across the UK. The GMC

- decides which doctors are qualified to work here and oversees UK medical education and training.
- sets the standards that doctors need to follow, and ensures that they continue to meet these standards throughout their careers.
- takes action when doctors pose a risk to the safety of patients, or the public's confidence in doctors.

Every patient should receive a high standard of care. The GMC works closely with doctors, their employers and patients, to make sure that the trust patients have in their doctors is fully justified.

Purpose of the MoU

8. The purpose of this MoU is to enhance public safety, and to maintain confidence in the criminal justice system and medical profession by clarifying arrangements for information sharing between the GMC and PDB about serious concerns about doctors who have a prescribed connection to the PDB as their designated body.

9. This document sets out the principles for information sharing between the GMC and the PDB, subject to and within the framework of the statutory responsibilities and powers to disclose information of both organisations which are outlined in this document.

10. Operational guidance to support implementation of this agreement is provided at Annex A.

Legal duty to disclose information

The GMC

Duty to disclose

11. The GMC has a legal duty under Section 35B (1) of the Medical Act 1983 to notify the Secretary of State, Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the Welsh Assembly when it commences an investigation into a doctor's fitness to practise.

12. It is also required to notify the doctor's employers, and anyone with whom they have an arrangement to provide services in, or in relation to, any area of medicine. Where the GMC is aware that a doctor under investigation is contracted to deliver services to the criminal justice system, the relevant employers are notified in line with this legal duty.

13, Following implementation of the Medical Profession (Responsible Officers) (Amendment) Regulations 2013, the GMC also notifies the doctor's responsible officer when the GMC commences an investigation into concerns about the doctor, in view of the responsible officer's statutory role.

Power to disclose

13. Under Section 35B (2) of the Medical Act 1983, the GMC has the power to disclose any information relevant to a doctor's fitness to practise to any person, where it considers this to be in the public interest. The GMC will seek to co-operate with all requests from public authorities, where it is reasonable and in the public interest to do so.

Power to require disclosure

14. The GMC also has a power to require disclosure of any information or documents relevant to a doctor's fitness to practise under Section 35A(1) of the Medical Act 1983 (as amended by the Medical Act amendment Order 2000).

The Pathology Delivery Board

15. The Medical Profession (Responsible Officers) (Amendment) Regulations 2013 impose statutory duties on responsible officers in relation to revalidation and dealing with concerns about doctors. These include appropriate notification to the GMC of serious concerns about doctors.

Sharing of information

Co-operation between the signatory bodies

17. This agreement sets out the arrangements for information sharing between the GMC and the PDB where there are concerns about a doctor. This information sharing will enable both organisations to exercise their powers and duties to investigate complaints and allegations and to take such action as may be appropriate. This information sharing will also enable the PDB to carry out its function as a designated body and the GMC to carry out its regulatory functions

Where there is a GMC Investigation of a concern

18. Where there is a GMC investigation of a doctor with a prescribed connection to the PDB:

- The GMC investigation officer will provide information to the PDB on this investigation in line with standard GMC policy on updating the doctor's designated body. These updates will be provided to the PDB Responsible Officer or to the PDB official nominated by the responsible officer. Separate updates will be provided by the GMC Employer Liaison Adviser to the PDB Responsible Officer at routine meetings and on an ad-hoc basis as required.

- The PDB Responsible Officer, or the PDB official nominated by the responsible officer, will provide any and all information to the GMC investigation officer that may be relevant to the GMC investigation, including information on any PDB investigation. Separate updates will be provided by the PDB Responsible Officer to the GMC Employer Liaison Adviser at their meetings and on an ad hoc basis as required.

Where there is no GMC Investigation of a concern

19. Where there is a PDB investigation of a doctor, in circumstances where there is no open GMC investigation the PDB Responsible Officer will update the GMC Employer Liaison Adviser at routine meetings or immediately where there is serious concern that raises a question about a doctor's fitness to practise.

20. The operational guidance attached at Annex A sets out the arrangements for information exchange to be rooted in the day-to-day working practice of staff in each of the organisations.

21. The operational guidance also sets out the statutory roles and responsibilities of the Responsible Officer appointed by the PDB.

Lawful exchange

22. The GMC and the PDB are subject to a range of legislative duties in relation to information governance including the Data Protection Act 1998, Human Rights Act 1998, and the Freedom of Information Act 2000. This document sets out the approach to the routine exchange of information between the two organisations within this legal framework

Resolution of disagreement

23. Where any issues arise which cannot be resolved at an operational level, the matter will be referred to the GMC Employer Liaison Adviser and the PDB Responsible Officer in the first instance.

Review and Governance arrangements

24. This MoU will have effect commencing on the date on which it was signed by the Chief Executive of the GMC and the Chair of the PDB.

25. The PDB Responsible Officer and GMC Employer Liaison Adviser will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two bodies.

26. This MoU will be reviewed as appropriate in line with operational or organisational changes.

27. The named contacts with responsibility for each area of cooperation identified at Annex B will liaise as required to carry out day-to-day business.



Niall Dickson

Chief Executive, General Medical Council

Signed copy available upon request

Date September 2015



Alan Pratt

Chair of Pathology Delivery Board

Signed copy available upon request

Date September 2015

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Annex A

Operational Guidance for Implementation of the Memorandum of Understanding between the GMC and the PDB

Introduction

1. The operational guidance is intended to support the implementation of the Memorandum of Understanding (MoU) on information sharing between the GMC and the PDB. The MoU sets out the legal powers and principles for working together.
2. This document describes the procedures for ensuring that sharing of information is undertaken efficiently and effectively, and the process for resolving any issues that may arise.

Information sharing during an investigation

Information when a complaint is received

3. The GMC and the PDB agree to share information, as appropriate, in relation to concerns about a doctor with a prescribed connection to the PDB
4. The GMC will notify the PDB at the earliest reasonable opportunity, where a decision is taken to begin an investigation into a doctor's fitness to practise, if the doctor is known to have prescribed connection to the PDB:
5. The PDB Responsible Officer will notify the GMC Employer Liaison Adviser at the earliest reasonable opportunity, where there is a concern about a doctor with a prescribed connection to the PDB including where a decision is taken to investigate a complaint or concern that calls into question a doctor's suitability for the Home Secretary's Register (whether or not they are currently a member of the Home Secretary's Register).
6. In the event of the PDB/PDB Responsible Officer becoming aware of a concern about a doctor who does not have a prescribed connection to the PDB, the PDB Responsible Officer will discuss with the GMC Employer Liaison Adviser at the earliest reasonable opportunity.
7. Where the PDB Responsible Officer advises the GMC Employer Liaison Adviser of a concern about a doctor the information provided by the PDB Responsible Officer should include the following:
 - a. The nature of the allegation
 - b. A description, at least in outline, of any supporting evidence
 - c. The range of possible sanctions which might in due course be imposed
 - d. Any issue of sensitivity which may impact on disclosure

e. any other relevant information

8. Exchange of information at this stage is in strict confidence and should not be disclosed to any third parties except where necessary to discharge the organisation's role in protecting the public and maintaining confidence in the criminal justice system or medical profession.

9. Information about a new PDB investigation should be provided by the PDB Responsible Officer to the GMC Employer Liaison Adviser at routine Meetings. In more serious cases, for example where there is an immediate risk to the public, the PDB Responsible Officer should inform the GMC Employer Liaison Adviser about the concern about a doctor as soon as possible – by telephone call if appropriate.

Information as investigations progress

10. Both the GMC and the PDB will keep each other updated in relation to any significant developments such as a change in the nature of seriousness of the allegations, or a decision to refer a forensic pathologist to a committee, hearing or tribunal.

11. In relation to GMC investigations responsibility for providing the PDB with regular updates is assigned to the named GMC investigation officers dealing with the case on behalf of the GMC. In addition, the GMC Employer Liaison Adviser will provide updates to the PDB Responsible Officer as part of their regular liaison. In relation to PDB investigations where there is no GMC investigation, the PDB Responsible Officer will update the GMC Employer Liaison Adviser as necessary.

Information about interim action

12. Interim action may be taken by the GMC or the PDB pending the outcome of an investigation into a doctor's fitness to practise or suitability for the Home Secretary's Register.

13. The GMC has the power to take interim action where it is necessary in the public interest to protect patients, maintain public confidence in the medical profession or in the doctor's own interest.

14. The PDB has the power to take interim action where it is necessary to protect the criminal justice system or the integrity of the Home Secretary's Register.

15. Where a doctor is referred to a committee, panel or hearing to consider whether it is necessary to take interim action while the matter is investigated, the two signatory bodies agree to share this information.

16. If action is taken to restrict a doctor's scope of practice or suspend them from a register pending the outcome of the case this information will be shared at the earliest opportunity, together with the reasons for the decision.

17. In such circumstances, any interim action taken by either organisation will be placed in the public domain (unless it relates solely to a doctor's health). However, the reasons for the action, and the nature of the allegations, should be treated in strict confidence and not disclosed to enquirers.

18. The GMC will inform the PDB Responsible Officer of the nature of any interim action, including restrictions, supervision, undertakings, conditions or suspension (unless it relates solely to a doctor's health) as the PDB Responsible Officer has statutory responsibility for monitoring the doctor's compliance with undertakings and conditions and will assume responsibility for compliance by the practitioner.

Confidentiality

20. The information exchanged must only be used for the purposes for which it was exchanged and all parties will observe the common law duty of confidentiality. The information must only be viewed by staff/members of the organisation in the exercise of their roles within the organisation related to the purpose for which the information was exchanged.

Freedom of Information

21. Both signatories to this MoU are subject to the Freedom of Information Act 2000. In many cases information exchanged between signatories will be sensitive in nature and likely to be exempt from disclosure, but there may be more general information shared which would be subject to disclosure under the provisions of the Act. If one of the signatories receives a request to disclose information to a third party and that information originated from the other signatory, then the request will be discussed first.

Resolution of disagreement

22. Any disagreements will normally be resolved amicably at working level. If this is not possible, it may be brought to the attention of the managers of the Memorandum of Understanding identified at Annex B who will then be jointly responsible in seeking to settle the issue and ensure a mutually satisfactory resolution.

Annex B Contacts

The Memorandum of Understanding will be managed on behalf of the two bodies by the following contacts:

Managers for the MoU:

General Medical Council

Joanne Donnelly
GMC Employer Liaison Adviser for Northern Ireland
General Medical Council

Email: jdonnelly@gmc-uk.org

The Pathology Delivery Board

Professor J Crane
Responsible Officer
Pathology Delivery Board

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Operational contacts

General Medical Council

Joanna Farrell
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General Medical Council

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The Pathology Delivery Board

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