**NHS Greater Glasgow & Clyde**

**Managing Conduct and Competence for Medical & Dental Career Grades (Consultants, SDAS Grades & Clinical Fellows)**

**Guidance on conducting a Preliminary Enquiry**

**What is a Preliminary Enquiry (PE)?**

Where information is received or an allegation/concern raised against a Career Grade Doctor or Dentist, which cannot be resolved informally by the Clinical Director, the matter should be referred to the Chief of Medicine/Lead Associate Medical Director (Partnerships) to instigate a preliminary enquiry (PE).

A PE is an informal exercise to ascertain the substance and seriousness of the concern prior to determining the direction and scope of any future course of action. In carrying out the PE, the Chief of Medicine/Lead Associate Medical Director (Partnerships) or delegated authority will take the following course of action:-

1. Upon receipt of the allegation/concern, write to the practitioner concerned to notify him/her of the nature of the allegation/complaint made
2. Discuss the allegation/concern with the practitioner
3. Give cognisance to any witness statements (at this stage it is not necessary to interview witnesses) and/or written documentation e.g. Significant Clinical Incident report, case notes
4. Establish the relevant facts from the information available i.e. is there substance to the allegation/concern, any mitigating circumstances, health issues
5. Decide whether there is a need to place temporary restrictions on the practitioner’s clinical practice or whether suspension is warranted

Having completed the PE, the Chief of Medicine /Lead Associate Medical Director (Partnerships) should decide if there is a prima facie case and whether any further action is required.

**What courses of action are available to the Chief of Medicine/ Lead Associate Medical Director (Partnerships) having completed the PE?**

In accordance with **NHS Circular 1990 (PCS) 8**, the Chief of Medicine/ Lead Associate Medical Director (Partnerships) should first decide whether there is a prima facie case. If there is no substance to the allegation/concern, the practitioner concerned should be informed in writing immediately.

If there is a prima facie case, the Chief of Medicine/ Lead Associate Medical Director (Partnerships) should consider the seriousness of the case and how the matter should be addressed going forward. If the allegation/concern is minor or related to health then the Chief of Medicine/ Lead Associate Medical Director (Partnerships) should consider the following:-

1. Local Intervention - If the case involves a minor conduct/competence issue and could be dealt with on an informal basis within the Sector/Directorate e.g. mentorship, training, supportive improvement plan
2. Referral to Clinical Support Group - If the case involves low level concerns about conduct/competence, where perhaps previous local intervention has gained no improvement, but the concern is not serious enough to trigger formal action. A referral to the Clinical Support Group requires the agreement of the practitioner. **Clinical Support Group**
3. Referral to Occupational Health where there is reason to believe that the practitioner has a health issue (including addiction to drugs or alcohol) which might, if not remedied, lead to harm or danger to patients. The procedure for sick doctors set out in **NHS Circular 1982 (PCS) 8** might be appropriate

Where it is decided that the matter is more serious and a formal route is required, the Chief of Medicine should consider which ‘category’ the case falls under, this will then determine the procedure under which the matter will be taken forward. This is known as classification:-

1. *Personal Conduct* – Performance or behaviour of practitioners **not** associated with the exercise of medical or dental skills. This would include failure to fulfil the contractual requirements of the post.
2. *Professional Conduct* - Performance or behaviour of practitioners arising from the exercise of medical or dental skills.
3. *Professional Competence* - Adequacy of performance of practitioners related to the exercise of their medical or dental skills and professional judgement

If the Chief of Medicine/ Lead Associate Medical Director (Partnerships) considers the evidence gathered relates to personal conduct the matter should be dealt with under **NHSGGC Disciplinary Policy**. If the evidence relates to professional conduct and/or professional competence, the matter should be dealt with as follows:-

1. For cases of professional conduct and/or professional competence, which may warrant disciplinary action short of dismissal, the matter should be dealt with under **Annex B of NHS Circular 1990 (PCS) 8.**
2. For cases involving serious professional conduct and/or professional competence which may result in dismissal and where the practitioner is disputing the facts, the matter should be dealtwithunder **Annex C of NHS Circular 1990 (PCS) 8.**
3. For cases involving serious professional conduct and/or professional competence which may result in dismissal and where there is no substantial dispute as to the facts or if the facts in question have been the subject of a criminal charge, the matter should be dealt under **NHSGGC Disciplinary Policy**

Having completed the PE, the Chief of Medicine /Lead Associate Medical Director (Partnerships) should record his/her findings and their decision as to any subsequent course of action, using the **Preliminary Enquiry Record.**  If the matter is to be addresses formally, he/she should discuss their findings with the Director before writing out to the practitioner. Acopy of the Preliminary Enquiry Record should be enclosed with the letter to the practitioner and if applicable details of any formal action.

**Can the outcome of a PE be appealed?**

If the practitioner is dissatisfied with the decision to classify the case as personal conduct, he/she may appeal within seven days of receipt of the formal notification, to the Board Medical Director. The Medical Staffing Unit will be responsible for convening a Classification Appeal Committee as specified in the **NHS Circular PCS(DD)2001/9**.

**Frequently Asked Questions**

**Is a Preliminary Enquiry the same as an investigation?**

No. The PE is limited to gathering the basic information to allow the Chief of Medicine to ascertain the substance and seriousness of the concern, prior to determining the direction and scope of any future course of action.

**Can a practitioner be represented at a Preliminary Enquiry?**

Yes. The practitioner has the right to be represented by the BMA or relevant defence body.

**What is the timescale of Preliminary Enquiry?**

The PE should be completed within 10 working days of the allegation/concern being raised, where practicable.

**Is it necessary to take a note of the PE discussion and share with the practitioner?**

The **Preliminary Enquiry Record** will serve as the note of the meeting and should be shared with the practitioner when advising of the outcome of the PE.

**Will the PE Report be used in any subsequent investigation?**

No. The PE report may inform the direction and scope of any subsequent formal process, its substance should not be used as part of any subsequent investigation to avoid the risk of prejudicing the outcome.