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**General  
Medical  
Council**

Dr Helen Bright

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**By E-mail only**

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Dear Dr Bright

Thank you for your e-mail of 23 January 2011 in which you ask about a disciplinary procedure in respect of GMC staff.

I can confirm that there is a disciplinary policy. A copy of it is attached.

Regarding your other queries: I can confirm that we do not hold any information relating to the disciplinary procedure having been used following a complaint by a doctor who has appeared before a fitness to practise Panel hearing. Similarly, we have no records of staff having been found to be at fault following a complaint by a doctor appearing before a hearing.

Yours sincerely



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## Disciplinary policy and procedure

### Purpose

1. The General Medical Council's disciplinary procedures are intended to encourage employees to achieve and maintain satisfactory standards of conduct and work performance. They provide a structured approach that, taking into account the particular circumstances of each case, should ensure consistent and fair treatment of all employees.

### Scope

2. This procedure applies to all employees. This procedure does not form part of any employee's contract of employment.

### The procedure

3. Minor infringements of standards of conduct or work performance will generally be dealt with informally, but where informal action does not bring about an improvement or the matter is more serious, the procedure set out below should be followed. The procedure may be entered into at any stage, and stages may be omitted, depending upon the circumstances of the case.

#### *Investigation*

4. When a disciplinary matter arises, an Investigating Manager will be appointed to undertake an investigation. In most cases the Investigating Manager will be the line manager of the person against whom disciplinary action is being considered. In some circumstances the Head of Section (or a Director) may appoint another manager to conduct the investigation. The Investigating Manager will establish the facts promptly and obtain written statements (where appropriate) from the employee(s) involved and from any available witnesses. All investigatory meetings with the employee involved will be for the purpose of establishing facts and will not be a disciplinary meeting.

5. Having investigated the matter thoroughly, the Investigating Manager, with support from HR, will decide on the appropriate course of action, which is not limited to, but may include whether to take no further action, arrange informal counselling or arrange for the matter to proceed to a disciplinary hearing.

#### *Suspension*

6. In certain circumstances, it may be appropriate to suspend an employee on full pay whilst an investigation is conducted. This may be used in cases, for example, involving any alleged serious or gross misconduct; where relationships have broken down; where it is considered that there are risks to the GMC's property or to the GMC's responsibilities to other parties; or if it will assist an investigation.

7. The suspension will only be imposed after careful consideration and does not mean that the employee has been found guilty of any allegation.

Suspension is not a disciplinary action and does not involve any prejudgement. The suspension will be reviewed every 5 working days to ensure that it is not unnecessarily protracted.

8. Whilst suspended the employee must not attend any GMC premises without the permission of the Head of Section/Director and should not contact other GMC employees unless strictly necessary to gather evidence to support their case.

#### *Informal counselling*

9. In some circumstances, informal counselling may be an appropriate and more satisfactory method of resolving an issue of conduct or performance. A discussion between the Investigating Manager and the employee will take place to encourage and help the individual to improve his/her conduct or performance. Additional training, coaching and advice may be needed and should be provided if considered appropriate. The formal disciplinary process will start if there is no improvement or improvement fails to be maintained.

10. Where improvement is required the employee should be informed what improvement is needed, how it will be reviewed and the timescales involved. The agreed action should be confirmed in writing and signed by the employee. A copy of the file note should be placed on the employee's personal file.

11. At any point during the informal counselling if it becomes obvious that the matter is more serious, a decision will be taken on whether to invoke the formal disciplinary procedures.

#### *Informing the employee*

12. The first step in any formal process will be to let the employee know in writing what it is they are alleged to have done wrong. The letter will contain enough information for the employee to be able to understand both what it is they are alleged to have done wrong and the reasons why this is not acceptable. The letter will also invite the employee to a disciplinary hearing at which the allegations can be discussed.

13. The correspondence inviting them to a disciplinary hearing will include:

- a. an outline of the allegations;
- b. copies of any documentation/evidence to be used at the hearing;
- c. copy of the disciplinary procedure;
- d. confirmation of the right to be accompanied at the disciplinary hearing; and
- e. details of who will chair the hearing and anyone else who will attend.

14. The employee will be given at least three working days' notice in writing of any disciplinary hearing.

15. If the employee intends to call witnesses at the disciplinary hearing they should inform HR and the Chair of the Hearing of their intention at least 24 hours in advance of the hearing so that arrangements can be made to see if any witness is able to attend.

#### *The disciplinary hearing*

16. The disciplinary hearing will be chaired by the Head of Section or Director (or someone to whom the Director has assigned authority). The Investigating Manager will attend the hearing to present the findings of the investigation. An HR representative will be present to take notes.

17. The employee must take all reasonable steps to attend the disciplinary hearing. If they are unable to attend due to circumstances outside their control, such as illness, the GMC will arrange another meeting usually within five working days. If the employee fails to attend the rearranged hearing, the Chair will consider whether to go ahead with the hearing in the employee's absence.

18. If the employee fails to attend a disciplinary hearing and does not provide a valid reason, the GMC will proceed with the hearing and make a decision based on the evidence presented to the Chair by the Investigating Manager.

19. At the hearing the employee will be given the opportunity to state their case and to answer the allegations that have been made against them. The

employee will be allowed to ask questions, present evidence, call witnesses and be given an opportunity to raise points about any information provided by witnesses.

20. Witnesses may be called to give evidence as appropriate.

21. The hearing will be adjourned before a decision whether to issue a disciplinary sanction is made. The adjournment enables the Chair to reflect and consider the employee's responses properly. It also enables the Chair to check any matters raised that may have been disputed and to consider any new evidence.

### *The right to representation*

22. The employee has the right to be accompanied at any disciplinary or appeal hearing by a colleague who is employed by the GMC or by a union official. The employee may not be accompanied by a lawyer or any other person who is not employed by the GMC.

23. The employee must advise the Chair who will be accompanying them 24 hours in advance of the hearing.

24. If the employee wishes to be accompanied by a union official, the official must either be an employee of a trade union or must be certified as being able to act as a companion in disciplinary or grievance hearings.

25. The role of the representative is very important in supporting the employee and to this end he/she should be allowed to ask questions and participate as fully as possible in the hearing but they are not permitted to answer questions on behalf of the employee.

26. Where the employee's representative is unable to attend the hearing on the date proposed, the employee should offer a reasonable alternative date which falls within a period of five working days after the date proposed by the GMC.

### *Disciplinary hearing outcomes*

27. The outcome of the disciplinary hearing will be determined by the Chair of the hearing taking all of the circumstances into account. Advice from HR should be sought if a written warning or a dismissal is being considered.

28. If the Chair of the disciplinary hearing decides that a disciplinary warning is to be issued to the employee the warning will be "live" and remain on the employee's personnel file for the period of time specified below.

29. The GMC reserves the right to initiate the procedure at any stage, or to jump stages, and to issue such sanction below as it considers appropriate depending on the circumstances of each case.

Stage	Sanction	Responsibility	Life
1	Oral Warning	Head of Section/Director	6 months
2	First Written Warning	Head of Section/Director	12 months
3	Final Written Warning	Head of Section/Director	12 months
4	Dismissal	Head of Section/Director / Chief Executive	

30. At each stage, the outcome of the hearing will be confirmed in writing to the employee normally within five working days of the date of the hearing and the employee will be advised of the right of appeal.

31. All warnings will be kept on the employee's personal file for the duration stated above. The employee will also be provided with a copy of the notes made during the hearing.

32. If a disciplinary sanction is imposed the written notification will detail:

The nature of the offence

The expected improvement in performance or conduct required

If there is a performance issue how the expected improvements will be reviewed and the timescales involved

The disciplinary warning issued and the length of time it will remain on the employee's file

The timescale for lodging an appeal and how it should be made

The likely consequences of any repetition or failure to improve which could include the taking of further disciplinary action including, where appropriate, dismissal.

In the event that the employee is dismissed, the reasons for this sanction.

33. If no sanction is applied, written notification will be provided of the outcome and expectations going forward.

#### Oral warning

34. Where an employee commits a minor misconduct offence or their work performance falls below the standard required, the Chair may issue an oral warning.

#### First written warning

35. If the issue is more serious; there is a further offence of a minor nature or where there has been no improvement in work performance, the Chair will normally issue a first written warning.

#### Final written warning

36. In the event of more serious misconduct, a further repetition of previous misconduct or a failure to improve standards of work, a final written warning will normally be issued.

#### Dismissal

37. If the employee's conduct or performance still fails to improve or the misconduct is sufficiently serious, the final stage will be to dismiss the employee. Other than for gross misconduct offences an employee will not normally be dismissed for a first offence.

38. Where an employee has committed a gross misconduct offence, he/she will normally be summarily dismissed without notice or payment in lieu of notice. Other than in cases of gross misconduct, the employee will be dismissed with appropriate notice. The GMC retains its discretion to require that during any such notice period or any part or parts of such notice period the employee does not enter or attend the premises of the GMC.

39. In either case the letter of dismissal will state the effective date of dismissal, a written statement of the particulars of the reason for dismissal, details of how to appeal and the time limit for lodging appeals. This letter will normally be sent within five working days of the hearing.

#### *Appeal*

40. Employees may appeal against any warning or decision to dismiss. The appeal must be lodged in writing within five working days of the date of the written decision of the disciplinary hearing. The letter from the employee

lodging his/her appeal should set out the grounds on which the appeal is being made and should include as much detail as possible.

41. The grounds for appeal will normally be:

An allegedly unfair original disciplinary process

New evidence has come to light

The penalty is deemed by the employee to be too harsh.

42. In the case of disciplinary action taken by the Head of Section, an appeal is to a Director. In the case of disciplinary action taken by the Director, an appeal is to the Chief Executive. In the case of disciplinary action taken by the Chief Executive, an appeal is to the Chairman of the Resources Committee (or a Council member to whom authority has been assigned). The Director, Chief Executive or Chairman of the Resources Committee may appoint another person to conduct the appeal on their behalf. As far as reasonably practicable this person must not have been involved in any part of the disciplinary process or hearing.

43. The person conducting the appeal will notify the employee in writing of the date of the appeal hearing and the appeal arrangements. The employee will have the opportunity to be accompanied to that hearing by a GMC colleague or a union official (please see section on "the Right to Representation"). The employee must take all reasonable steps to attend the meeting.

44. If necessary, facts and the evidence may be re-presented at the appeal hearing, including witnesses being called. The decision of this stage of the process will be final and confirmed to the individual in writing normally within five working days.

45. The appeal decision may:

Confirm the original decision

Provide a lesser or greater sanction

Find that no offence was committed

Request the employee be reinstated

### *Disciplinary offences*

46. The following list serves as examples of the kind of offences that may lead to disciplinary action or dismissal. It is not definitive or exhaustive. It serves as a guide to more common types of misconduct for which action may be taken. It is important to note that in some circumstances minor offences may warrant a first written warning or even dismissal.

### *Gross misconduct*

47. Gross misconduct includes:

Any act of dishonesty or theft.

Any act which brings or is likely to bring the GMC into serious disrepute.

Fraudulent act committed against the GMC.

Accepting or offering bribes or improper gifts either to gain business or for personal gain.

Disclosing or misusing any confidential information relating to the GMC or any persons, bodies, or authorities the GMC is involved with or its employees, including to members of the Press or Media except where authorised to do so or where the disclosure is made pursuant to the Public Interest Disclosure Act 1998.

Seriously breaching the GMC's policies, procedures and instructions.

Deliberate falsification of records or the unauthorised removal of the GMC's records or property.

Seriously breaching the GMC's Health and Safety Policy.  
Being under the influence of alcohol or unprescribed drugs whilst at work.  
Abuse of email and Internet by breaching the terms of the GMC's Regulations on Computer use.  
Unlawful discrimination or harassment.  
Retaliation against an employee for complaining against harassment.  
Physical violence or bullying.  
Any act or omission which causes loss, damage or injury through serious negligence.  
Any deliberate or serious damage to GMC property.  
Serious insubordination.

#### *Other misconduct*

48. Other misconduct includes:

Failure to achieve and maintain the required standards of work  
Failure to follow instructions  
Minor breaches of the GMC's policies and procedures  
Refusal to carry out a lawful or reasonable instruction  
Persistent poor timekeeping  
Unauthorised absence from work.

### **Amendments**

49. The GMC reserves the right to update or amend this policy and procedure at any time. Any amendments to or revisions made to the disciplinary procedure will be notified to all members of staff.