

# General Medical Council

Regulating doctors  
Ensuring good medical practice

**From:** Code A

**To:** Paul Philip  
Ben Jones

**Copy:** Stephanie McNamara  
Press office team  
Peter Swain  
Robert Loughlin  
Elizabeth McGrath

## **Fitness to practise investigations and hearings: what we say and when**

**CONFIDENTIAL**

**24 May 2011**

The following takes into account language and learnings from the media handling of high profile cases and it is hoped that, once developed, the agreed language can form the basis of an extended protocol for the media team.

Written responses are to be attributed to Paul Philip, Director of Standards and Fitness to Practise.

Any exceptions to the rule are to be agreed with the media team by the Director of Strategy and Communication and the Director of Standards and Fitness to Practise.

41340037

4148

Stage	Comment	Exceptions
<p><b>Receipt of complaint/ is the GMC investigating?</b></p>	<p><i>We are unable to comment on specific cases unless the doctor has a direction against his/her registration, or the case is due to be heard by a public hearing....I have checked, and this doctor currently has full registration and is not currently scheduled to appear before us at a public hearing.</i></p> <p>Written version:</p> <p><i>"We are unable to comment on specific cases/whether we have received a complaint about a doctor unless the doctor's registration is restricted in some way, or the case is due to be heard by a fitness to practise panel. This is because we have a duty of confidentiality to both doctor and complainant. This doctor currently has full registration and is not currently scheduled to appear before the GMC at a public hearing."</i></p>	<ul style="list-style-type: none"> <li>• The complainant has told the press that they have received information from the GMC confirming that we are investigating.</li> </ul> <p>Verbal briefing: <i>We can confirm we have received information from XXX, which we are currently considering.</i></p> <p>Written response: <i>"We can confirm we have received information from XXX, which we are currently considering."</i></p> <ul style="list-style-type: none"> <li>• The case is so high profile it would be unreasonable for us to deny knowledge of it, such as a court case or front page national news story.</li> </ul> <p>For example:</p> <p><a href="http://livelink/edrms/lisapi.dll?func=ll&amp;objId=39679428&amp;objAction=viewheader">http://livelink/edrms/lisapi.dll?func=ll&amp;objId=39679428&amp;objAction=viewheader</a></p> <p>Verbal briefing: <i>We are aware of concerns about Dr XXX, which we are currently considering. (if appropriate- We will await the outcome of the judicial process.)</i></p> <p>Written response: <i>"We are aware of issues relating to Dr XXX, which we are currently considering. (if appropriate) We will await the outcome of the judicial process."</i></p> <ul style="list-style-type: none"> <li>• The doctor is subject to an interim order.</li> </ul>

		<p>Verbal response: <i>"This doctor is subject to an interim order. This means his/her registration has been suspended/is subject to the following conditions for XX months. An interim order is placed on a doctor while an investigation is in progress. An Interim Orders Panel does not make any decision on the facts of the case, or the evidence relating to the allegations against the doctor. As the investigation into Dr XX is continuing, I am unable to give you any details about the nature of the investigation."</i></p> <p>Written response: <i>"According to the doctor's entry on the list of medical practitioners on our website, this doctor is currently suspended/subject to conditions as a result of facing an Interim Orders Panel in xxx. This is a temporary measure put in place, usually while investigations take place. We cannot confirm or deny if a fitness to practise hearing will be taking place for this doctor."</i></p>
<p><b>Referred to FTP panel</b></p>	<p>Verbal response: <i>"We can't comment until a date has been confirmed. This is due to our duty of confidentiality to both doctor and complainant."</i></p> <p>Written response:</p> <p>Written response: <i>"We are not able to comment on the nature of any complaint, investigation or case relating to a doctor (delete as relevant) until a fitness to practise hearing date has</i></p>	<ul style="list-style-type: none"> <li>• The fact that a Fitness to Practise hearing has been scheduled is already in the public domain (e.g. the complainant has released this information)</li> </ul> <p>Verbal response: <i>"Dr XX has been referred to a Fitness to Practise Panel Hearing. No date for this hearing has been confirmed. We are unable to comment on the specifics of the investigation while it continues as we would not wish to prejudice the outcome of a hearing."</i></p> <p>Written response: <i>"Dr XX has been referred to a Fitness to Practise Panel Hearing. No date for this hearing has been</i></p>

	<i>been confirmed. This is due to our duty of confidentiality to both doctor and complainant."</i>	<i>confirmed. We are unable to comment on the specifics of the investigation while it continues as we would not wish to prejudice the outcome of a hearing."</i>
<b>NOH (notice of hearing) sent</b>	"The hearing date for Dr XX has been confirmed as XX. This information is on the website in the 'recent press releases section' in a release entitled 'hearing dates set'."	
<b>5 working days after NOH is issued:</b>	<p>News release issued in the usual way and placed in events calendar on website.</p> <p>"We cannot confirm any other details of the case other than those set out in the press release posted on the hearings calendar. We do not receive the charges until they are read out at the start of the case. This is because they may change before that time."</p>	<ul style="list-style-type: none"> <li>If it is in the public interest to confirm where the doctor was working at the time of the allegations, and this information is in the agenda, then this may be given out – check with Head of Media first.</li> </ul> <p>If a case is of such a nature that members of the press and public will expect certain charges to be included, the press office can confirm verbally whether or not a high profile matter is being considered as part of the case; check with Head of Media in conjunction with Head of Investigations before confirming these details. (Eg in the cases of doctors [Code A] whose treatment of Peter Connelly - Baby P - formed the basis of both cases, the press team confirmed that each case centred around their treatment of Peter. In the case of [Code A] [Code A], the press team was able to confirm that the charges did not relate to the autopsy of [Code A]. Both the nature of [Code A] death and that of Peter had become matters of national interest and importance, therefore it would not have been advisable to have withheld this specific information about these cases from the media.)</p>
<b>Hearing</b>	Confirm any information that is in the public domain, including the progress of	<ul style="list-style-type: none"> <li>Defence dates: it may be in the interest of fairness to the doctor to give the press an indication of when the defence</li> </ul>

	the case. We do not hold witness lists, and so are unable to confirm who will be appearing, or when.	will start, if we have this information and it is requested. <ul style="list-style-type: none"> <li>An indication of the appearance of a particular witness in whom a journalist is interest may also given; please note that their identity may be anonymised.</li> </ul>
<b>Witness interview requests</b>	We can pass in written interview requests from the press to the GMC's witnesses, via our legal team. It is the witness's decision about whether or not to take the request forward.	
<b>Request for comment on a particular hearing case</b>	Verbal response: <i>"We do not comment on individual cases. This is because we do not want to prejudice the outcome of an ongoing hearing."</i>  Written response: as above	
<b>When a hearing has concluded</b>	Verbal response: <i>"We do not comment on individual cases. Journalists can quote from any part of a public determination, attributing the wording to the Panel Chair."</i>  Written response: <i>"We do not comment on individual cases."</i>	<ul style="list-style-type: none"> <li>When a matter is of national/legislative importance/ particular significance for the GMC, a response may be considered as in the case of <span style="border: 1px dashed black; padding: 0 2px;">Code A</span> – see <a href="http://livelink/edrms/lisapi.dll?func=ll&amp;objId=34371692&amp;objAction=viewheader">http://livelink/edrms/lisapi.dll?func=ll&amp;objId=34371692&amp;objAction=viewheader</a>. The most likely content for such a statement would set out the GMC's position on related matters, whilst avoiding a comment on a specific case.</li> <li>When the Panel's decision in a high profile fitness to practise is so far removed from GMC Counsel's case for prosecution a response may be considered, e.g. following the outcome of the case of Dr Jane Barton, in which the GMC Counsel had argued vehemently that erasure was the only appropriate sanction, a statement was issued in the CEO's name</li> </ul>

		<p>explaining that the GMC was surprised by the decision and that the doctor should have been sanctioned with erasure. See statement of 29.01.09:  <a href="http://livelink/edrms/lisapi.dll?func=ll&amp;objId=30073685&amp;objAction=viewheader">http://livelink/edrms/lisapi.dll?func=ll&amp;objId=30073685&amp;objAction=viewheader</a></p> <ul style="list-style-type: none"> <li>When a matter has left the GMC and sits with the High Court or Appeal court judgements e.g. a comment was issued at the conclusion of High Court appeals where an overturning of sanctions of erasure in the case of <input type="text" value="Code A"/> were sought, see:  <a href="http://livelink/edrms/lisapi.dll?func=ll&amp;objId=34371214&amp;objAction=viewheader">http://livelink/edrms/lisapi.dll?func=ll&amp;objId=34371214&amp;objAction=viewheader</a></li> </ul>
<b>The appeal period</b>	<p>(Both written and verbal)</p> <p><i>I am not able to confirm whether Dr x has appealed the GMC's decision; please contact the doctor's defence organisation or the High Court.</i></p>	<p>The GMC can respond affirmatively if this information is in the public domain, (eg ' I understand that this is the case...') but it is for the doctor or his/her defence organisation to confirm this – not the GMC.</p>
<p><b>Overlap between doctors' FTP cases</b></p> <p><i>Can you confirm that the doctor referred in x</i></p>	<p>When a fitness to practise case involves another doctor who is facing a FTP hearing, the press office cannot confirm that the latter doctor is a doctor under discussion in the former case.</p> <p>At the conclusion of both cases, the press office cannot confirm that the cases related to one another.</p>	

<i>case is Dr y?</i>	(eg in the case of <input type="text" value="Code A"/> , which concerned both doctors' behaviour in relation to concerns about 'Dr A' - pre-empting the case of Dr <input type="text" value="Code A"/> )	
<b>Identification of complainants/ patients:</b>	<p>Background briefing: It is standard procedure for the identities of patients/ witnesses whose cases form part of fitness to practise hearings to be protected through their anonymisation.</p> <p>Ultimately it is a matter for the Panel whether or not any requests to waive anonymity are granted and in some cases the Panel may ask the media to respect the confidentiality of patients/ witnesses.</p>	<p>There are some cases (e.g. that of Dr Jane Barton) where the patients or their relatives have asked that their identities be made public. In these cases, their proper names are used to identify them.</p> <p>The cases have already been widely reported and the names are in the public domain. (However, in the case of <input type="text" value="Code A"/> which considered his treatment of <input type="text" value="Code A"/> was still anonymised to DG). In such cases, the media team can advise journalists that, whilst the GMC has no powers to impose reporting restrictions, the Panel will be protecting the identities of the patients/ witnesses.</p>

**OTHER** (signed off – from previous Q&As; these are for both written and verbal briefing)

The following is a good example of a sensitively-put yet neutral statement; the recommendation is that other statements reflect this language:

(At outcome of case of  family of deceased patient highly critical of GMC's decision)

*"The case of  is tragic and we want to express our sympathy to her family.*

*"Fitness to Practice panels reach their decisions independently - having considered all the evidence - and the doctor has a right to appeal a decision to the High Court, so it would be inappropriate to comment on the individual circumstances of this case.*

*"This Fitness to Practice panel has decided to impose strict conditions on Code A practice and for the next 18 months he will work under close supervision. There will then be a review hearing which will further consider whether it is safe for him to return to unrestricted practice."*

*Paul Philip, Director of Standards and Fitness to Practise, General Medical Council.*

**Are GMC proceedings delayed by police/criminal proceedings?**

It is well established that a police investigation takes precedence over the investigation of a regulator. This is because an ongoing police investigation might be compromised by the disclosure of evidence in another forum such as a GMC hearing.

**Are families of the patients involved being kept up to date? (CHECK WITH CASE WORKER BEFORE ISSUING)**

The GMC's solicitors are in contact with the families in the cases that *are being taken forward* in relation to Dr XXX

**What powers does the GMC have to restrict doctors' practice whilst they are under investigation?**

The GMC can suspend or restrict a doctor's practice when it is in the public interest, in the interests of the doctor, or for the protection of members of the public and if we have sufficient evidence that such action may be necessary.

**Why is the GMC not taking forward all of the cases which have been put forward in relation to xxx?**

We have pursued those cases in which there is the most evidence to prove that a doctor's fitness to practise is impaired.



**Why can't the GMC confirm identities when some are in the public domain?**

The GMC has a duty of confidentiality to patients, witnesses and complainants and it would not be appropriate to confirm their identities. Complainants and those giving evidence can identify themselves if they wish to do so.

**Why doesn't the GMC have to await the outcome of the inquest into xxxx?**

Whilst it is necessary for us to await the outcome of criminal proceedings before taking forward our own investigations, the GMC is not under an obligation to await the outcomes of inquests before opening their own hearings.

**Why are families/ complainants not given legal representation at GMC hearings?**

As the regulator, it is the GMC's responsibility to prepare and present the case against the doctor.

See also:

<http://livelink/edrms/llisapi.dll?func=ll&objId=38349088&objAction=viewheader>