Note on Standards and Criteria

In the past, the GMC has used serious professional misconduct and seriously deficient performance as the triggers for action on registration. The GMC itself has never sought to define either term. Judges have defined SPM but not SDP. Sir DI says that GMC panels argue internally about whether something does or does not amount to SPM. He also says that different committees on performance apply different standards of SDP; much will depend on who is sitting that day. The test proposed for the new GMC FTP procedures is even worse than the old ones; something that is such as to call for action on registration. I do not think any lay person can have a clear idea of what this means in practical terms. And it probably means something slightly different to every doctor in the country. To some extent this inevitable but I do think that some effort should be made to introduce criteria aimed at achieving consistency. We need standards so that people know when to refer a case to the GMC; so that GMC case examiners know whether to refer through to a FTP panel and for those running panels to know when to take action on registration.

The lack of consistency is a problem quite apart from the fact that SDP is self-evidently too low a standard. Why should any doctor continue in practice if his performance is deficient, never mind seriously so? The argument advanced on behalf of doctors is that you cannot deprive someone of his livelihood unless his practice is seriously deficient. But what about the patients?

The absence of standards and criteria makes it impossible to have an integrated system of regulation. There should be a set of standards that apply across the board. PCTs need to know when they should refer a doctor to the GMC or whether to take action under their list management procedures. At present, they usually take advice from a doctor within the trust (or occasionally from an outside expert) and there can be no consistency in the results.

When Chai is under way, they too will need criteria, standards and thresholds by which to gauge the advice they give to PCTs about referral to the GMC and/or list management. The NCAA should have standards by which they frame their advice to trusts. The NHS Ombudsman needs standards. Appraisers need to know at what level of concern they should stop an appraisal. The public should know broadly what is and what is not acceptable.

I do accept that it is not possible to have a code of conduct and practice which covers every eventuality. However, I think there should be a clear statement of principles with examples. Can we formulate those principles and devise some standards and criteria?

We propose two basic standards: unacceptable practice and seriously unacceptable practice.

Unacceptable practice should trigger action by an NHS acute trust under its disciplinary code and by a PCT under its list management procedures, which should be extended to

allow them to deal with less serious breaches of standards by means oral and written warnings. Unacceptable practice should also trigger NCAA and CHAI recommendations for re-training and remediation.

Repeated unacceptable conduct or practice or a single instance of seriously unacceptable practice or conduct should result in referral to the GMC with action on registration. It might also trigger action by NHS trusts and PCTs.

Practice is to be regarded as unacceptable if it falls short of the standard of care, skill conduct or probity which is recognized within the medical profession as being that which a patient is entitled to expect. This would relate not only to practice or conduct in respect of a particular patient but also in relation to the public as a whole; for example in relation to dishonestly in research, due care and skill in relation of certification of various kind including death.

We need examples of the kind of conduct or practice that would fall into this category.

Practice is to be regarded as seriously unacceptable if, bearing in mind the future safety of his patients, the doctor's freedom to continue to practice without conditions or restrictions should be called into question; or the doctor's conduct or performance is likely to undermine the confidence of the public in the medical profession.

We need examples of the kind of conduct and practice that would fall into this category.

I think that it would be of assistance in developing a framework of standards and criteria if we were to prepare a list of patients' rights or reasonable expectations. To every patient right, there would be a corresponding duty upon the doctor. I know that the duties of a doctor are already set out in GMP but these are not stated to be so fundamental that if they are breached they might give rise to action. We suggest the following as patients' rights:

The right to be treated with respect, and to be free from discrimination, coercion, harassment and exploitation.

The right to receive service care provided to a reasonable standard of quality, skill and care.

The right to be fully and honestly informed about the benefits, risks, alternatives and costs of treatment so as to enable the patient to make an informed choice and give informed consent.

The right to receive a full and honest explanation when there has been a poor outcome, whether avoidable or not.

I think it would also be helpful to list some of the duties of a doctor towards the public and patients in general, breach of which would be regarded as unacceptable or seriously unacceptable, such as:

The duty to report the doctor's own criminal convictions to the GMC.
The duty to report seriously unacceptable practice by another health professional.
The duty not to continue in practice while known to be in ill health.
The duty to report serious concerns about the health and fitness of practice of a fellow health professional
The duty of honesty in record keeping, document preparation and certification of all kinds.
The duty of honesty and care in the provision of information and opinions given in a professional capacity;
The duty not to practise beyond the limits of the doctor's expertise, training and experience.