**Mental Health Act and Referral to GMC under Fitness to Practise Guidance**

Doctors in training will, from time to time, become unwell due to physical and psychological illness. This guidance has been prepared to assist in the management of trainees that are subjected to the application of a Mental Health Act (MHA) section.

**Background**

Section 35C(2) of the *Medical Act 1983* as amended states that a doctor’s fitness to practise can be impaired by ‘*physical or mental ill-health’* and as such the GMC has ‘*a duty to act in the public interest which includes the protection of patients and maintaining public confidence in the profession’.* Therefore a test needs to be applied to determine if a doctor’s fitness to practise is impaired.

Management of health issues requires a sympathetic approach toward the affected trainee doctor whilst at the same time remaining within the requirements of Equality and Diversity and Employment legislation. Any referral or assessment process must not be allowed to become discriminatory towards the individual. The reasoning behind any decision made must remain transparent, fair and equitable whilst at the same time acting in the public interest. Reasons to support decisions made need to be documented and made by the appropriate individual accessing the appropriate information available at that time. Ideally this should involve the Responsible Officer for the Designated Body (or their deputy) of the affected trainee.

There is currently no statutory requirement for doctors who have a MHA section applied to them to be referred to the GMC under fitness to practice guidance, although it will be determined to be appropriate in some instances.

**Suggested Process**

Any trainee doctor that becomes unwell will need to have their fitness to practise and their ability to continue to provide clinical care reviewed. This, for the majority, will require Occupational Medicine (OM) involvement with supporting information provided to the OM assessor from the trainee’s treating specialist where possible (subject to necessary consent). The placement / LEP (Trust or GP Practice) supervisors will need to be involved to help resolve immediate issues and to enact on-going supervision arrangements or to facilitate changes in the trainee’s placement. Information as it becomes available needs to be shared between the employer, the training school and the Postgraduate Dean if concerns are found in relation to the trainees fitness to practice or the trainee has been removed from the training placement; then discussion with the LEP Responsible Officer (RO) and the Postgraduate Dean (as the trainee doctor’s RO) via the HENE Revalidation Team will become necessary.

Early dialogue with the GMC via the GMC Employment Liaison Advisor can be helpful in determining the required next steps. It is recommended that this occurs through a single channel via the HENE Revalidation team and PG Dean as designated RO and not directly by the LEP.

The PG Dean as trainee’s RO will then be in a position to refer directly to the GMC or to liaise with the GMC Employment Liaison Advisor to agree whether a referral under the GMC fitness to practise procedure occurs. It will also allow direct discussion with the relevant employer and training school to ensure that the trainee is being fully supported during this period.

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