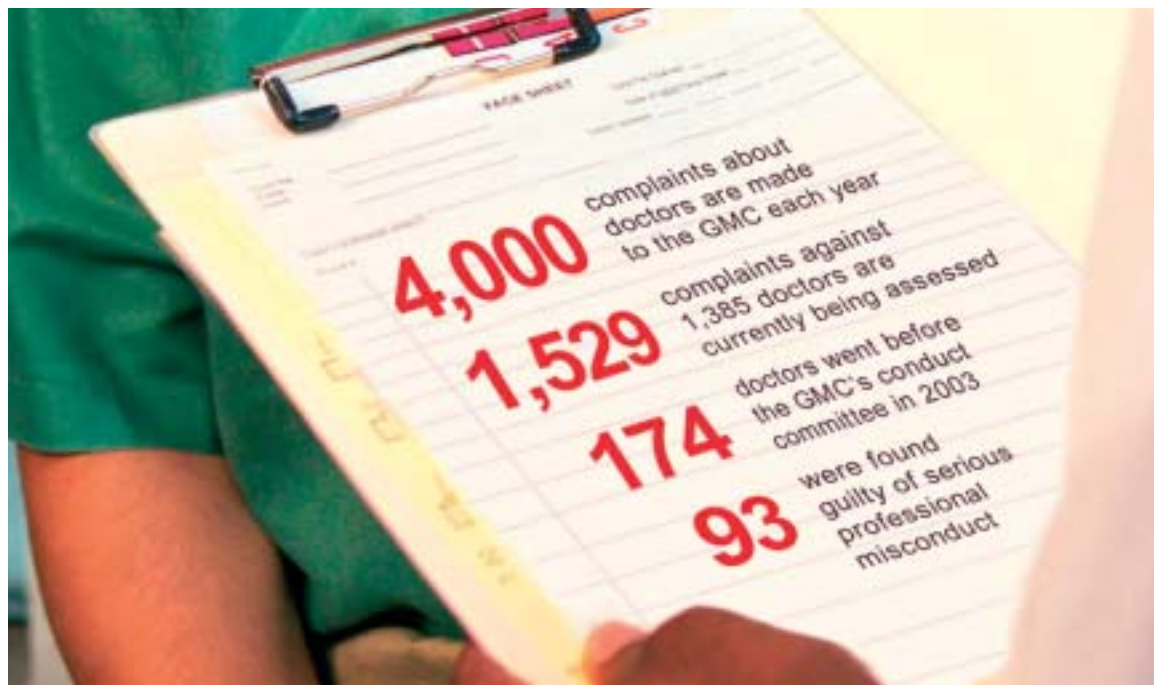


Protecting patients

Can the General Medical Council work in the patient's interest?



The General Medical Council (GMC), funded wholly by doctors, is supposed to regulate doctors and protect patients. Following the crimes committed by Dr Harold Shipman and Dr Clifford Ayling, and the Bristol Royal Infirmary paediatric heart surgery scandal, it has made moves to tighten its control of the profession. But the final report of the Shipman Inquiry, released last month, concludes not only that the GMC's past procedures 'focused too much on the interests of doctors' but also that its latest reforms don't go far enough. Dame Janet Smith, who headed the inquiry, said: 'I am by no means convinced that the new procedures will adequately protect patients from dysfunctional or under-performing doctors.'

THE PROBLEMS

The Shipman Inquiry found that many doctors still expect the GMC to represent them, not to regulate

The GMC 'focused too much on the interests of doctors'

them. And some recent GMC decisions certainly seem surprisingly lenient towards doctors. GP Giuseppe Antonio Ruscillo, for example, had an affair with a patient who had psychiatric problems. Yet the GMC found him not guilty of serious professional misconduct (SPM) and initially took no action. Dr Muhammad Matleb Ali was also found not guilty, despite failing to investigate a patient's symptoms properly. It took him 19 months to refer her to a consultant. But by then it was too late: she died of rectal cancer. According to

Frances Blunden, Principal Policy Adviser at Which?: 'The requirement to prove charges against doctors "beyond reasonable doubt" means public protection isn't always at the fore at GMC hearings'.

Of the 93 doctors found guilty of serious professional misconduct (SPM) in 2003, 18 were reprimanded, 25 had restrictions imposed on their practice (stopping them from carrying out certain procedures, say), 21 were suspended for up to a year, and 29 were struck off (meaning they were no longer allowed to practise). The GMC's guidelines state that striking off is appropriate in cases of sexual misconduct, dishonesty or failing to provide an acceptable level of care. It's more vague about other cases, and penalties don't always appear to be in the public interest. One doctor found guilty of falsifying research data, and another who wrote a psychiatric report about a patient he had never met, were simply reprimanded and allowed to keep practising. Dr Feda Mulhem, who had been convicted of manslaughter, grievous bodily harm and common assault, was suspended for just a year. Even striking off isn't as permanent as it sounds: in the last five years, the GMC has restored nine doctors originally struck off for reasons including indecent assault, deception and incompetence.

The GMC's investigation process has been slow, meaning hundreds of doctors have continued to treat patients while under investigation. During an undercover investigation into cosmetic procedures in 2003, our researcher was given misleading advice by Dr Fayez Abu Mahfouz. We later found out that the GMC had received five complaints from his patients, and that he had previously been struck off. Yet he's been allowed to keep practising for a year and a half. His case was due to be heard shortly

How the GMC works

- By law, every practising UK doctor must be registered with the GMC.
- If you want to make a complaint about a doctor, first contact the hospital or practice.
- If you are concerned that a doctor isn't fit to practise, you can contact the GMC.
- It then examines the complaint to decide whether the doctor's fitness to practise is impaired, for example if a doctor has not done their job properly, has behaved badly or inappropriately, or has a criminal conviction.
- If so, it can impose a sanction or stop them practising.

TAKE ISSUE

We'd like to hear your views about the GMC, its reforms, and whether doctors should be regulated independently.

To tell us your views on this or anything else in this issue, email

letters@which.net

We publish some questions and answers in the magazine and more at

www.which.co.uk/

whicextra

Which? says

We welcome the GMC's reforms to streamline its complaints-handling process and to introduce a licence to practise. But the Shipman report is right to conclude we need more far-reaching changes to ensure patients are properly protected. Which? plays an active part in the GMC's patient group and we've long argued for more accountable regulation.

The Shipman Inquiry is the latest in a string of investigations making similar recommendations about regulation of doctors. It's up to the government to ensure these recommendations are translated into practice, that the regulation process is overhauled, and that the public's trust in doctors is deserved.

after we went to press. If the GMC believes it would be risky to let a doctor work unchecked, it can issue an interim order – suspending a doctor, or restricting their practice until the investigation is complete. We'd like these orders to be used more widely where there's a threat to patients. In Dr Mahfouz's case, for example, the complaints and his previous record should have signalled that he could have put other patients at risk.

THE NEED FOR CHANGE

The GMC introduced changes in November to improve the way it handles complaints. Paul Philip, Director of the GMC's new Fitness to Practise directorate, explains: 'The previous arrangements were overly cumbersome, not particularly transparent and led to excessive delays.'

Two trained case examiners now review evidence to decide whether to send a complaint to a fitness-to-practise (FTP) panel. These decisions are audited to ensure they follow GMC policy. In the old system, GMC council members reviewed cases before a thorough investigation had taken place. In another change, the GMC now discloses details of a complaint to the doctor's employer at an early stage.

The Shipman report is cautious about these reforms, stating that their success depends 'on the will and determination of the GMC to make them operate for the benefit of patients rather than, as the old procedures often operated, for the benefit of doctors.' It recommends that, if the new processes prove unsuccessful within the next few years, the GMC should pass responsibility for the final stage of FTP investigations to an independent body.

The GMC has yet to announce any changes to its guidance about what constitutes SPM, or when particular penalties should apply. It's due to consult on new guidance about sanctions this month. We'll be feeding into the consultation, to ensure the guidance works to protect patients.

Doctors protecting doctors

Peter Walsh, from patient group Action against Medical Accidents (AvMA), is concerned that the

4,000 complaints the GMC receives each year are just the tip of the iceberg. 'The public may question whether it's worth complaining because of the perception that the GMC is dominated by doctors,' he explains. In another recent reform, the GMC increased the lay members on its council from 24 to 40 per cent. And no GMC council members now sit on the FTP panels. But the Shipman report stated these moves weren't enough to avoid conflict between the interests of the profession and those of the public. Jonathan Coe from patient support group Popan agrees: 'We'd like the GMC to ensure more public participation...I'm not sure that so-called professional self-regulation, even in partnership with the public, is appropriate for the 21st century.'

A licence to practise

From April, all doctors will need a licence to practise medicine. The GMC will review licences every five years through a process called revalidation, mainly based on appraisals of doctors. There were previously no mandatory checks on a doctor once they had qualified, so this is an improvement. However, patient groups are concerned that the GMC will have no control over quality, as appraisals will be conducted by employers. The Shipman report is also critical of the revalidation proposals: 'The public has been told that revalidation is rather like an MOT for doctors. Under present proposals, it's nothing of the kind.' The Inquiry recommends changes to the whole revalidation process.

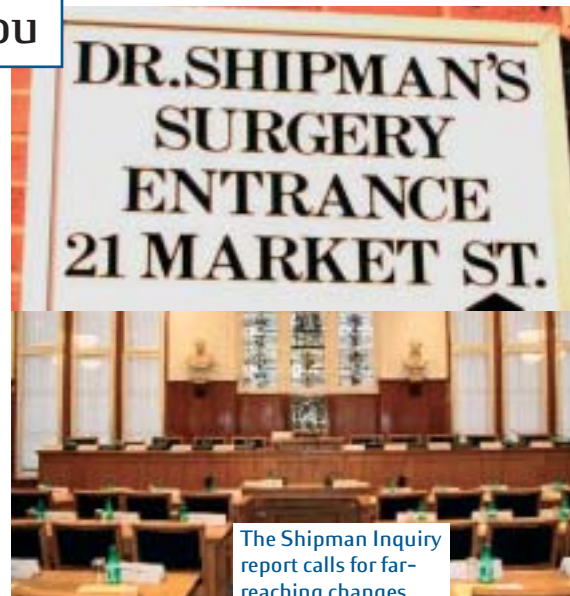
Extra protection

The Council for Healthcare Regulatory Excellence (CHRE) was established in 2003 to oversee all nine healthcare regulators, including the GMC. If it thinks a regulator's decision is too lenient, it can appeal to the High Court. It challenged the GMC's decision on Dr Ruscillo (see p17), and the High Court has referred the case back to the GMC. The Shipman report recommends that the CHRE's powers to challenge decisions are clarified. It also states that the CHRE may need more powers to ensure patients are sufficiently protected. ■

What the GMC will tell you

During the Shipman Inquiry, victims' relatives said they wouldn't have placed their trust in the doctor had they known of his earlier convictions for drug abuse. The report states that patients need to know more about doctors. It recommends putting more information online, and informing patients whose doctor's registration is subject to conditions. Currently, the GMC says it will provide information by phone

about warnings or reprimands and restrictions on a doctor's practice, even if these have expired. It won't tell the public about complaints unless it's issued an interim order or the case has been referred to an FTP panel. The GMC's website contains a short version of the register, with no details of warnings or expired disciplinary action. A fuller online register is planned for April.



The Shipman Inquiry report calls for far-reaching changes