Alcohol Misuse by Doctors – The GMC’s Legal Approach

Doctors’ Alcohol Misuse and GMC Regulation

Each year a number of doctors in medicine are referred to the GMC because they are considered to be unfit to practise without some form of GMC intervention, as a consequence of their misuse of alcohol. A referral to the GMC may be made by an employer who has concerns about an individual who smells of alcohol, or who has come to work drunk. Alternatively, a doctor may be found by the police to be under the influence of alcohol while driving, which in turn leads to a criminal conviction and a referral to the GMC. The number of doctors and other professionals living with an alcohol dependency has been reported in the press as being fairly high.

On receiving a complaint, the GMC will ask the doctor for their views. The doctor may be asked to see a psychiatrist (or two) who is a specialist in alcohol misuse health issues. The doctor may also be asked to see a General Physician. The opinions of the doctors will be sought as to whether the doctor in question has a health problem concerning alcohol.

In most cases, the examining doctors will make reference to the International Statistical Classification of Diseases and related Health Problems [View Latest Edition (published by the WHO) (external link)] referred to as ICD10 for short, when forming an opinion as to the level of alcohol use by the doctor and its impact on the doctor’s life. Each disease and disorder in the world usually has its own classification within ICD10, making it easier for consensus to be reached about what a particular individual is suffering from.
Classifications ICD F10.1 and ICD F10.2 are the classifications that are usually used where a medical examiner chooses to comment on an individual doctor’s alcohol use and its effects. In *Boodoo v GMC [2004] EWCH 2712 (Admin)* [paras 25 and 26] the appeal judge summarised the approach of doctors who advise the GMC:

For **harmful use of alcohol** to be established **F10.1**, it has to be shown that:-

A. There must be clear evidence that the substance use was responsible for (or substantially contributed to) physical or psychological harm, including impaired judgment or dysfunctional behaviour.

B. The nature of the harm should be clearly identified (and specified)

C. The pattern of use has persisted for at least one month or has occurred repeatedly within a 12-month period

D. The disorder does not meet the criteria for any other mental or behavioural disorder related to the same drug in the same time period (except for acute intoxication).

In order to establish **F10.2 Dependence Syndrome due to Alcohol**, at least three of the following have to be proved:-

A. A strong desire or sense of compulsion to drink

B. Difficulty in controlling the amount drunk

C. Physiological withdrawal state after drinking stops, with the possible use of alcohol to relieve this
D. Evidence of tolerance may appear

E. Progressive neglect of alternative pleasures and interests

F. Persistence of drinking in spite of evidence of harmful effects.

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In a number of cases, there may be some overlap between the two ICD classifications. In other cases, the doctor may be found to be well and not using alcohol in a harmful or dependent way that affects or potentially affects patient care.

The GMC’s (now MPTS) panels that consider a doctor’s fitness to practise will look at the opinion of the medical examiners and the evidence in support of those opinions, before going on to determine whether a doctor’s fitness to practise is impaired by reason of health (or specifically alcohol use). Where it is considered that a doctor is suffering from ill-health or an ongoing risk of ill health that may affect the safety of patients and others that a doctor may come into contact with, the GMC is likely to seek an order from the independent Medical Practitioners Tribunal Service (MPTS) [an independent tribunal service that has taken over adjudications formerly undertaken by the GMC] to impose conditions of practice (restrictions) on a doctor’s practice. Interim conditions may be imposed by the MPTS, until a formal fitness to practise panel (also held before the MPTS) can assess the case, and a doctor will be given an opportunity to make representations where an MPTS interim orders hearing is convened. Likewise, a doctor may make submissions and challenge the evidence against him (by calling witnesses of his/her own, including expert witnesses, and by giving evidence personally) at a substantive MPTS fitness to practise
hearing. A right of appeal exists where a doctor is unhappy with the outcome of a hearing.

In the case of Boodoo the GMC fitness to practise panel (then known as a health committee) imposed the following Conditions of Practice (i.e. conditional registration), which we cite here by way of example the type of conditions a doctor may have to work to:

That Dr B:

(i) limits his alcohol consumption in accordance with his medical supervisor’s advice, abstaining absolutely if he or she so requires;

(ii) complies with any arrangements made by his medical supervisor for the testing of breath, blood, urine and/or hair for the recent and long-term ingestion of alcohol;

(iii) remains under the care of a general practitioner and to allow his medical supervisor to exchange information with his general practitioner about his condition and the treatment which he is receiving;

(iv) allows his medical supervisor to exchange information with any registered medical or dental practitioner responsible for his care about his condition and the treatment, which he is receiving;

(v) allows his medical supervisor to exchange information about his medical history and the performance of his professional duties with a designated senior officer of the health authority;

(vi) shall confine his hospital practice to National Health Service posts where his work could be supervised by another
fully registered medical practitioner;

(vii) shall not undertake any work as a locum;

(viii) shall obtain his medical supervisor’s prior approval of the suitability of any post for which he may consider applying;

(ix) shall cease work immediately if his medical supervisor so advises;

(x) before commencing any medical practice, shall inform his employer and any potential employer in respect of medical work requiring registration with the GMC that he is subject to the conditions imposed by the Health Committee and shall inform that person of the preceding four conditions restricting his practice and of the name of his medical supervisor.

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Where a doctor breaches such conditions, they are at risk of suspension and misconduct proceedings. There is also a risk that the doctor will not be trusted again to work to conditions. Therefore, where a doctor is working to conditions, they must ensure full compliance with them. In time, a doctor might be able to agree permanent undertakings that will be operational for the rest of the doctor’s career. An example of undertakings in a case concerning past alcohol misuse, where the future risk is low, might read as follows:

1) To notify the GMC promptly of any post she accepts for which registration with the GMC is required and provide the GMC with the contact details of her employer [and the PCT on whose Medical Performers List she is included, or the local Health Board/Health & Social Care Board if employed in
Scotland, Wales or Northern Ireland].

2) At any time that she is providing medical services, which require her to be registered with the GMC, to agree to the appointment of a workplace reporter nominated by her employer, or contracting body, and approved by the GMC.

3) To allow the GMC to exchange information with her employer, or any contracting body for which she provides medical services.

4) To inform the GMC of any formal disciplinary proceedings taken against her, from the date of giving these undertakings.

5) To inform the GMC if she applies for medical employment outside the UK.

6) To obtain the approval of her medical supervisor before accepting any post for which registration with the GMC is required.

7) To keep her professional commitments under review and limit her medical practice in accordance with her medical supervisor’s advice.

8) To cease work immediately if her medical supervisor advises her to do so.

9) To inform the following parties that her registration is subject to the undertakings listed at 1 to 8, above: a. Any organisation or person employing or contracting with her to undertake medical work b. Any locum agency or out-of-hours service she is registered with or applies to be registered with (at the time of application) c. In the case of locum appointments, her immediate line manager at her place of work (at least 24 hours before starting work) d. Any prospective employer or contracting body (at the time of application)
10) To permit the GMC to disclose the above undertakings to any person requesting information about her registration status

* See also our page on the Criteria Concerning the Opinions of GMC Psychiatric Medical Supervisors. The criteria may also be used by General Physicians who examine the doctor concerned. The determination of the medical supervisor is likely to be given great weight by the panel considering the doctor’s case, when determining whether the doctor’s fitness is impaired by reason of their alcohol use or dependency. A treatment plan will often be agreed, which generally requires abstinence. For current recommended approaches to treatment, see the NICE guidelines, intended for doctors who treat patients who have an alcohol related disorder.

The GMC panel must act proportionately in the public interest, to protect patients and uphold confidence in the profession, and to protect the doctors’ interests. Where a doctor proves over a period of time that he is not a risk to patients and the public anymore, because he has full insight and support mechanisms, the GMC may well close the case.

Doctors are encouraged to join support organisations in their locality, such as Alcoholics Anonymous. There are also various support groups for doctors, whose meetings are restricted to doctors with a history of overuse of alcohol – see for example the British Doctors and Dentists Group. Doctors may also be able to find support through the Practitioner Health Programme, which assists doctors who are suffering with mental health problems or drug or alcohol dependencies.

As of 11 June 2012, the GMC’s role is now that of investigator and ‘prosecutor’ and all cases that require a formal adjudication are referred to a hearing before the MPTS. While this article focuses on alcohol misuse, the process is much
the same where the issue is one of drug misuse. In contrast to alcohol misuse, drug misuse can frequently carry with it greater criminal sanctions, where the doctor has improperly obtained drugs. For more information about the way the GMC approaches doctors with drug addictions, see our article: Doctors and Drug Misuse

Doctors Defence Service advises doctors who face a GMC matter concerning the use of alcohol or drugs. We work in strict confidence with a doctor in a supportive, non-judgemental manner. If you would like to discuss how Doctors Defence Service may be able to advise or assist you, use our Contact Form or call us on 0800 10 88 739