How to Avoid GMC Warnings

The General Medical Council (GMC) can issue Warnings to doctors who are considered by the GMC’s Case Examiners to have acted in a manner inconsistent with Good Medical Practice – the code of conduct for doctors – where a referral to a fitness to practise hearing would be disproportionate or inappropriate because the doctor’s conduct falls just below their fitness to practise being impaired. [A fitness to practise tribunal can also impose a warning, and that stage of proceedings is discussed on other DDS pages: GMC/MPTS Fitness to Practise Process Explained]

A number of doctors are of the opinion that a warning can have a disproportionate impact on their career and reputation, because the warning will sit on a doctor’s registration for a whole two years (previously five years). It might affect progression through the ranks of a profession, or lead to another applicant being given a highly sought after job, because they do not have a Warning on their registration. For those reasons, a number of doctors each year approach Doctors Defence Service to obtain advice and legal assistance when responding to the GMC. In essence, doctors must seek to persuade the Case Examiners that a warning is not necessary in the particular circumstances of their case.

Examples of when a GMC Warning might be imposed include: a doctor who caused a road-traffic accident because of driving without due care; a doctor who on one occasion turned to illicit drugs during a period of ill-health; a doctor who had been bereaved who spoke rudely and crassly on a number of occasions to patients; a doctor who had made a single dishonest claim in their CV; a doctor who had stolen something of small value during the menopause; a doctor who caused accidental injury to a patient because they were not up to date in a particular technique – which has since been
remedied.

The first step toward avoiding a GMC warning is to submit a suitable written submission, supported by evidence and good quality appraisals and character testimonials. While this appears straightforward enough, doctors often give too little information to the GMC. A doctor who wishes to avoid a GMC Warning will need to give careful consideration to the evidence that they submit with their written submission. In many instances a doctor will need to demonstrate that there is a negligible risk of repetition in the future, and that they have as best they can remediated any shortcomings. The evidence submitted to the case examiners should include past and current evidence of suitability to practise. It might also include 360 degree appraisals, information about revalidation efforts, and any other evidence that may be relevant in the particular circumstances of the case. Doctors may need to undergo further training and study, in light of the history of their case and it is often helpful to doctors to obtain independent legal advice on the these aspects. Doctors may also need to present to the GMC a plan of future study in order to demonstrate their strong intention to update their knowledge and skills in the coming years. Each case turns on its own facts and one type of case will need very different evidence in support of a doctor in comparison to other types of cases. A warning is wholly proportionate in the circumstances of some cases, on public policy grounds, and DDS can advise when that is likely to be the case. [Doctors Defence Service would recommend that doctors always take independent legal advice before sending correspondence to the GMC, to avoid making common mistakes that can negatively impact on proceedings. We would also recommend that a doctor does not phone the GMC, as attendance notes are taken by the GMC’s case officers. A doctor’s use of ambiguous and imprecise language or careless phraseology may cause further difficulties for the doctor. It should at all times be borne in mind that the GMC is there to protect patients and the
The Case Examiners will scrutinise the doctor’s submissions and accompanying evidence and determine whether the imposition of a warning is necessary in all of the circumstances. The doctor may elect to attend a hearing before the GMC Investigating Committee, to present evidence and argument as to why a Warning is inappropriate in the circumstances of their particular case. If the doctor is successful in persuading the Investigating Committee that a warning is not necessary in their case, the panel will give a reasoned determination in the doctor’s favour. However, the Investigating Committee has a discretion to refer the doctor’s case to a Fitness to Practise hearing, where new information or evidence comes to light that was not considered by the Case Examiners. Doctors must make a proper assessment as to whether to resist a warning. Where the Investigating Committee issues a warning, a fully reasoned determination will be given. While a doctor may potentially ‘appeal’ by way of judicial review a decision of the GMC to impose a warning, it is not always in the doctor’s interests to do so.

Doctors Defence Service advises doctors in relation to evidence and submissions that may be sent to the GMC. Doctors who approach Doctors Defence Service have often overlooked key evidence that will assist them in persuading the GMC Case Examiners that a GMC Warning is not necessary. Doctors Defence Service lawyers will advise doctors on the steps they should take to acquire appropriate evidence for submission to the GMC. Doctors Defence Service also represents doctors at GMC Warnings Hearings before the GMC Investigating Committee. For further information about how we might be able to help you in relation to a GMC Warning legal matter, contact Doctors Defence Service on: 0800 10 88 739

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