

Investigation, remediation and resolution of concerns about a doctor's practice – where do the Colleges fit?

Introduction

The General Medical Council (Licence to Practise) Regulations 2012 and the Medical Profession (Responsible Officer) Regulations 2010 set out the pivotal role of the Responsible Officer (RO) in providing assurance to the General Medical Council that doctors with whom they have a connection remain up to date and fit to practise. On occasions, the RO may receive information which raises a concern about the performance of a doctor. The NHS Revalidation Support Team's publication *Supporting doctors to provide safer healthcare*¹ sets out the processes that ROs in England should follow when such a situation arises. In responding to a possible concern, the RO has a variety of resources at his/her disposal. The RO's organisation will normally have its own investigatory processes, human resources department and occupational health service (though for small Designated Bodies, these might be shared with another organisation or contracted out).

Although it may be possible to investigate and resolve many concerns using the organisation's own resources alone, the RO may, at his / her discretion draw on a range of resources from outside the organisation to provide advice or assessments. Examples include the GMC Employer Liaison Adviser (ELA), the National Clinical Assessment Service (NCAS) and the Royal Colleges. *Supporting doctors to provide safer healthcare* also envisages that health care organisations will pool resources (particularly skills and expertise) to form Professional Support Units at a regional level to support remediation. PSUs already exist in some parts of the country. They have mostly started as Deanery-based units which were set up to help trainee doctors in difficulty, but have expanded their remit to help career grade doctors.

Remediation was defined in *Tackling Concerns Locally*² as: 'the overall process agreed with a practitioner to redress identified aspects of underperformance'. It also notes that 'Remediation is a broad concept varying from informal agreements to carry out some reskilling to more formal supervised programmes of remediation or rehabilitation'. Whether remediation can be undertaken using the organisation's own resources, or whether external resources are required will depend on the

¹ Supporting doctors to provide safer healthcare: responding to concerns about a doctor's practice. NHS Revalidation Support Team 2013.
http://www.revalidationsupport.nhs.uk/CubeCore/uploads/documents/pdf/rst_supporting_doctors_providing_safer_healthcare_2013.pdf

nature and extent of the deficit in knowledge or skills in the doctor's practice that has been identified by the preceding investigation.

In order to facilitate a clear discussion of the ways in which Colleges might contribute to the remediation of a doctor's practice, the following process map describes four stages of a remediation process. Not every example of remediation of a doctor's practice will follow this sequence of events precisely, but these elements of the process are likely to be present in some way.

Stage 1. Establishing the facts

The RO may be alerted to a possible concern about a doctor's practice in a variety of ways such as complaints from patients or colleagues, adverse events, near misses or poor clinical outcomes. Sometimes, there is very clear evidence of a problem and the local investigation will focus on the doctor's performance from the outset. However, the RO may be presented with "straws in the wind" – for instance, conflicting information from different sources, a number of low-level concerns that might or might not represent a pattern, or clinical data that could be interpreted in more than one way. In order to gain an understanding of the context of the concern and make a proportionate response, the RO may decide to undertake or commission a review of the service or department in which the doctor in question works. This can be particularly helpful if the concern has arisen against a background of poor professional relationships within a department or a clinical service which is known to be struggling to cope with demand. Standards and guidance published by the Royal Colleges may provide a useful resource. A number of Royal Colleges provide an invited review service which can provide an external perspective on the performance of a clinical service against national standards or an insight into the reasons for problems with a service. Where such a review uncovers evidence of problems with the performance of an individual doctor, this would be notified to the RO who commissioned the review. Some Royal Colleges may, at their discretion, agree to undertake a review of the work of an individual doctor, though other Colleges take the view that, where it is clear that a concern centres on the practice of an individual doctor, it is more appropriate that the review takes place within a formal assessment of the doctor as described below.

Stage 2. Establishing the reasons for a performance problem

Supporting doctors to provide safer healthcare² notes that 'Concerns about a doctor's practice can be separated into three categories: conduct, capability and health. There is often considerable overlap between these categories and concerns may arise from any combination or all three of these. An investigation will clarify the

² Tackling concerns locally. Department of Health 2009
http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_096482.pdf

nature of the concern, confirm the facts, establish its severity and give an indication of the appropriate response'. It is important that the investigation includes an assessment which establishes the relative contribution of conduct, capability and health issues to the concern. The organisation may have resources to undertake such an assessment, but otherwise the RO may decide to commission an assessment from NCAS, which has extensive experience in this area. As PSUs become established, it is possible that they might also play some role in this process. The Royal Colleges do not possess the expertise to undertake comprehensive assessments of doctors of the type undertaken by NCAS. The RO may also seek advice from the GMC employer liaison adviser if there is a possibility that the concern is serious enough to require referral to the GMC.

Where the investigation determines that a capability issue forms a significant part of the concern, the need for remediation should be considered. Before initiating a plan for remediation of a doctor's practice, the RO will need to be satisfied that:

- A deficit in knowledge, decision-making or skills is present and is likely to be remediable
- Processes are in place to address any co-existing conduct or health issues
- The doctor acknowledges the deficits in his/her knowledge, decision-making or skills and is willing for remediation.

Stage 3. Planning and implementing remediation

A remediation "intervention" may vary from a simple requirement for the doctor to update his / her knowledge in a particular area (perhaps linked to a professional development plan for annual appraisal) to a formal retraining placement outside the organisation. Whether simple or complex, it is very important that both the shortcomings in knowledge or skills and the objectives of remediation are clearly defined, and that the intervention is time-bound. In some situations, the gap between the doctor's current capability and the required standard of performance may be too large to allow the doctor to continue with his / her former scope of practice and the RO must make a considered judgement based on the preceding assessment of the doctor whether the proposed remediation intervention has a realistic prospect of success. A programme of remediation can be very expensive, particularly if it entails supervised practice or a placement outside the organisation.

Royal Colleges may contribute to remediation in a variety of ways, but it is currently unusual for them to design and implement a programme of remediation directly. More commonly, their involvement in remediation is indirect. An organisation which implements a programme of remediation for one of its doctors might, for instance choose to use competencies in the relevant specialty training curriculum, workplace-based assessments or a College diploma examination in a formative sense to give structure to a programme of remediation. Where a programme of remediation entails supervision or coaching by a peer, it is very likely that the peer coach will be a senior doctor who is recognised both as an expert in the relevant specialty or sub-specialty and as an excellent trainer. It is likely that PSUs will

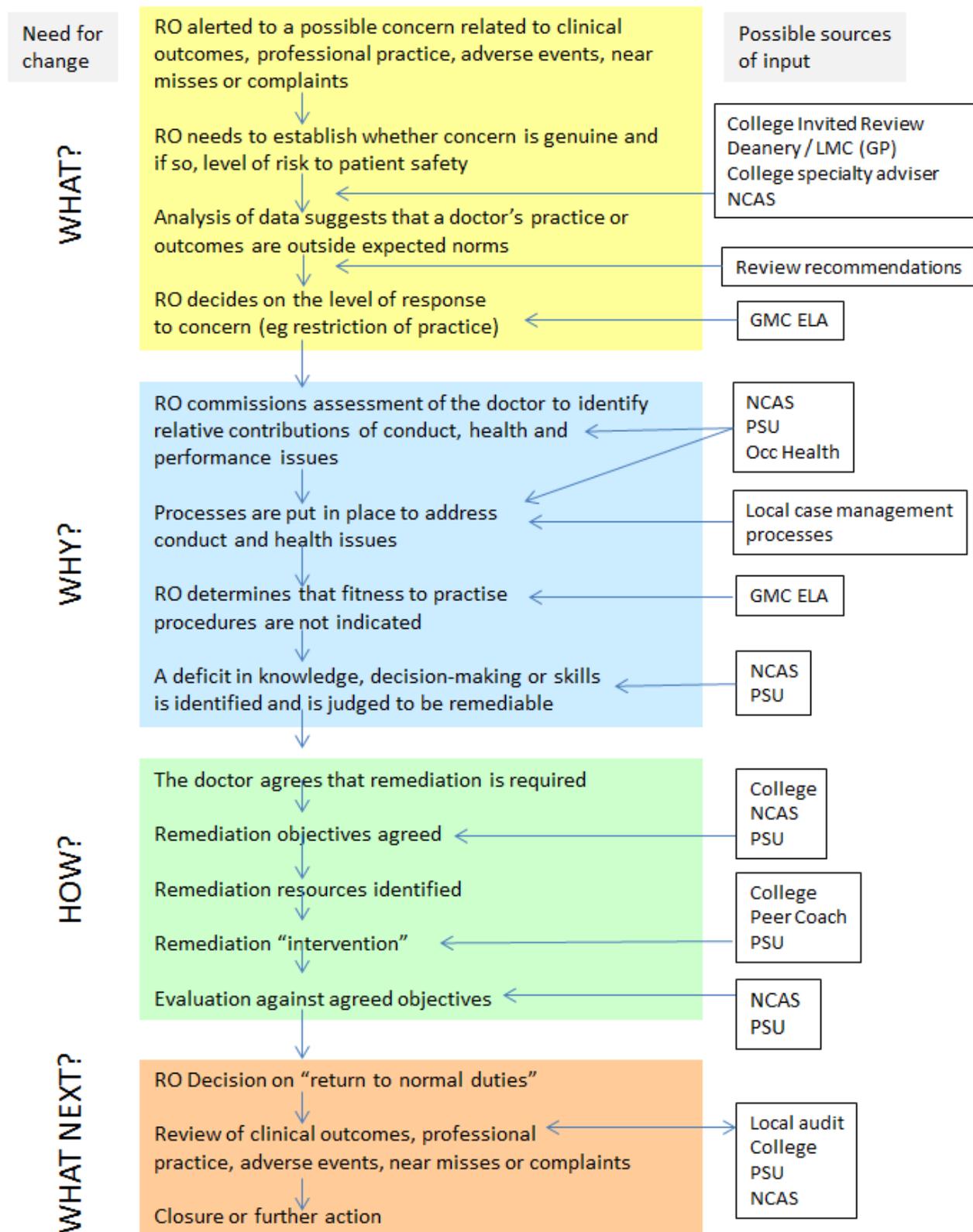
develop a role in the coordination of more complex remediation interventions as they become established.

Stage 4. Evaluation of remediation

Following a programme of remediation, it is necessary to evaluate firstly whether the objectives of the programme have been met and secondly whether remediation has resulted in resolution of the original concern. If the objectives and evaluation criteria for the remediation intervention have been defined clearly, it should be possible to reach an objective judgement about whether the intervention has been successful. This might, for instance involve reassessment against competencies in a specialty training curriculum.

The RO is responsible for deciding whether the concern which resulted in a need for remediation has been resolved satisfactorily. Where remediation has involved a placement outside the organisation or a period of supervised practice, it will be necessary to decide how (or if) a return to the normal scope of work should take place. Where a College has conducted an invited review that informed a subsequent process of remediation, or where a College has facilitated a programme of remediation, it is a reasonable expectation that the RO should ensure that the College is kept informed of progress against recommendations of the service review and progress against the objectives of the programme of remediation.

Process map of a situation where remediation of a doctor's practice might be required



Explanation of process map

Many concerns which involve clinical outcomes, professional practice, adverse events or complaints do not suggest any significant shortcomings in clinical knowledge or skills, and a need for remediation does not arise. Equally, many situations in which a deficit in clinical knowledge or skills is identified are at a relatively low level and can be addressed within the organisation without any external help.

The situation where a concern arises, possibly involving specialty-specific aspects of a doctor's practice, which might go on to require remediation poses particular challenges for Colleges. It is important that Colleges do not stray outside the limits of their expertise or assume the role of a regulator and they need to retain the ability to offer impartial advice to their members. However, in some situations, Colleges (or specialty advisers) are the obvious choice to answer the question "Does this situation lie within the range of accepted practice or not?" At this point, a College invited review or a similar external process (e.g. a Local Medical Committee review of a general practice) can provide a perspective "without prejudice", usually with a wider remit to look at the service as a whole, even if the data subsequently suggests that there is an issue with the practice of an individual doctor. This is the "yellow box" on the process map.

The "blue box" on the process map describes what happens once the RO has concluded that a concern about a doctor exists and commissions an assessment to find out why the doctor is underperforming or misbehaving. The RO may have reached this conclusion from an internal investigatory process alone. Colleges do not possess the expertise for the assessments required at this stage, though NCAS and the GMC recruit and train specialists for their assessment panels.

The "green box" assumes that any conduct or health issues are already being addressed, that the performance issue is judged to be remediable and the doctor is willing for remediation. Where external advice is required at this point, the main purpose is to assist the doctor and the RO in agreeing achievable goals for remediation and an "intervention" that has a reasonable prospect of success. Subsequent evaluation is an evaluation of whether those goals have been achieved, not a judgement about fitness for practice or fitness for purpose.

Finally (the "orange box"), the RO must make a judgement about whether the doctor is ready to return to "normal duties" and, following a return to normal practice, a review of the indicators that led to the original concern will be necessary, possibly with a further College invited review where one had been conducted, but more likely by means of an internal audit using the recommendations of the original invited review. Colleges and other organisations that have provided advice to the process should be kept informed of the progress and outcome of remediation.