

GUIDANCE IN RELATION TO THE MANAGEMENT OF DOCTORS AND DENTISTS IN DIFFICULTY

1. Introduction

The policy has been written with a view to defining the procedures for dealing with doctors and dentists in the training grades who are experiencing difficulties within the Northern Ireland Deanery. The aims of the policy are to promote early identification of trainees in difficulty and provide a clear structure for identifying and addressing these difficulties. It is based upon the principle of acting fairly, supportively and confidentially when dealing with problem situations that arise and draws on the publication from the Department of Health, Social Services and Public Safety on '*Maintaining High Professional Standards in the Modern HPSS: A framework for the handling of concerns about doctors and dentists in the HPSS (DHSSPS 2005)*.' This guidance provides the disciplinary framework for doctors and dentists in Health and Social Care and requires all HSC bodies to have procedures in place for handling serious concerns about an individual's conduct and capability that reflect this framework. The guidance covers restriction of practice and exclusion from work; conduct hearings and disciplinary matters and procedures for dealing with issues of capability.

It is the duty of all doctors to protect patients where it is believed that a doctor's conduct, performance or ill health constitutes a threat to patients. It is therefore the responsibility of the team with whom a trainee is working to highlight concerns before they become too severe and to enable the trainee to access the right help.

2. Roles and Responsibilities

A trainee has a contractual relationship with his or her employer and is subject to the policies established by the employing body. The employer has responsibility to ensure that employment issues, including performance, health and sickness issues and disciplinary matters are dealt with appropriately to facilitate the trainee's satisfactory performance.

The Northern Ireland Medical and Dental Training Agency (NIMDTA) has responsibility for commissioning education and training whilst the Trusts and other local education providers (LEPs) have responsibility for delivering education. LEPs have a responsibility to ensure that mechanisms are in place to support trainees and enable problems to be addressed at an early stage.

The educational supervisor is the most likely person to be involved initially when a trainee is in difficulty although the Director of Medical Education (DME), Clinical Director, Medical Director, GP trainer, Dental trainer and NIMDTA may also need to be informed depending on the nature and seriousness of individual circumstances. The roles and responsibilities of the various educators all of whom have a responsibility for dealing with doctors and dentists in difficulty are summarised in Appendix 1.

It is the responsibility of the LEP to investigate and manage concerns. DMEs must keep NIMDTA informed of all significant concerns and should inform the Postgraduate Dean in writing of any disciplinary action being taken against a trainee. The flow chart attached at Appendix 2 provides guidance on action which a training provider should take when problems arise.

If through investigation it appears that the problem relates to the trainer or the training post then the Postgraduate Dean must be informed in order that appropriate action may be taken and where necessary the training post inspected.

3. Identifying trainees in difficulty

All possible steps should be taken to identify and act on early signs and symptoms of difficulty. The majority of these are behavioural but also include signs of clinical incompetence, for example poor record-keeping; poor clinical decision making and judgement, inappropriate referrals etc.

Successful remediation or support for doctors and dentists in difficulty requires an understanding of the underlying problems. A checklist (Appendix 3) has been developed to help educational supervisors and others to diagnose and manage the early signs of a doctor in difficulty.

Concerns about a trainee's conduct or capability may come to light through:

- an untoward incident
- a complaint or litigation
- appraisal
- assessment
- performance data or clinical outcomes
- clinical audit

Clear evidence should be sought and concerns raised with the trainee at an early stage in order to obtain his or her perspective. The trainer should consult with colleagues to explore the nature and seriousness of the problem. As soon as it is clear that there is a problem with the trainee's conduct or performance action should be taken.

Managing potential risk to patients is the first priority and should be managed by the trainee and trainer/educational supervisor agreeing what the trainee can do safely and ensuring support and supervision from the whole clinical team to allow the trainee to practise safely in areas where he or she is underperforming.

Once the underlying cause of the trainee's difficulties is identified a realistic learning plan should be provided that will motivate and engage the trainee. If it is not possible

to deliver this in the trainee's current placement the trainee will need to be moved to a placement which will deliver the learning plan. The learning plan should be regularly reviewed throughout the course of its delivery to ensure that it continues to meet the trainee's needs. If the trainee continues to have difficulty, in spite of remedial action, advice should be sought from NIMDTA.

As a general principle good communication should be maintained at every stage with NIMDTA being informed as appropriate and as early as possible. The educational processes need to work closely with Trust internal procedures and close communication between the appropriate individuals within NIMDTA and those responsible at Trust level is crucial.

4. The Problems

These can be divided into four main areas as follows:

- Personal conduct
- Professional conduct
- Competence and performance issues
- Health and sickness issues

Personal Conduct Issues

Examples include intoxication, drug abuse, falsification of records, theft, fraud, serious acts of insubordination, sexual, racial or sectarian harassment, unlawful discrimination or victimisation on the grounds of age or sexual orientation. The employing authority will take the lead under its disciplinary procedures and the DME will inform the Postgraduate Dean in writing at an early stage.

NIMDTA will not be involved in such a disciplinary panel but will need assurance of the following:

- The employing authority will follow its agreed disciplinary procedure
- The trainee has been advised that they may be represented at any stage of the disciplinary procedure by the BMA/BDA, or work colleague
- Guidelines applicable to Northern Ireland are followed if a trainee is to be suspended
- Pastoral support is provided if required

On occasions it may be necessary for the Trust/Postgraduate Dean to advise the General Medical Council/General Dental Council of any action taken against a trainee.

Professional Conduct Issues

Examples include research misconduct, failure to obtain consent properly, prescribing issues, improper relationships with patients, improper certification issues (eg the signing of cremation forms, sickness certification) and breach of confidentiality. The Trust or other employer will take the lead under its disciplinary procedures and the DME will inform the Postgraduate Dean in writing at an early stage. An agent of NIMDTA eg Head of School, GP Trainer, Programme Director or Dental Adviser will

provide input into such a disciplinary process. Any decision to involve the GMC/GDC will be taken jointly by the employing authority and NIMDTA. NIMDTA will need to be assured that:

- The employing authority will follow an agreed disciplinary procedure
- The trainee has been advised that he/she may be represented in the process by a companion who may be:
 - another employee of the HSS body;
 - an official of the BMA, BDA or defence organisation;
 - work or professional colleague
- National guidelines are followed if a trainee is to be suspended
- Pastoral support is provided if required

Competence and Performance Issues

Examples include a single serious mistake, poor results clinically (possibly found as a result of audit), poor communication skills, poor consultation skills and repeated failure to attend educational events.

Trainees with such problems will need to be referred by the educational supervisor to the Programme Director, Head of School and Director of Medical Education in the first instance. The Trust or other employer may need to take a lead in some of these problems if there has been a complaint from patients or relatives and the possibility of legal action.

In the event of an isolated serious mistake the Postgraduate Dean must be informed in writing and at each stage in any process that results from such a mistake. Pastoral support must be offered and the doctor/dentist advised to seek legal representation.

If the doctor's/dentist's performance is consistently poor, despite educational measures such as remedial or targeted training, then it may be necessary to inform the GMC/GDC. Any decision taken will be agreed jointly by the employing authority/employer and NIMDTA.

It is accepted that Trusts and other employers have an over-riding duty to protect patients and NHS staff, and exceptionally an employer may need to invoke its policies and procedures to expedite a critical situation. NIMDTA should be kept informed of any such action.

Health and Sickness Issues

Every doctor/dentist must be encouraged to register with a local general medical practitioner and consult with their doctor in the first instance when ill.

'If you know that you have a serious condition that you could pass on to patients, or that your judgement or performance could be significantly affected by a condition or illness or its treatment, you must take and follow advice from a consultant in occupational medicine or other suitably qualified colleague on whether and in what ways, you should modify your practice. Do not rely on your own assessment of the risk to patients.'

Ill health and sickness absence should be managed through the employer's sickness absence policies. Where sickness absence gives cause for concern the trainee should be referred to the Occupational Health service and information shared with the educational supervisor, the Director of Medical Education, Medical and HR Directors on a confidential basis, with the consent of the individual concerned. NIMDTA should also be informed in writing of such cases and where the trainee's fitness to practise is called into question the employing authority should make a referral to the GMC or GDC as appropriate. Advice from either body may be sought in advance of referral.

Periods of grace due to sickness absence before training may be affected are as follows:

- Foundation 1 doctor – 4 weeks in the year
- Foundation 2 doctor – 4 weeks in the year
- GP Trainee – 2 weeks in a 12 month post
- Specialty Registrar – 3 months in the training programme before CCT date affected

6. Keeping Records

Documentation should commence as soon as a performance concern comes to light and copies given to the trainee. Whilst only a small minority of performance difficulties escalate into a disciplinary situation, records should nevertheless be kept from the earliest stage to help ensure continuity (e.g. a trainee who changes educational supervisor) and to avoid duplication of effort. Good documentation is an essential part of educational governance.

Should a problem with a doctor become more serious or repetitious, it may be advisable to seek guidance from the local HR Manager or Director who can advise on any further specific documentation.

Trainees need to have confidence that this documentation is intended to support and help them to address their difficulties rather than as a punitive or legalistic activity. Transparency is paramount to retain the doctor's trust and cooperation. The following will help to ensure openness as well as rigour:

- Educators should avoid recording and keeping information about discussions with doctors without their knowledge or consent.
- Records of conversations should be held confidentially, with the doctor's knowledge and consent, by the person who has conducted the assessment of the problem with the doctor in difficulty.
- The doctor should be given a copy of any documentation concerning his or her performance and encouraged to keep such copies in his or her portfolio for discussion at appraisals.
- Should the doctor move to a different job, or in the event that the problem escalates or others become involved, it may become necessary to pass the

record to other parties, again with the consent of the doctor where possible. Transfer of information about trainee doctors' progress from post to post should become standard procedure including areas of concern.

- All documentation must comply with the requirements of the Data Protection Act and the Freedom of Information Act (FOIA).

5. Transfer of information to Future Education Providers

Where a doctor/dentist becomes ill during the training it is important that consistent support is provided which can be transferred across training placements. There should be one source of referral to Occupational Health for doctors and dentists appointed to training programmes/posts. Unless there are ethical barriers to doing so, information should be shared by the Postgraduate Dean across employers, via the Directors of Medical Education, on a need to know basis.

In the interests of patient safety it may be necessary for NIMDTA to transfer personal information to other health and social care organisations or statutory bodies, in accordance with the principles and conditions set out in schedules 1, 2 and 3 of the Data Protection Act 1998.

The educational supervisor/trainer in the next placement must be informed of problems arising in the previous placement to ensure that any remedial action that has been taken continues and assessment of successful progress is made. In Dental postgraduate training the relevant Dental Advisers should ensure the transfer of information from one post to another is complete.

In instances where disciplinary issues or serious competence issues are involved a written statement must be given to the Postgraduate Dean to pass on to the new employing authority, on a need to know basis, with the knowledge of the doctor/dentist concerned. The doctor/dentist will have the right to see such a statement and challenge its accuracy, but not to prevent it being transferred to the new employing authority.

Information should be accurately recorded with a clear account of the issue, the action taken and the date when any disciplinary action is considered to be spent.

6. Assessment and Appraisal

Regular appraisal and assessments are essential to provide feedback on performance and continuing progress and identify educational and development needs. It is important that Deanery standards are adhered to. Appraisals and assessments must be documented and copies retained.

APPENDIX 1: Roles and Responsibilities of Educators

- 1) Clinical Supervisors
- 2) Educational Supervisors
- Lead Educators



- 9) Associate Postgraduate Dean
- 10) Postgraduate Dean
- 11) Director of GP Education
- 12) Postgraduate Dental Dean

1) Clinical Supervisor

Consultant with whom the doctor works clinically, and who assesses whether that doctor is safe to carry out the clinical work he/she is expected to do within the department, and that he/she progresses within the particular training post/module. This will include direct input to workplace-based assessment.

Responsibility for Doctors in Difficulty

This direct contact with the doctor puts the clinical supervisor in an ideal position

- to detect problems with regard to clinical knowledge and skills, team working, communication, attitude, time keeping, etc.
- Any problems observed should be documented, discussed with the trainee and brought to the attention of their educational supervisor.
- Trust policies and procedures should be followed as appropriate.

2) Educational Supervisor

Responsible for ensuring overall progress of the doctor through training. Includes responsibility for regular appraisals, collation of workplace-based assessment outcomes and the provision of career advice and support as required.

Responsibility for Doctors in Difficulty

- Should be made aware of and gather evidence about concerns from other team members.
- Should discuss these concerns with the doctor during regular appraisals and consider ways of addressing them, with the help of the multi-disciplinary team.
- If problems cannot be resolved within educational supervision context, or in current post, Educational Supervisor needs to access help from either within the Trust (Foundation Programme Director or Clinical Tutor) or within the Specialty (College Tutor or Programme Director), depending on the grade of the doctor and the nature of the problem (i.e. health, capability or conduct).
- Careful documentation is crucial at all stages.

3) College Tutor

Appointed by Specialty College but based in the Trust and responsible for advising and supporting doctors within a particular specialty in a Trust.

Mostly responsible for ensuring that trainees and supervisors adhere to College standards with regard to local educational programmes, regular appraisals and assessment, logbooks/portfolios in that particular specialty.

Responsibility for Doctors in Difficulty

- Career advice about their specialty
- Advice on exam procedure and requirements e.g. for doctors repeatedly failing exams
- Advice on specialty-specific issues
- Support for Educational Supervisors

4) Programme Director

Appointed by Deanery to manage specialty training programmes at Deanery level within a given specialty.

Responsible for allocation of specialty trainees to posts, supervision of individual training programmes, regular formal assessment including RITA/ARCP process, problem solving and feedback on progress.

Responsibility for Doctors in Difficulty

- Support trainees within their programme and deal with individual issues
- Support Educational Supervisors within their programme and provide advice on issues with individual doctors
- Identify issues at annual RITA/ARCP review
- Ensure that Doctors in Difficulty Strategy is implemented
- Resolve issues within programme (e.g. by moving individual doctor to different post/supervisor) wherever possible

- Bring more serious problems to attention of Trust (e.g. if patient safety at risk) or Deanery (e.g. if implications for training programme and additional resources required)

5) **Head of Specialty School**

Oversees, on behalf of the Deanery the activity and proper functioning of the Specialty School; liaises with the relevant College, Faculty or SAC; and supports the Programme Directors.

Responsibility for Doctors in Difficulty

No direct responsibility but can act as general source of advice for specialty and may decide to bring a particular problem to the attention of the Specialty School, to raise awareness and learn from the case.

6) **Regional/Specialty Adviser**

Appointed by College in consultation with Deanery/Institute; provides link between College and Deanery on education and training in the specialty.

Responsibility for Doctors in Difficulty

General support to doctors in difficulty and those who have to deal with them, particularly when advice is required on mandatory requirements of training.

7) **Director of Medical Education**

Appointed by Postgraduate Dean together with Trust; manages the educational contract between Deanery and Trust and provides main link between the Postgraduate Dean and individual Trust with regard to training and education of doctors in all grades within a particular Trust.

Responsibility for Doctors in Difficulty

- Should be made aware of all issues with individual doctors in training in the Trust
- Should provide advice and guidance to trainees, clinical and educational supervisors on matters relating to health, capability and conduct
- Should monitor and inform the Deanery on progress of doctors in difficulty
- Should work closely with Human Resources Department on issues regarding doctors in difficulty, especially where patient safety may be compromised
- Should refer to Deanery those problems that cannot be resolved within the Trust
- Should involve Human Resources Department and invoke Trust procedures as required

8) Foundation Programme Director

As above but with particular responsibility for Foundation trainees. Needs to work closely with the Clinical Tutor/Director of Medical Education and Associate Dean for Foundation Training on all issues regarding Foundation trainees.

9) Associate Postgraduate Dean (Career and Personal Development)

Associate Dean with specific responsibility for doctors in difficulty provides strategic lead and direct support to educators on matters concerning doctors in difficulty, on behalf of the Postgraduate Dean.

Responsibility for Doctors in Difficulty

- Develop, manage and inform on framework for dealing with doctors in difficulty
- Ensure that resources are available to support the framework including remedial training, referral to NCAS, etc.
- Ensure that those dealing with doctors in difficulty are appropriately trained and supported
- Provide advice to educators on individual doctors in difficulty
- Assess and support those doctors in difficulty who require specialist input at Deanery level

10) Postgraduate Dean

Overall responsibility for postgraduate training and education within a geographical area.

Responsibility for Doctors in Difficulty

- Support and advice to Associate Dean dealing with doctors in difficulty
- Provide direct input to those cases where training may need to be terminated, or where appeals procedures need to be invoked

11) Director of GP Education

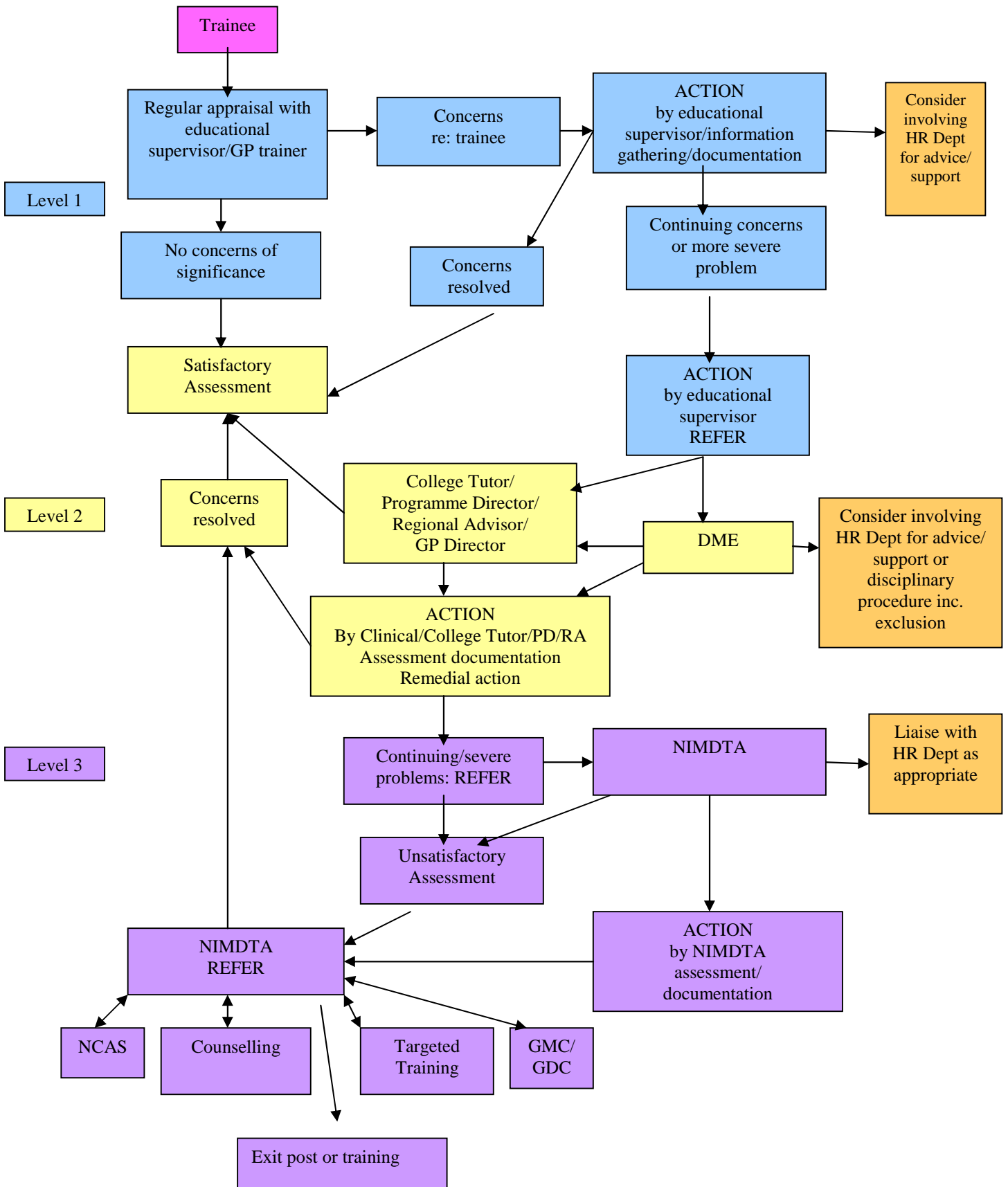
As for Associate Dean/Postgraduate Dean but with sole responsibility for trainees in General Practice.

12) Postgraduate Dental Dean

As for Associate Dean/Postgraduate Dean but with sole responsibility for trainees in Dentistry.

APPENDIX 2

Trainees in difficulty – Process Flowchart



Level 1

The aim of Level 1 is to identify trainees in difficulty as early as possible in order to avoid difficult situations where problems have developed to such an extent that their solution requires major intervention. Regular appraisal and assessment of a trainee's performance by educational supervisors is an important opportunity to identify and deal with the majority of problems within the trainee's current educational setting.

Where concerns are identified by a supervisor these should be discussed openly with the trainee and further information gathered from other members of the team.

Level 2

In certain situations e.g. major clinical incident the most appropriate course of action will be to follow the disciplinary procedures of the Trust (in accordance with the 'Maintaining High Professional Standards' framework). However the Director of Medical Education (DME) and NIMDTA should be informed that such an action has been undertaken.

More commonly the next step would be to involve the DME (see Appendix 1). Depending on local circumstances or whether the problems may have implications for progress in training for that trainee it may also be appropriate to seek the advice of the college tutor, specialty training programme director and /or regional advisor. For General Practice trainees the most appropriate contact may be the Director of GP Education and for Dental trainees the Postgraduate Dental Dean.

Many problems will be resolved by local intervention by the DME, with the support of the college tutor etc. This will include assessment of need, further documentation and where appropriate remedial action with the support of the local consultant(s)/educational supervisor(s) and their team(s).

Level 3

This level of intervention will be required for a minority of trainees in difficulty who have been identified by DMEs and or training programme directors as having difficulties which either have not been resolved by local intervention, or which require further input which is not available locally.

All trainees fulfilling these criteria should be referred to NIMDTA who will undertake further assessment of the needs of the particular trainee.

Where appropriate the trainee can be referred for support and counselling and/or arrangements can be made for targeted training with a selected educational supervisor.

Such interventions will have resource implications. Not all trainees will wish to move through this formal process and individual solutions to trainees' problems at local level may and should still be encouraged.

All attempts at targeted training will need to be recorded and monitored with clear indications of how progress has been assessed. Such systems as are agreed and planned for implementation may need to be discussed with Chief Executives, Medical Directors and DMEs. This is not just a matter of courtesy but to ensure that the systems link into Trust based systems for clinical risk management and clinical governance.

Where a concern about a doctor's or dentist's performance arises and the employer feels it needs help, the GMC (or GDC) and NCAS may be approached.

- If the concern, whether of performance, health or conduct, is so serious as to call into question the doctor or dentist's licence to practice, then the regulator's (**GMC/GDC**) advice should be taken. This approach will therefore only be used in the most serious circumstances.
- In all other circumstances, such as immediate concerns that might require exclusion or suspension, general concern about a practitioner's performance, conduct or competence, and in any situation where the local organisation is unsure how to proceed, **NCAS** should be contacted

APPENDIX 3

Checklist for educational supervisors: how to diagnose and manage a trainee in difficulty

Symptoms and Signs

Is your trainee demonstrating any of the following?

Anger; rigidity/obsessive behaviour; emotionality; absenteeism; failure to answer bleeps; poor time keeping or personal organisation; poor record-keeping; change of physical appearance; lack of insight; lack of judgement; clinical mistakes; failing exams; discussing a career change; communication problems with patients, relatives, colleagues or staff?

Have there been complaints from patients or staff about any of the following?

Bullying; arrogance; rudeness; lack of team working (e.g. isolation; unwilling to cover for colleagues; undermining other colleagues; criticising or arguing in public/in front of patients); defensive reactions to feedback; verbal or physical aggression; erratic or volatile behaviour

Underlying reasons/explanations

Can you identify any reasons for the above signs and symptoms – for example?

Poor approach to studying; lack of knowledge; lack of skills; lack of confidence; deficient interpersonal skills; language barrier; attitudinal /personality problem; stress due to life events; stress due to work (e.g. dysfunction in the team; problems with trainer/supervisor or the training process; a specific critical incident affecting confidence); poor motivation; health problems; drug or alcohol abuse; physical illness; psychiatric illness; workload; sleep deprivation.

Is the problem due to any of the following factors within the individual?

Capacity – a fundamental limitation that will prevent them from being able to do their job (e.g. mental or physical impairment) even with all reasonable adjustments in place.

Learning – a skills deficit through lack of training or education. In these cases, skills-based education is likely to be appropriate, provided it is tailored as closely as possible to the individual learning style of the doctor and is realistic within existing resources.

Motivation – a drop in motivation through being stressed, bored, bullied or overloaded – or conversely being over-motivated, unable to say no, anxious to please, etc. In these cases some form of mentoring, counselling or other form of support may be appropriate and /or addressing organisational issues like workload, team dysfunction or other environmental difficulties that may be affecting motivation.

Distraction – something happening outside work to distract the doctor; or a distraction within the work environment (noise or disruption; team dysfunction). The doctor may need to be encouraged to seek outside professional help if the problem is outside work.

Health – an acute or chronic health problem which may in turn affect capacity, learning or motivation. Occupational health may have a role here; or the doctor may need to be encouraged to visit his or her GP.

Alienation – a complete loss of any motivation, interest or commitment to medicine or the organisation, leading to passive or active hostility, “sabotage” etc. This cannot generally be rectified and damage can be caused to others (patients and colleagues) and to the organisation if allowed to continue for too long. The doctor should be moved out of the organisation, with whatever support or disciplinary measures may be deemed appropriate.

Investigation

Have you talked to the trainee to gain their perspective?

Have you talked to staff/colleagues confidentially to verify your findings?

Is there any documentary evidence?

Can you talk to other professionals concerned with the trainee’s welfare e.g. GP (with their permission)?

Management

Have you clearly documented any information or evidence you have discovered?

Have you discussed the purpose of this documentation with the trainee?

Does the trainee understand that the appraisal process is confidential but that some documentation of problems is necessary for regulatory purposes and can you agree on this?

Can and should the trainee remain at work?

Is this a case for a trust disciplinary procedure or referral to the GMC?

Management Plan

Have you developed and agreed a suitable learning plan with the trainee?

Can you organise and commit to increased and regular supervision?

When will re-appraisal and reassessment take place?

If problems are not or cannot be resolved should this be referred on to the clinical or college tutor /training programme director?

Further guidance about how and when to act on these concerns is provided below in the Process Flowchart (Appendix 2).