

**21 May 2019**

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**General  
Medical  
Council**

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**Private: for addressee only**

Miss Rachel Knight  
Assistant Coroner  
Coroner's Office  
The Old Courthouse  
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CF37 1JQ

Dear Miss Knight

**Jennifer Louise Handy (deceased)**

Thank you for your letter of 8 April 2019. I have reviewed the Regulation 28 Report of 5 April 2019, as well as the background of this case, and am responding on behalf of the GMC in my role as Head of the Corporate Review Team.

**The GMC's statutory function**

By way of background, it would be helpful to first clarify the scope of the GMC's statutory powers.

The GMC's role and statutory powers and duties are defined principally in the Medical Act 1983 ('the Act').

The GMC's functions derive from the statutory requirement for the establishment and maintenance of the Medical Register ('the Register'), setting professional standards for, overseeing the education and training of, and investigating and acting on concerns about doctors.

These powers and duties only extend to doctors who hold GMC registration (with or without a licence to practise). This remains the case even if a doctor is practising outside of the UK.

## **Response to Regulation 28 Report**

I will address each of the points in the Regulation 28 Report in turn.

**You may wish to consider the recording of, updating of and accuracy of contact details for doctors who are licenced to work in the UK, especially if they are from overseas and may travel around for work in different countries.**

The Act already makes provision for the GMC to take action on a doctor's registration for failing to maintain an effective registered address.

Under section 30(5) of the Act the GMC is entitled to make enquiries of a doctor to request they provide an up-to-date address where they can be contacted. This ensures that the GMC always has an effective method of contact.

If the doctor fails to keep their registered address up to date the GMC has the power to erase them from the Register.

As previously stated, the provisions of the Act apply to all doctors registered with the GMC, whether they work/live in the UK or overseas.

Action: For the reasons set out above, we do not consider that any action is required to address this point.

**There should be a legal/contractual requirement of doctors who leave this jurisdiction to provide personal contact details for a period of time post-departure, and to ensure the same remain updated.**

In order to address this point it is important to understand the legal basis of the GMC's powers and how these apply to its registrants i.e. doctors.

The GMC is a statutory body whose functions are derived from statute. In its function as a regulator, the GMC's relationship with its registrants is governed by statute which includes various legislation and through professional standards which it sets.

As such, the legal requirements on doctors arise from legislation and professional standards documents produced by the GMC. There is no contractual relationship between the GMC and the registrant.

You have suggested that there should be a legal requirement of doctors to provide contact details for a period of time 'post-departure'. It is not clear to me whether this means 1) after the doctor has been erased from the Register or 2) after they have left the UK (but are still registered with the GMC). As such, I will confirm the position in respect of both interpretations.

In terms of the first interpretation, the GMC's statutory powers extend only to doctors who hold GMC registration. As such, there is no legal basis to require doctors to provide their contact details to the GMC once their registration has ended.

However, it is not the case that a doctor can simply remove themselves from the Register in all circumstances. It is unlikely that a doctor seeking voluntary erasure from the Register would be successful in their application if there are outstanding fitness to practise concerns and there are reasonable grounds that the doctor's fitness to practise may be impaired.

Regarding doctors who leave the UK, the provisions of the Act apply to all doctors registered with the GMC, whether they work/live in the UK or overseas, and the Act already makes provision for the GMC to take action on a doctor's registration for failing to maintain an effective registered address.

Action: For the reasons set out above, we do not consider that any action is required to address this point.

**There should be a legal/contractual requirement of doctors who leave this jurisdiction to comply with reasonable requests of investigators/coroners to provide evidence.**

As explained above, the legal and professional requirements of doctors arise from legislation and professional standards documents produced by the GMC, as opposed to there being any contractual relationship between the parties.

The provisions of the Act, as well as other relevant legislation and statutory guidance, apply to all doctors registered with the GMC, whether they work/live in the UK or overseas.

There are provisions in the GMC's main guidance document in relation to a doctor's professional obligation to assist with formal proceedings.

This guidance is called Good Medical Practice ('GMP') and this outlines the standard of professional conduct that the public expects from its doctors and provides principles that underpin the GMC's fitness to practise decisions.

Specifically, paragraph 73 of GMP sets out the requirement that doctors '*must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in [Confidentiality](#)*'.

Serious and persistent failures to follow GMP may result in fitness to practise proceedings which could put a doctor's registration at risk.

The standards of conduct that GMC registered doctors are required to follow are the same whether the doctor lives and/or works in the UK or out of this jurisdiction.

To clarify, under the legislative framework there is no legal basis to compel a doctor to engage in coroner's proceedings, although as explained above there is a professional duty to cooperate with inquiries under GMP.

It is of course open to the Coroner to summons a doctor to attend a coroner's inquest to give evidence, in which case a doctor must attend or be in contempt of court.

In the event that a GMC registered doctor is convicted of contempt of court, the conviction can be a ground of impaired fitness to practise and this may result in fitness to practise proceedings.

Action: For the reasons set out above, we do not consider that any action is required to address this point.

**Every doctor who leaves this jurisdiction to work overseas should provide the name of every country they practice in thereafter, together with the contact details of the relevant regulatory body (akin to the GMC) for those countries.**

There are already mechanisms in place for overseas regulators to share information regarding disciplinary action or criminal sanctions in relation to doctors working other jurisdictions.

Under the provisions of the European Directive\*, the member states of the European Union are under an obligation to exchange information regarding disciplinary action and criminal sanctions taken against doctors. This is done via the Internal Market Information System which is an online tool that facilitates the exchange of information between public authorities.

There is also a mechanism for international medical regulators to share information for the purpose of promoting effective medical regulation worldwide via membership of the International Association of Medical Regulation Authorities ('IAMRA').

IAMRA enables the sharing of fitness to practise/disciplinary information among IAMRA members.

\* Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005

The IAMRA statement of intent on proactive information sharing describes the circumstances in which information shall be shared between medical regulatory authorities. This includes where a:

- doctor's right to practice has been restricted or removed because of matters relating to his conduct, health, performance, or matters of a criminal nature; and/or
- where a medical regulatory authority has objective reasons to believe that identity or document fraud has been used, or may be used in the future, by a doctor, either to avoid restrictions on his practice or to obtain registration falsely in another country.

It is also standard practice for regulators to share information using certificates of good standing when a doctor has been working in one jurisdiction but has applied to work in another. A certificate of good standing shows the details of a doctor's current registration and licence status; their registration and fitness to practise history; identifying information; and whether there are fitness to practise proceedings in progress or contemplated. If a doctor applied to work in the UK after practising in another jurisdiction, they would need to provide a certificate of good standing from the relevant regulators to demonstrate that they are fit to practise.

In addition, GMC guidance also sets a requirement for doctors to disclose relevant disciplinary information to the GMC. Specifically, paragraph 75 of GMP states that...*'You must tell us without delay if, anywhere in the world another professional body has made a finding against your registration as a result of fitness to practise procedures.'*

As explained above, serious failures to follow GMP may result in fitness to practise proceedings which could put a doctor's registration at risk.

It is our position that the above mechanisms offer sufficient protection of patient safety in the circumstance that a doctor is the subject to fitness to practise proceedings in another jurisdiction.

Action: For the reasons set out above, we do not consider that any action is required to address this point.

**Consider whether a register akin to the Criminal Records Bureau should be established to flag up matters of concern with doctors, so that prospective employers could identify any issues of clinical governance that have arisen.**

There are currently systems in place so that employers can access information about matters relating to a doctor's fitness to practise.

Information about a doctor's fitness to practise history (including details of whether there are any restrictions on a doctor's registration) can be publicly accessed on an online register, the List of Registered Medical Practitioners ('LRMP'). It is recommended that employers check a doctor's entry on LRMP as part of their recruitment processes.

**Action:** For the reasons set out above, we do not consider that any action is required to address this point.


## **Conclusion**

Thank you for your report and recommendations. I hope that we have addressed the issues raised and satisfactorily explained why no further action is required.

In summary:

- the GMC's statutory powers and duties only extend to doctors who are registered with the GMC (in the UK or overseas);
- the Act makes provision to erase doctors who fail to maintain an effective registered address;
- the legal and professional requirements of doctors arise from legislation and professional standards set by the GMC, as opposed to there being any contractual relationship between the parties;
- international regulators already have data sharing practices in place;
- information about a doctor's fitness to practise history can be publicly accessed on the online register, LRMP.

Yours sincerely



**Head of Corporate Review Team**

E mail [REDACTED]