



THE SCOTTISH OFFICE

Department of Health

NHS Circular:
PCS(DD) 1999/7

NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG

Dear Colleague

REPORT OF THE SHORT-LIFE WORKING GROUP ON SUSPENSION OF MEDICAL AND DENTAL STAFF

1. We enclose a copy of the report of the Short-Life Working Group on Suspension of Medical and Dental Staff, entitled "Suspensions – A New Perspective".

2. The Short-Life Working Group considered how investigations into allegations against hospital medical and dental staff and subsequent action, including disciplinary procedures, were currently handled in Scotland. They agreed that the employers' prime concern in this area was the maintenance of safety for patients and the public, and that in certain circumstances the immediate use of suspension was mandatory. They recognised, however, that suspension is rarely perceived as a neutral act and, therefore, employers should view it as part of a broader picture. In particular, employers should always consider suitable alternatives before resorting to suspension.

3. The report details principles to help employers investigate allegations against practitioners, and practical steps that they might take, including seeking external advice. The Trust or Health Board should ensure that any period of suspension is as short as possible, and that the Medical Director in a Trust, or the Director of Public Health/Chief Administrative Medical Officer (DPH/CAMO) in a Health Board, should have the prime responsibility for managing the process. The report makes a number of specific recommendations, which are detailed in the Annex to this letter.

4. We encourage you to adopt the principles in this report within a culture that views the act of suspension from a new perspective. The report is commended to you as a helpful source of guidance, which should be made freely available locally to hospital medical and dental staff and Trust and Health Board management.

6 April 1999

Addressees

For action:

Chief Executives, NHS Trusts

General Managers, Health Boards

General Manager, State Hospital's
Board for Scotland

General Manager, Common Services
Agency

For information:

General Manager, Health Education
Board for Scotland

Executive Director, Scottish Council
for Postgraduate Medical and Dental
Education

Our ref: PIE/9/4

Enquiries to:

Mr Frank Elliott
NHS Management Executive
The Scottish Office
Room 71
St Andrew's House
EDINBURGH EH1 3DG

Tel: 0131-244 2239
Fax: 0131-244 3583

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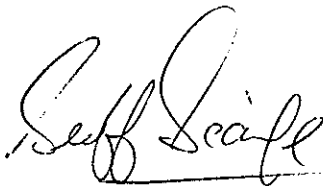


Action

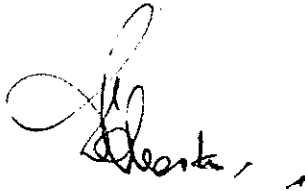
5. NHS Trusts and Health Boards should: -

- (i) note the details in the Annex to this letter, which provides a summary of the report's recommendations;
- (ii) take action, where required, on the report's recommendations;
- (iii) note that while current guidance as set out in NHS Circular 1990(PCS)8 and NHS Circular PCS(DD)1994/11 remains in force, the Annex to this letter indicates where it has been amplified, amended or updated;
- (iv) Trust Chief Executives should send copies of this circular and the report to their Medical and Human Resources Directors for information and action. Health Board General Managers should similarly send a copy to their DPH/CAMO.

Yours sincerely



GEOFF SCAIFE
Chief Executive



SIR DAVID CARTER
Chief Medical Officer



RAY WATKINS
Chief Dental Officer

RECOMMENDATIONS OF THE SHORT-LIFE WORKING GROUP ON SUSPENSION OF MEDICAL AND DENTAL STAFF

A. INTRODUCTION

1. The enclosed report makes a number of recommendations for improving and streamlining the suspension process, and provides guidance about a number of related issues. The Short-Life Working Group recognised that some areas of the current guidance on disciplinary procedures and suspension of hospital medical and dental staff contained in NHS Circular No. 1990(PCS) 8 and NHS Circular PCS (DD) 1994/11 needed amplifying, amending or updating. Part B of this Annex details the report's recommendations and actions that Trusts and Health Boards are required to take. Where "Trust" is referred to as an employer in the recommendations of the Short-Life Working Group, this also means "Health Board". Part C updates the wording of the current guidance.

B. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE SHORT-LIFE WORKING GROUP REPORT

External Advice

2. **Recommendation 1:** An Expert Reference Group (ERG) and Royal Colleges' External Clinical Advisory Teams (ECATs), should be set up to offer advice to NHS employers who have to deal with a problem which might lead to the suspension of a practitioner (paragraph 4.26).

2.1 **Action:** NHS Trusts and Health Boards carry responsibility, as employers, for investigations into allegations against any of their medical or dental staff, and for any subsequent disciplinary processes. However, it is recognised that external advice should be available to employers, if requested by the Trust or Health Board. Accordingly, the Management Executive will be establishing an Expert Reference Group, and the Scottish Royal Colleges, in association with the Academy of Royal Colleges and Faculties in Scotland, will be drawing up lists of suitably qualified individuals in each specialty who might be available to form the membership of External Clinical Advisory Teams. Details of membership and administration of both the ERG and ECATs will be notified to Trusts and Health Boards in due course.

Legal Responsibility

3. **Recommendation 2:** Trusts should assume responsibility for any legal claims made against any individual or group from whom the Trust has asked for advice. This would include the Expert Reference Group and the External Clinical Advisory Team (paragraph 4.27).

3.1 **Action:** Where a practitioner, whose work is the subject of investigation makes a legal claim against the Trust or Health Board or against any other individual or group giving advice to the Trust or Health Board, the employer, from the date of this circular, should assume responsibility for any claims.

Monitoring Suspensions

4. **Recommendation 3:** The Management Executive should write to Trusts requiring them to notify the Management Executive immediately of a suspension when it occurs; and provide monthly progress reports on suspensions and a final report when the suspension is resolved (paragraph 5.7).

Recommendation 4: The Trust Board should insist that the progress of any suspensions is monitored closely by the Board (paragraph 5.7).

Recommendation 5: Employers should review the suspension process once an outcome has been achieved, with a copy of the review report being sent to the Management Executive (paragraph 5.9).

4.1 **Action:** From the date of this circular, paragraph 7 of the Appendix to NHS Circular PCS(DD) 1994/11 is amended. Trusts and Health Boards should now notify the Management Executive when a doctor or dentist employed by them is suspended. They should give the name of the practitioner, his/her specialty, the date of suspension and the reasons for suspension. Monthly progress reports should include information on progress to date, the reasons for any delays in resolving the case, an explanation of how it is proposed to overcome these delays, the costs incurred, and the date anticipated for the conclusion of the disciplinary process.

4.2 Once the suspension process is over, the Trust or Health Board should prepare a final report and submit it to the Management Executive, reviewing the suspension, reporting for example on the delays that have occurred and the time taken to discharge the key stages in the process. This review will help to establish whether any lessons can be learnt from the experiences of different employers in handling suspensions. While responsibility for managing individual suspensions rests with the Executive Officers, the Trust or Health Board should ensure that the progress of any individual suspension is monitored closely by the Board to ensure that it is resolved as speedily as possible. If an honorary contract holder has been suspended, a copy of the final report should be sent to the University as main employer of the individual (see paragraph 7 below).

Committees of Inquiry

5. **Recommendation 6:** The Secretary of State should create a pool of legally qualified chairmen from which Trusts could draw, for the purposes of holding Committees of Inquiry, to control and manage effectively such Committees (paragraph 5.16)

Recommendation 7: The Secretary of State should provide standard charging rates for such chairmen, as at present rates require to be negotiated leading to significant differences in costs (paragraph 5.16).

Recommendation 8: The preliminary hearing should confirm the procedure for the conduct of the hearing on evidence, and the rules regarding the admission of evidence. It should particularly require parties to adjust their written cases by a specified date, to intimate their lists of witnesses and documents to be produced in evidence by a specified date, and finally, to fix the date and the overall projected length of the hearing (paragraph 5.16).

Recommendation 9: A similar pool of lay members who could sit on the Committees of Inquiry should also be formed, perhaps drawn from non-executive directors of Trusts (paragraph 5.16).

5.1 Action: NHS Trusts and Health Boards should note that the Management Executive will be establishing pools of legally qualified chairmen, and lay members, who could sit on Committees of Inquiry. Further details about this, and about standard charging rates for Chairmen of Committees of Inquiry, will be sent to Trusts and Health Boards in due course.

5.2 Recommendation 8 is aimed at ensuring that disciplinary hearings are conducted according to strict processes and timescales, and amplifies paragraph 12 of Annex C of NHS Circular No. 1990(PCS)8.

Soul and Conscience Certificates

6. **Recommendation 10:** Guidance issued to General Practitioners on the signing of “soul and conscience” certificates to be reinforced (paragraph 5.20).

6.1 Action: Health Boards are asked to remind all General Practitioners within their Board area of the importance of care in signing of “soul and conscience” certificates, as detailed in paragraphs 5.17 to 5.19 of the Report.

Honorary Contracts

7. **Recommendation 11:** There should be agreement between the University and the Trust holding the honorary contract as to arrangements for disciplining such honorary contract holders in Trusts (paragraph 6.5).

Recommendation 12: The following wording should be included in new and existing honorary contracts between Trusts and honorary contract holders:

“If any questions shall arise between the NHS Trust and yourself as to your professional conduct or professional competence, your contract will be subject to the provisions of the NHS Circular No. 1990(PCS)8, particularly at paragraphs 16 and 17 of Annex C. Any findings made as a result of any investigations made under that Circular, will be referred to the University for consideration under the relevant University procedures.” (paragraph 6.5).

Recommendation 13: The Trust holding the honorary contract should bear the costs of any process where an honorary consultant was being disciplined under the honorary contract (paragraph 6.5).

Recommendation 14: The University should be informed of the suspension of the holder of an honorary contract in order that a decision may be made as to the necessity of effecting suspension from academic duties, including teaching; and similarly the Trust be informed if the University was disciplining a member of staff with an honorary contract in that Trust (paragraph 5.16).

7.1 Action: NHS Trusts or Health Boards who have honorary contract holders on their staff should ensure that they have agreed arrangements with the University, as the main employer of honorary contract holders, for disciplining such individuals. Additionally, they should include the wording in Recommendation 12 in all new and existing contracts between NHS Trusts or Health Boards and honorary contract holders. The costs of any

process whereby an honorary consultant was being disciplined in relation to an honorary contract should be borne by the NHS Trust or Health Board holding that honorary contract. NHS Trusts or Health Boards should inform the main employer, the University, of the suspension of an honorary contract holder; and the University should similarly inform the NHS Trust or Health Board when it is disciplining a member of staff holding an honorary contract with that Trust or Health Board.

Locum Work

8. **Recommendation 15:** The suspended practitioner should be informed in the letter of suspension that prior written permission of the employer was required before the suspended practitioner could undertake locum work (paragraph 6.9)

Recommendation 16: The Trust (receiving Trust) or other employer, which had agreed to employ as a locum a suspended practitioner, should be informed by the Trust, which has invoked the suspension (originating Trust) the reasons for the suspension (paragraph 6.9).

Recommendation 17: There should be agreement with the suspended practitioner on the appropriate period of notice for return to substantive employment (paragraph 6.9).

Recommendation 18: The suspended practitioner should not benefit financially from locum work. The main employer should invoice the receiving Trust at locum rates to offset cover arrangements/additional costs. This would be easier than reclaiming sums paid to the suspended practitioner by the receiving Trust (paragraph 6.9).

8.1 **Action:** NHS Trusts and Health Boards should set up the mechanisms described in recommendations 15 to 18 to ensure that control is exercised over suspended practitioners working as locums. The letter of suspension referred to in recommendation 15 should also inform the suspended practitioner that he or she is required to inform the receiving Trust (or other employer), in writing, of the need to contact the originating Trust or Health Board about the reasons for the suspension.

Appeals

9. **Recommendation 19:** A group consisting of NHS employers and the British Medical Association/British Dental Association (BMA/BDA) should consider the question of appeals against the determination of the type of misconduct, and produce an agreed and uniform appeal mechanism across all Trusts and Health Boards in Scotland (paragraph 6.12)

9.1 **Action:** NHS Trusts and Health Boards should note this recommendation. Further advice will be notified to Trusts and Health Boards in due course.

NOTE: The group might consider the possibility of allowing for representation by the doctor or dentist concerned.

Monitoring and Retraining

10. **Recommendation 20:** Steps should be taken, where appropriate, to ensure both a mentor to support the individual during suspension and a programme of retraining to keep the practitioner up-to-date professionally (paragraph 7.4).

Recommendation 21: Once retraining has been completed, the employer should ensure regular appraisals of professional performance at defined intervals (paragraph 7.4).

10.1 **Action:** NHS Trusts and Health Boards should appoint one or more senior doctors or dentists who are not members of the Trust or Health Board Executive, to be available to act as mentors to any individual against whom allegations have been brought or who is being disciplined or is suspended. Trusts and Health Boards should also ensure that a programme to maintain professional knowledge and skills is available, where appropriate, for suspended practitioners. Where there are problems with the professional performance of an individual, Trusts and Health Boards should consider drawing up a suitable programme of retraining in association with the local Postgraduate Dean and Royal College Training Committee. At the completion of that retraining, Trusts and Health Boards should ensure that there is regular 6-monthly appraisal, for a period of at least a year, of the practitioner's performance with clear feedback provided for the practitioner.

C. UPDATING OF CURRENT GUIDANCE

11. NHS Circular No. 1990(PCS)8 should be updated as follows.

11.1 Where reference is made to "Chief Administrative Medical Officer (CAMO)", this should read "Director of Public Health/ Chief Administrative Medical Officer (DPH/CAMO)" in the case of Health Boards, and "Medical Director" in the case of Trusts.

11.2 Where reference is made to "Health Board" this should also include "NHS Trust".

11.3 Where reference is made to "Area Committee for Hospital Medical Services (ACHMS)", this should be replaced by the appropriate Health Board or Trust Medical or Dental Advisory Committee.

11.4 Section 40 of the General Whitley Council Conditions of Service has been replaced by Section 42.

D. NHS MANAGEMENT EXECUTIVE CONTACTS

12. Reports on suspensions, together with any queries about this circular, should be sent to Mr F Elliott, Directorate of Human Resources, Room 71, St Andrew's House, Edinburgh, EH1 3DG (Telephone 0131 244 2239; Fax 0131 244 3583).

For informal advice on handling disciplinary matters for doctors and dentists, and queries on any other matters relating to allegations about practitioners, The Scottish Office Medical Officer overseeing this area should be contacted. Currently this is Dr D J Ewing, Room 360, St Andrew's House, Edinburgh, EH1 3DG (Telephone 0131 244 2275; Fax 0131 244 2069).