



Hospital doctors face unfair disciplinary procedures, says defence organisation

Clare Dyer

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Unfair and inconsistent disciplinary procedures against NHS hospital doctors are reinforcing a culture of fear in healthcare, one of the UK's largest medical defence organisations has claimed.

The Medical Protection Society (MPS), which advises and helps doctors, acknowledges that some NHS trusts have effective disciplinary processes. But in a new paper, *Getting it Right*,¹ it accuses others of using legally flawed procedures, prolonging cases unnecessarily, and failing to inform doctors early enough of the allegations they face.

Some trusts exclude doctors from work as a default mechanism regardless of the nature of the allegations, the MPS says, leading to deskilling, when in many cases restrictions on practice would be enough. Some impose draconian restrictions on contact, isolating a doctor under investigation from colleagues.

"Disciplinary proceedings have career changing consequences for a doctor," said Pallavi Bradshaw, senior medicolegal adviser at the MPS. "A study of almost 8000 doctors by Imperial College London showed that 16% of doctors going through a local formal investigation experience moderate to severe depression and 13.5% experience anxiety.² If disciplinaries do not follow due process they will also affect the culture of the organisation and reinforce mistrust and fear across the wider healthcare profession."

The MPS calls on employers to make sure that they act in a timely manner, rather than letting investigations drag on. Restrictions during the investigation should be proportionate to the nature of the allegations, and the procedures used must be fair, the society says.

"Crucially, where a trust or another employer is found to have behaved in a seriously wrong way during proceedings, a clear

method needs to be established to hold them to account," says the paper.

It cites the case of Dr P, a consultant ear, nose, and throat surgeon, who had personality differences with colleagues. Concerns were initiated about her performance, citing poor outcomes and possible harms to patients but without providing specific examples. The investigation took two and a half years, and when it finally concluded it found that she had no fundamental problem with competence but that the complex procedures had a poor outcome, regardless of the surgeon. By then she was deskilled, a negotiated exit was agreed, and a new consultant surgeon recruited.

The MPS says it wants to work with NHS employers, the National Clinical Assessment Service, the General Medical Council, and the Department of Health and Social Care for England to ensure that all trusts have disciplinary procedures that are fair, proportionate, and timely.

"Consideration urgently needs to be given to how a doctor can seek to rectify failings of a disciplinary proceeding while it is still ongoing," it adds. "Far too often recourse can only be sought through the courts, either when proceedings have concluded or are nearing a close."

- 1 Medical Protection Society. *Getting it right*. Apr 2018. www.medicalprotection.org/docs/default-source/pdfs/UK-Consultation-responses/mps_response_disciplinary_proceedings_getting_it_right_26032018.pdf.
- 2 Bourne T, Wynants L, Peters M, et al. The impact of complaints procedures on the welfare, health and clinical practise of 7926 doctors in the UK: a cross-sectional survey. *BMJ Open* 2015;5:e006687. doi: 10.1136/bmjopen-2014-006687

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