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Executive Board meeting - 17 December 18

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Report title:	Exclusion of information from the List of Registered Medical Practitioners
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Action:	To consider

Executive summary

In response to requests from individual doctors and designated bodies, we have conducted a policy review of how we determine what information can be excluded from the List of Registered Medical Practitioners (LRMP) and in what circumstances.

This paper sets our proposed policy for excluding revalidation and training information relating to registered doctors and designated bodies.

Recommendations

The Executive Board is asked to approve the criteria and guidance that encapsulate our proposed policy framework at Annex A and Annex B.

Background

- 1 Section 2(1) of the [Medical Act 1983](#) ('the Act') places the GMC under a legal obligation to keep a register of medical practitioners registered under the Act. Section 34 of the Act stipulates what information the GMC is obliged to publish from that register.
- 2 [Research](#) we commissioned in 2015 suggested that there was interest in developing the register to make more information available, easier to access and to reflect our expanded regulatory functions. Consequently, from January 2016 we began publishing two new categories of information, namely*:
 - a Training information - Which doctors are in an approved training programme, including their programme speciality and their training provider, and;
 - b Revalidation information - For doctors with a licence to practise, the name of their responsible officer (RO) and designated body (DB) (or suitable person if they have one).

Issue

- 3 Whilst Council approved our approach to publishing revalidation and training information, we didn't set out under what circumstances we may need to move away from that general approach.
- 4 It is now clear that we need to address this policy gap and develop a framework to support the exclusion of revalidation and training information in circumstances that affect certain organisations and individual doctors. This is specifically where we are assured that publication of that information on LRMP presents a significant risk of serious harm to the physical or mental wellbeing of the doctor.
- 5 The policy will underpin our current operational approach, developed in collaboration with ROs and the Employer Liaison Service, of not publishing information about a doctor's designated body or responsible officer if connected to a particular DB[†]. To date this has been applied where the nature of the activities carried out may place connected doctors at personal risk if it was known where they worked, for example doctors working in medical research involving animal testing who may be a potential target for animal rights activists.

* The changes were approved by Council on [23 April 2015](#) and [25 February 2016](#).

† The types of organisations that we currently do not publish DB or RO information for include the military, police forces, embassies, abortion providers, fertility clinics, and animal testing pharmaceutical companies.

- 6** The policy will also underpin decisions when we receive requests from individual doctors to remove their revalidation and training information from LRMP on the basis that publication of this information presents a significant risk of their location being identified and the potential for serious harm to their physical or mental wellbeing. We anticipate the policy will cover cases involving, but not limited to, domestic violence, stalking or harassment.
- 7** In the absence of an established policy, requests from individual doctors often require input from colleagues across the business, resulting in an overly complicated and protracted decision making process. Throughout this process, the information remains visible on LRMP which may mean that the doctor's wellbeing remains at risk.
- 8** Where information has been removed from LRMP, we do not routinely disclose it except in exceptional circumstances, where the relevant party has a legitimate reason for requesting that information and has passed the appropriate security checks. There is an established information access procedure to cover such requests.*

The policy framework

- 9** Our proposed framework for excluding revalidation and training information has been developed in collaboration with colleagues from Registration, Revalidation and Information Governance. It consists of guidance for decision makers and a procedure for operational staff who are asked to consider such requests, and includes the factors they should take into account when making decisions.
- 10** We will only approve removal of information from LRMP if there is a demonstrable need for doing so. This will be where there is a significant risk of harm to the physical or mental wellbeing of the doctor or all doctors connected to a DB.
- 11** Individual requests are likely to involve the disclosure of sensitive information – but we recognise that doctors may not always be able to provide any objective evidence to demonstrate the risk posed. As such, we anticipate that these decisions will be based on the information provided by the doctor and made by an Assistant Registrar.
- 12** Our approach to not publishing revalidation information for all doctors connected to a particular DB on the other hand, is unlikely to involve the disclosure of sensitive information. Organisations will be able to demonstrate more easily the risk posed based on the type of the organisation or practise undertaken. We therefore anticipate that decisions could be made at an operational level by the Revalidation team and in discussion with the Employer Liaison Service.

* Such requests are covered under the [Level 3 information access procedure](#)

- 13** Excluded information will be replaced with a standard message on a doctor's entry on LRMP.
- 14** Decision makers will have discretion to set the most appropriate time period taking into account the circumstances of the individual case. However, we consider a review at three years is proportionate in the majority of cases. The three year review period will also be applied to the exclusion of revalidation information for DB's.
- 15** Following implementation, the Revalidation team will in accordance with the criteria and guidance:
 - a** review the list of existing DBs that information is not published for to ensure their status has not changed;
 - b** consider whether other listed DBs could now potentially be excluded;
 - c** identify any new DBs which may fall into the categories for exclusion and liaise with the ELS to discuss engaging with the relevant RO

Equality and diversity

- 16** In developing a policy to underpin our approach we are taking a positive step in ensuring our approach is fair, consistent and sensitive to the needs of doctors that are at risk. We don't believe there will be a situation in which the new policy will disadvantage any doctor. During the development of our approach we have engaged with our Equality, Diversity and Inclusion team and plan to closely monitor cases to identify and mitigate and potential impact, and where appropriate, amend our policy to address any issues raised.

Associated issues

- 17** During the course of this project, we obtained legal advice which considered our proposed approach in the context of the introduction of GDPR and the recent FtP publication and disclosure guidance. The in-house legal team highlighted that we should consider reviewing our current approach of indefinitely publishing information relating to doctors who are no longer registered. In discussion with colleagues, including Information Governance we agreed that this was a wider GMC issue and beyond the scope of this project. Any review of indefinite publication will require significant cross-directorate input and is likely to require consultation and engagement with our stakeholder groups to identify wider potential impact. We will raise this as an issue for a cross-directorate policy review with the Policy Leadership Group to consider the appropriate way forward.

Next step

- 18** We plan to introduce the new criteria and guidance in February 2019, following training for operational staff, Information Governance and the Employer Liaison Service.

7 – Exclusion of information from the List of Registered Medical Practitioners

7 – Annex A

Guidance for deciding whether to remove a doctor's revalidation and training information from the List of Registered Medical Practitioners (LRMP)

Purpose of this guidance

- 1** This guidance is for decision makers who are asked to consider whether a doctor has an exceptional reason, for having their revalidation and training information excluded from LRMP. By exceptional we mean that publication of that information presents a significant risk of serious harm to the physical or mental wellbeing of the doctor.
- 2** This guidance should be read in conjunction with the [principles which apply to decision-making across all our registration and revalidation functions](#).
- 3** This guidance aims to ensure consistency, fairness and proportionality in our approach to making decisions on these cases.

Legislative provision

- 4** We have a statutory duty under section 34(a-ba) of the [Medical Act 1983](#) (as amended) ('the Act') to publish a range of information about a doctor.
- 5** We also have a discretionary power under section 34(c) to publish any other information. Revalidation and training information is published under this provision.
- 6** We routinely publish this information on our online register – The List of Registered Medical Practitioners.
- 7** We may agree to exclude the revalidation information *and*, where the doctor is a trainee, their training information from publication in exceptional circumstances. In making such a decision, we will consider the factors outlined in this guidance and in the context of our primary objective to protect the public and maintain confidence in the profession.

Options for decision makers

- 8** After considering all the relevant information and evidence before you, you may decide:
- a** the doctor has satisfied you that publication of their revalidation and training information presents a significant risk of serious harm to their physical or mental wellbeing, and therefore that information should be removed from LRMP, or;
 - b** the doctor has not satisfied you that publication of their revalidation and training information presents a significant risk of serious harm to their physical or mental wellbeing, and therefore we should continue to publish that information on LRMP.

Factors to consider

- 9** This section sets out the factors that you should take into account when considering a request to exclude revalidation and training information from LRMP.
- 10** There are a number of circumstances where we may consider excluding information from LRMP on the basis that publication may present a significant risk of serious harm to the doctor's physical or mental wellbeing. This can include, but is not limited to, domestic violence, stalking or harassment.
- 11** When considering requests, you must make decisions on a case by case basis and take into account the individual circumstances.
- 12** In all cases you should consider:

Checklist	
1	<p>Has the doctor or a third party provided information to support their request? And if so:</p> <ul style="list-style-type: none"> ■ Is there sufficient information to understand the circumstances surrounding the doctor's request? ■ Are you satisfied that the information provided clearly demonstrates the extent of the risk posed? ■ Do you need any further information from the doctor, or from a third party (such as a responsible officer (RO) or employer) to enable you to make your decision?
2	<p>Is the risk associated with the nature of the activities carried out at the designated body the doctor is connected to? You may wish to consider:</p>

	<ul style="list-style-type: none"> ■ If other connected doctors are at risk ■ Whether the designated body meets our criteria for exclusion
3	<p>What is a reasonable period of time for the exclusion to remain in place before it is reviewed¹? You may wish to consider:</p> <ul style="list-style-type: none"> ■ The reason for the request ■ Whether it is reasonable to assume that the doctor’s connection will change in the future and the change will mean that there is no longer a risk
4	<p>Are you satisfied on the basis of all the information available to you that excluding information from LRMP would address or mitigate any risk posed to the doctor?</p> <p>If you are satisfied, you may wish to make the doctor aware that:</p> <ul style="list-style-type: none"> ■ It is their responsibility to inform their RO or employer about the exclusion ■ They should contact us if their circumstances change and the risk is no longer present.

This was last updated and approved on XX.

¹ Exclusions should be reviewed every three years as a minimum.

7 – Exclusion of information from the List of Registered Medical Practitioners

7 – Annex B

Operational procedure – Excluding a designated body from the List of Registered Medical Practitioners (LRMP)

Background

- 1 We have a statutory duty under section 34(a-ba) of the [Medical Act 1983](#) (as amended) (the Act) to publish a range of information about a doctor on our online register, The List of Registered Medical Practitioners.
- 2 We also have a discretionary power under section 34(c) to publish any other information. Revalidation and training information is published under this provision.
- 3 We may agree to remove revalidation and training information from publication in exceptional circumstances. This is specifically where we are assured that publication of that information on LRMP presents a significant risk of serious harm to the physical or mental wellbeing of the doctor.

Purpose

- 4 This document outlines how to administer requests to exclude the revalidation and training information for all doctors connected to a particular designated body.

Designated body exclusions

Has the request come from an authorised source?

- 5 Authorised sources include:
 - a responsible officer or suitable person
 - b authorised delegate with GMC Connect access for that organisation
 - c employer liaison adviser
- 6 If yes, proceed with the process.

7 If the request hasn't come from an authorised source, for example a doctor raising a personal safety issue linked to the organisation but the organisation hasn't requested exclusion, you will need to contact the ELA or RO.

Does the designated body fall into any of the following categories?

8 We have agreed that any designated body that falls into the following categories can be excluded:

- a** Organisations providing services to assist with fertility, conception, pregnancy or abortion
- b** Pharmaceutical companies that provide scientific/clinic support to the pharma industry and this involves animal testing
- c** Military organisations
- d** Police forces
- e** Embassies

9 The list above is not exhaustive and we may do this for any other reason that we consider reasonable in the circumstances.

Why should the designated body be excluded?

10 The risk to personal safety is often because of the nature of the activities carried out at the designated body. You will need to determine:

- a** if there is sufficient information to understand the type of medical practice or work undertaken by the designated body and,
- b** the information provided clearly demonstrates that there is a risk to personal safety.

11 You should also seek the views of the ELA to ensure that they are aware and support the reasons for the exclusion.

12 If you are unsure whether to exclude a designated body, you should escalate to a team coordinator.

When should the exclusion be reviewed?

13 If the designated body falls into one of the excluded categories, you should set a review period of three years.

14 If the designated body doesn't fall into one of the excluded categories, you should set a review period for one year.

- 15** If the risk to personal safety is linked to the type of work being undertaken and that work is for a specific period, you may wish to review at the point when the work is due to complete but this should not be for more than three years.