

Dealing with Grievances

SAC in Paediatric Surgery

The Gold Guide (2nd edition, June 2008) is the document which governs training of junior medical staff. While there are many paragraphs which relate to standards of practice and behaviour of both trainees and those involved in their training, it is difficult to locate explicit guidance on how to deal with grievances from trainees.

This paper attempts to provide some guidance to trainees, trainers and others on how to deal with complaints from trainees about various aspects of their role as a junior doctor including educational, contractual and other matters. Relevant paragraphs from the Gold Guide (2nd edition, June 2008) have been appended and some will be referred to during the various sections of this paper.

It seems clear that if the processes and procedures outlined in the Gold Guide are followed explicitly, many complaints and grievances can be avoided.

a) Complaints about contractual matters

The Gold Guide clearly indicates that matters of employment are the responsibility of the employing authority, including ensuring that a trainee is fit to practice (paragraphs 2.17, 4.25, 6.4, 6.26, 6.42, 6.43, 7.24, 7.26, 7.27, 7.48). As a consequence, it seems clear that grievances that arise in relation to matters of employment should be taken up with the employing authority through their grievance procedures. Such matters might include:

- Hours of work
- Duty rosters
- Study leave (shared with Postgraduate Dean)
- Sick leave
- Annual leave
- Compassionate leave
- Maternity leave
- Parental leave
- Aspects of less than whole time training (shared with Postgraduate Dean)

Complaints about any of these matters should be addressed to the trainee's employing authority. Support should be sought by the trainee from Consultant colleagues and the British Medical Association or other professional body or Trades Union with which the trainee is associated.

b) Complaints about educational matters

The structure of postgraduate training outlined in the Gold Guide is clear. There are specific responsibilities outlined for both trainees and those involved in their

training (paragraphs 2.17, 4.7, 4.22, 4.25, 6.4, 6.26, 6.41, 7.22, 7.23, 7.25, 7.40, 7.48, 7.49 and appendix 2).

Notwithstanding the guidance in the Gold Guide, grievances may still be made about matters which impact on the quality or the quantity of training received by a trainee. Examples of such complaints may include:

- Inadequate operating time
- Inadequate supervision and support
- Inadequate formal teaching
- Inadequate time for personal study
- Inadequate time for research and audit

Grievances about such matters should in the first instance be raised with the Training Programme Director during an informal discussion. If appropriate remedial action is not taken such that identified deficiencies are addressed, the trainee should take their complaint in writing to the Chairman of the Specialty Training Committee (STC) and copy the letter to their Postgraduate Dean.

c) Complaints about trainers/educational supervisors/ARCP panel

The Gold Guide is clear about the course of action which should be followed if the grievance involves the trainee's trainers or educational supervisor (paragraph 7.49).

Examples of this sort of grievance might include:

- Bullying by colleagues
- Bullying by trainers
- Disagreement over RITA or ARCP outcome
- Harassment on sexual orientation, gender, ethnic, religious or racial grounds

In this set of circumstances, it is suggested that the trainee should have an informal discussion with one of their trainers who they might perceive to be supportive. Alternatively, the trainee should consider contacting the Liaison SAC member for their training programme to have this discussion.

Ultimately, this sort of grievance must be taken seriously. Paragraph 7.49 indicates that this sort of complaint must be taken directly in writing to the Postgraduate Dean if informal means do not resolve the problem.

d) Complaints about Chair of Specialty Training Committee

The Gold Guide does not give any explicit guidance on the course of action to be followed in a trainee expresses a grievance about the Chair of the STC.

Examples of such complaints might include:

- Bullying by chair of STC
- Inappropriate behaviour by chair of STC

- Disagreement about decision taken by the STC
- Disagreement over RITA or ARCP outcome
- Harassment on sexual orientation, gender, ethnic, religious or racial grounds

In this set of circumstances, it is also suggested that the trainee should have an informal discussion with one of their trainers who they might perceive to be supportive. Alternatively, the trainee should consider contacting the Liaison SAC member for their training programme to have this discussion.

If informal discussions do not achieve a satisfactory solution, it seems reasonable to infer that this sort of grievance should be made in writing to the Postgraduate Dean and copied to the Chair of the SAC.

e) Complaints about Liaison SAC member

The Liaison SAC member is answerable to the Chair of the relevant SAC. As such, any concerns about the conduct of the Liaison SAC member, from trainees or trainers, should be addressed in writing to the Chair of the SAC.

f) Complaints about Chairman, Members or Supporting staff of the SAC

The Chair of the SAC is answerable to the Chair of the Joint Committee on Surgical Training (JCST). SAC supporting staff are answerable to their line manager within the JCST structure.

Complaints about SAC supporting staff should be addressed in writing to the Chair of the SAC in the first instance.

Complaints about members of the SAC should be addressed in writing to the Chair of the SAC.

Complaints about the Chair of the SAC should be addressed in writing to the Chair of the JCST.

Graham Haddock
11/08

Extracts from the Gold Guide (2nd edition, June 2008)

- 2.17 All trainees must accept and move through suitable placements or training posts which have been designated as parts of the specialty training programme prospectively approved by PMETB. In placing trainees, Postgraduate Deans or their representatives must take into account the needs of trainees with specific health needs or disabilities. Employers must make reasonable adjustments if disabled trainees require these. The need to do so should not be a reason for not offering an otherwise suitable placement to a trainee. They should also take into account the assessments of progress and individual trainees' educational needs and personal preferences, including relevant domestic commitments wherever possible.
- 4.7 The day to day management, including responsibility for the quality management of specialty training programmes, rests with the Postgraduate Deans who are accountable to the Strategic Health Authorities in England, the Welsh Ministers, NHS Education for Scotland, (which is accountable to the Scottish Government), and, in Northern Ireland, to the Department of Health, Social Services and Public Safety (DHSSPS).
- 4.22 Educational supervisors are responsible for overseeing training to ensure that trainees are making the necessary clinical and educational progress. Where possible, it is desirable for trainees to have the same educational supervisor for the whole of their training programme or for stages of training (e.g. the early years or more advanced years of training). Educational supervisors should:
- be adequately prepared for the role and have an understanding of educational theory and practical educational techniques e.g. have undertaken formal facilitated training or an on-line training programme or participate in relevant training the trainers programmes
 - be trained to offer educational supervision and undertake appraisal and feedback
 - undertake training in competence assessment for specialty training
 - be trained in equality and diversity
 - provide regular appraisal opportunities which should take place at the beginning, middle and end of a placement
 - develop a learning agreement and educational objectives with the trainee which is mutually agreed and is the point of reference for future appraisal
 - be responsible for ensuring that trainees whom they supervise maintain and develop their specialty learning portfolio and participate in the specialty assessment process
 - provide regular feedback to the trainee on their progress
 - ensure that the structured report which is a detailed review and synopsis of the trainee's learning portfolio (Appendix 5) is returned within the necessary timescales
 - contact the employer (usually the medical director) and the Postgraduate Dean should the level of performance of a trainee gives rise for concern
 - be able to advise the trainee about access to career management
 - be responsible for their educational role to the training programme director and locally to the employer's lead for postgraduate medical education.
- 4.25 These important educational and review roles make it essential that there are unambiguous lines of accountability for educational supervisors into both educational programme arrangements through the TPD and also into the management structure of the trainee's employer (e.g. through clinical directors or the designated lead for medical education such as the Director of Medical Education or postgraduate Clinical Tutor) so that there is clarity about:

- who is providing educational supervision
 - the clear link between the appraisal, assessment and planning of a trainee's educational programme and their performance as a doctor
 - the transparency of the process ensuring that the trainee is aware of the information being shared with the employer
 - the arrangements for raising matters of clinical concern and professional performance about a trainee within the employing authority and with the Postgraduate Deanery in line with wider regulatory requirements.
- 6.4 A doctor in training will have a training agreement with the postgraduate deanery that entitles them to continue in a training programme subject to satisfactory progress. They will also be offered an employment contract for the placement they will be working in. Some training programmes will involve more than one employer so doctors may have a series of contracts of employment through a training programme. Employers participate in selection processes for training but these are normally administered by deaneries.
- 6.26 Before an NTN is issued trainees will be required to indicate formally that they accept the *Conditions of taking up a training post* (Appendix 2 – see below) In addition, trainees awarded an NTN should:
- be engaged in activities approved by and agreed with the Postgraduate Dean, if not currently taking part in the training programme, which are compatible with their training programme, (e.g. research or agreed leave of absence for a career break). If time out of the training programme is agreed, the trainee must ensure that the Postgraduate Dean/TPD is informed of their proposed plans/timescale to return to the training programme
 - ensure that their educational supervisor/TPD is aware of their absence from the training programme for e.g. maternity or prolonged sick leave. The Postgraduate Dean's office and employer must be made aware of plans for prolonged absence
 - agree to engage in the training and assessment process e.g. participate in setting educational objectives, appraisal, attend training sessions, ensure that documentation required for the assessment process is submitted to time and in the appropriate format
 - be committed to make steady progress in completing their training programme
 - not undertake locum activities which compromise their training or make them non-compliant with Working Time Regulations
 - be aware that if they are employed outside the NHS and cease to pursue, for any reason, the research or other activity which the Postgraduate Dean or their deputy (taking account of advice from research supervisors and Royal Colleges and their Faculties) has agreed is compatible with the retention of the NTN, they must inform the Deanery at once. The Postgraduate Dean (or deputy) will then decide whether it is appropriate for them to retain their NTN
 - be aware that if they hold a NTN, are employed outside the NHS and wish to begin or return to a CCT training programme in the NHS, they will need to discuss their return with the relevant training programme director. They cannot be guaranteed a particular placement, but their needs will be taken into account with the rest of the trainees in the programme.
- 6.41 The training number will be given up when a trainee:
- is no longer on the GMC register
 - has completed their training programme or post
 - is assessed as not being suitable for continuing training in the specialty in their current deanery

- permanently relinquishes their place in a training programme
 - decides not to complete the training programme agreed with the Postgraduate Dean
 - does not comply with the requirements for registering or maintaining their registration with the Postgraduate Dean.
- 6.42 A trainee dismissed after due process by an employer will normally be deemed by the Postgraduate Dean to be unsuitable to continue within the specialty training programme and will have their training number removed and their place on the programme terminated.
- 6.43 In all cases where an NTN is removed, the Postgraduate Dean will inform the trainee in writing of the reasons for this decision. The doctor will have the right of appeal (paras 7.148 -7.151). Relevant employing authorities need to be party to any decisions for removal of an NTN from a trainee in their employ since normally this will also mean that their employment contract will be terminated but the decision for the NTN to be removed rests with the Postgraduate Dean. This must be done fairly and must satisfy the requirements of employment law.
- 6.44 It is open to those who have had their training numbers removed, or have given them up voluntarily to re-apply for competitive entry to specialty training at a later date should circumstances change. Entry in such cases would be by competition with other applicants.
- 7.15 During their appraisal discussion trainees must be able to discuss their worries/mistakes without fear that they will be penalised. Patient safety issues should usually be identified by clinical incident reporting, unless it is repetitive poor practice. However, where it is in the interests of patient safety or of the trainee, then the trainee must be informed that the relevant element of the appraisal discussion will be raised with the director/lead of medical education in the health authority and the Postgraduate Dean.
- 7.22 The educational appraisal process is the principal mechanism whereby there is the opportunity to identify concerns about progress as early as possible. Failure to participate in undertaking workplace based assessments across all areas where these are required or in specific instances; issues raised in multi-source feedback information from either staff or patients; significant or unexplained absences are examples of some early warning signs which should alert the educational supervisor that intervention may be required.
- 7.23 These concerns should be brought to the attention of the trainee during appraisal meetings. Account should be taken of all relevant factors which might affect progress (for example, health or domestic circumstances) and should be recorded in writing. An action plan to address the concerns should be agreed and documented between the educational supervisor and trainee. If concerns persist or increase, further action should be taken, either through the annual assessment process or, if timing is inappropriate, through direct contact with the training programme director and employer, alerting them of these concerns.
- 7.24 There must be a well-defined governance structure within employing authorities to ensure that doctors in postgraduate training are incorporated into employer's performance appraisal processes. So that educational and workplace based appraisal are well integrated and synergistic, the educational supervisor is responsible for both educational and workplace based appraisal of the trainee. This approach will require the educational supervisor to undertake, in addition to educational appraisal, the workplace based appraisal process, with completion of the necessary documentation on behalf of the employers who provide postgraduate medical education through employment opportunities. Participation in workplace appraisal is a requirement for all doctors working within the NHS.

- 7.25 Educational supervisors should complete work-base appraisal documentation for postgraduate trainees as part of an integrated appraisal discussion, after receiving the outcome documentation from the annual review (ARCP) process. This will enable both the outcome and educational and workplace based appraisal to inform the planning for the next stage of training for the trainee. There should be no disjunction in the process of educational and workplace based appraisal and in the completion of the relevant documentation. Both fulfil the purpose of appraisal which is to document progress and performance against agreed objectives. The workplace based appraisal documentation ensures that employers are aware of the performance of doctors who are employed within their organisations.
- 7.26 The workplace based appraisal documentation should form a permanent part of the trainee's learning portfolio. Where specialties are using electronic portfolios, this documentation should be copied into it as an additional section or be maintained separately as hard copy by the doctor. Educational supervisors should keep copies of the summary document (Form 4) since these will be required by clinical directors or equivalent employer leads to document the performance of postgraduate doctors in their organisations.
- 7.27 Where a trainee is under investigation by the GMC, this must be made clear and explicit in the appraisal documentation. The employer must be informed if such investigation has been invoked through training channels and should be made aware of it through the workplace based appraisal process. Equally, the Postgraduate Dean must be informed if a doctor in postgraduate training is referred to the GMC by an employer with concerns over the doctor's performance or a breach of professional standards. The Postgraduate Dean will need to take special care that the PMETB is informed if this is the case, especially where the doctor is being considered for award of a CCT or a CESR/CEPGR.
- 7.40 If there are concerns about a trainee's performance, based on the available evidence, the trainee must be made aware of these. Trainees are entitled to a transparent process in which they are assessed against agreed standards, told the outcome of assessments, and given the opportunity to address any shortcomings. Trainees are responsible for listening, raising concerns or issues promptly and for taking the agreed action. The discussion and actions arising from it should be documented. The educational supervisor and trainee should each retain a copy of the documented discussion.
- 7.48 It may be necessary for the Training Programme Director (TPD) to provide an additional report, for example detailing events that led to a negative assessment by the trainee's educational supervisor. It is essential that the trainee has been made aware of this and has seen the report prior to its submission to the panel. It is not intended that the trainee should agree the report's content but is intended to ensure that the trainee is aware of what had been said. Where the report indicates that there may be a risk to patients arising from the trainee's practice, this risk needs to be shared with the Postgraduate Dean and the current employer (see the workplace based appraisal process – para 7.24 – 7.27). The trainee needs to be made aware that this is the case.
- 7.49 The trainee may submit, as part of their evidence to the ARCP, a response to the trainers' report or to any other element of the assessment documentation for the panel to take into account in their deliberations. Whilst such a document will be considered "privileged" and will be viewed and considered only by the panel in the first instance, depending on its content the trainee must expect that it will be followed up appropriately. Where, for example, a trainee raises allegations of bullying, harassment or other inappropriate conduct on the part of a trainer or other healthcare professional, such allegations must be taken very seriously. Whilst the panel itself is not set up to investigate or deal with allegations of this nature, it will bring such concerns to the attention of the Deanery in writing immediately following the panel for further consideration and possible investigation by the employing authority. All Deaneries and employers of specialty trainees will have policies on managing

allegations of inappropriate learning and working environments. Trainees are encouraged to follow these policies and training providers must make their policies on bullying and harassment known to trainees as part of their induction.

- 7.74 Any concerns which emerge about a trainee's Fitness to Practise must be reported to the Postgraduate Dean for further advice and guidance

**Conditions of taking up a training post
(Note: this is NOT an offer of employment)**

Dear Postgraduate Dean

On accepting an offer to take up a training post in the _____ Deanery, I agree to meet the following conditions throughout the duration of the programme:

- to always have at the forefront of my clinical and professional practice the principles of *Good Medical Practice* for the benefit of safe patient care. Trainees should be aware that *Good Medical Practice* (2006) requires doctors to keep their knowledge and skill up to date throughout their working life, and to regularly take part in educational activities that maintain and further develop their competence and performance
- to ensure that the care I give to patients is responsive to their needs, that it is equitable, respects human rights, challenges discrimination, promotes equality, and maintains the dignity of patients and carers
- to acknowledge that as an employee within a healthcare organisation I accept the responsibility to abide by and work effectively as an employee for that organisation; this includes participating in workplace based appraisal as well as educational appraisal and acknowledging and agreeing to the need to share information about my performance as a doctor in training with other employers involved in my training and with the Postgraduate Dean on a regular basis
- to maintain regular contact with my Training Programme Director (TPD) and the Deanery by responding promptly to communications from them, usually through email correspondence
- to participate proactively in the appraisal, assessment and programme planning process, including providing documentation which will be required to the prescribed timescales
- to ensure that I develop and keep up to date my learning portfolio which underpins the training process and documents my progress through the programme
- to use training resources available optimally to develop my competences to the standards set by the specialty curriculum
- to support the development and evaluation of this training programme by participating actively in the national annual PMETB/COPMeD trainee survey and any other activities that contribute to the quality improvement of training

I acknowledge the importance of these responsibilities. If I fail to meet them I understand that the Postgraduate Dean may require me to meet with him/her to discuss why I have failed to comply with these conditions. I understand that this document does *not* constitute an offer of employment.

Yours sincerely

Trainee's signature

Trainee's name (printed)

Date

