Managing Poor Performance and Doctors in Difficulty

Overview

- What is NCAS – and how we help in managing and supporting doctors in difficulty
- Defining and identifying poor performance
- NCAS and the GMC ELA
- What to do when a concern arises, “early warning systems”, liaison with Human Resource Management
- Supporting doctors in difficulty
- How to put things right! The NCAS Back on Track service
Who we are

• Arms Length Body – with NHS LA from April 2013
• Multidisciplinary team – advisers from clinical, medical management, legal, HR backgrounds
• Coverage
  • National – and associated states
  • Public and independent sectors
  • Self-referral
  • Free at the point of delivery

What we do

• Support to local resolution of concerns about the practice of doctors, dentists and pharmacists
  • Case management
    • Expert advice and support – to local case management
    • Comprehensive service – from referral to resolution
    • Specialist interventions
  • Education
    • Building front-line ownership and expertise
    • Making practical tools and resources available
  • Evaluation, research and development
    • Improving our work and methods
  • Information
    • Sharing our learning and experience
Why we do it

- Public protection, patient safety and public assurance
  - c1000 referrals yearly – small population (0.5%) with disproportionate impact on public confidence
  - Cases coming earlier – 82% less than a year old in 2009/10, compared with 36% in 2002/03

- Impact
  - Suspension / exclusion – down by 80% and average length down by 33% since 2003 – estimated annual saving >£10million (NAO)
  - Outcomes – two-thirds of most serious cases back in work after remediation
  - Complaints and litigation – earlier, better handling of performance failure
  - Reduction in high profile cases and resulting public inquiries

Where we fit – partners and stakeholders

Employers
- Fitness for Purpose

Regulators
- Fitness to Practise

CQC / HIW / RQIA
- Systems and Services

Health Care Performance Management

Royal Colleges

NCAS

Deans and Universities

Professional Associations and Defence Organisations

Health Care Management
**Fitness to practise vs fitness for purpose**

- **Fitness to practise**
  - RO - GMC – ELAs

  *Does the doctor's performance meet the minimum standards of a doctor practising in the UK in their specialty?*

- **Fitness for purpose**
  - Employing/contracting body - NCAS

  *Does the doctor’s performance meet the standards expected by your organisation of a doctor working at that level, in that specialty, in your organisation?*

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**Definition of a concern**

“A concern about a doctor’s practice can be said to have arisen where an incident causes, or has the potential to cause, harm to a patient, staff or the organisation; or where the doctor develops a pattern of repeating mistakes, or appears to behave persistently in a manner inconsistent with the standards described in Good Medical Practice” (GMC, 2006).
What concerns come forward – the performance triangle

Work Context

Clinical Knowledge & Skills

Health

Behaviour

What concerns come forward – three main areas

behaviour / misconduct – 58%
clinical concerns including governance / safety 61%

health concerns 23%

(sample = 4233 cases handled by NCAS Dec 2007 – Mar 2012)
How do concerns come forward?

- Positive and negative indicators, benchmarking:
  - Appraisal & revalidation – multi source feedback
  - Outcome monitoring – SUIs, etc
  - Complaints and compliments
  - ‘Corridor conversations’…
  - Governance systems as ‘early warning’.

Early warning signs

- Change in normal behaviour
- Fall off in clinical performance
- Clinical Adverse events, SUIs
- Poor timekeeping
- Escalation of ‘background irritations’
- ‘Corridor comments’ from colleagues
- Complaints, whistleblowing
Comparative risk factors for referral to NCAS

Referrals 2001-2010; workforce 2007; 95% confidence intervals

Identifying the nature of concerns

- **Health**
  - 24% of referrals with mixed concerns
  - 6% of referrals with health problems alone

- **Includes:**
  - Physical health issues
  - Mental and stress-related illness
  - Substance abuse.
**Health factors at referral**

- **How many?**
  - Health issues in 24% of NCAS referrals

- **What types of concern?**
  - We don’t log health details because our concern is with the relationship between performance and health – but
    - Anxiety / stress / burnout (6%) and depression / hypomania (6%) are commonly mentioned
    - Suspected or confirmed alcohol misuse is a factor in 5% of cases and drug misuse in 3%

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**Identifying the nature of concerns**

- **Behaviour and misconduct**
  - 56% of referrals with mixed concerns
  - 24% of referrals with behavioural problems alone

- **Includes:**
  - Breach of contract
  - Fraud, probity issues
  - Criminal activity
  - Behavioural issues at work
  - Sexual impropriety.
**Behavioural factors at referral**

- **How many?**
  - About a quarter of cases show behavioural concerns

- **What concerns?**
  - Communication with colleagues is mentioned in two thirds of these cases
  - But communication with patients, carers or relatives is mentioned in only a third
  - 6% of all cases include mention of aggressive behaviour
  - Behaviour difficulties when working under pressure are mentioned in 5% of our cases

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**Behavioural concerns with age**

Base: 2347 cases
Are we simply seeing the U-bend of life?

Self-reported well-being, on a scale of 1-10

US data quoted in The Economist – 18 Dec 2010

Identifying the nature of concerns

• Capability
  • 66% of referrals with mixed concerns
  • 30% of referrals with clinical concerns (incl. governance/safety issues) alone

• Includes:
  • Inexperience
  • Lack of knowledge
  • Poor training
  • ‘Burnout’.
What can you do about concerns?

- No action
- Disciplinary action
- Investigate
- Look for more information
- Referral to GMC/Police

Advice from NCAS

Dealing with concerns – practical tips for the Clinical Director

- Don’t ignore concerns
- Follow due process
- Record everything
- Don’t let it get personal
- Ask for help
- Remain cheerful!
Frameworks for managing concerns in doctors

- Maintaining High Professional Standards in the Modern NHS (MHPS) (secondary care)
- The National Health Service (Performers Lists) (England) Regulations 2013 No 335 (primary care)

Maintaining High Professional Standards in the Modern NHS (MHPS)
Structure of MHPS (2005)

- Five parts and an Appendix:
  - I: Action/investigation – case manager, investigator(s)
  - II: Exclusion and restriction – immediate, formal. Consider alternatives.
  - III: Conduct – local procedures. 'Professional' misconduct…
  - IV: Capability – and 'mixed' concerns…
  - V: Health – 'reasonable adjustments'.
- Appendix: Guidance on clinical academics (including an outline protocol between University and Trust).
How NCAS helps deal with concerns about practice

- **Case management**
  - Ranges from relatively light touch advice on the use of local or national systems, to intensive support aimed at resolving a performance dispute
  - Lightest touch may not require named details of the practitioner – but robust local governance must be clear
  - Most intensive support can involve specialist skills and services, e.g. mediation, assessment, Back on Track
  - In all cases, the nature of the performance concern must be clear – or irrelevant to the handling of the case; if not so, assessment will be needed

NCAS assessment – overview

An independent view on the performance of the practitioner within the wider context of their practice - Only about 5% of referrals!

- **Models**
  - Full performance assessment – developmental, holistic approach across all domains: clinical skills, behaviour, health, work context, clinical reasoning, communicative competence (if necessary)
  - Assessment components
  - Modularised approach
  - Clinical performance assessment – under contract to regulator

- **Method**
  - Peer clinical, behavioural, lay assessors, trained & quality assured
  - Structured gathering of information across the scope of practice:
    - Direct observation of practice in all work contexts (eg in operating theatre, MDT meetings)
    - MSF from colleagues and patient feedback
    - Case-based assessment – based on own clinical practice
    - Records review.
‘Back on Track’ support from NCAS

- **Methods of support**
  - Direct support to health care organisations and/or responsible officers in developing robust, structured action plans for further training programmes
    - Level one – advising on/supporting the development of a plan
    - Level two – advising on/supporting development and implementation
    - Level three – advising on/supporting development, implementation and monitoring

- **When?**
  - Following and NCAS assessment
  - Following a regulator’s assessment
  - Following investigation, service review or appraisal (if sufficient clarity about concerns)
  - Following a significant absence from clinical practice

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**Action plan outcomes 2008-2011**

- Return to work: 71%
- Referral to regulator: 16%
- Retired on grounds of age: 4%
- Retired on grounds of health: 3%
- Resigned from performers list/hospital: 3%
- Self erasure/removal from register: 3%

N = 173
Contact NCAS

England (and Scotland)
• Tel: 020 7972 2999 Email: casemanagement-s@ncas.nhs.uk
• Address: NCAS, Area 1C, Skipton House, 80 London Road, London SE1 6LH

Northern Ireland
• Tel: 028 9266 3241 Email: northernireland.team@ncas.nhs.uk
• Address: NCAS Northern Ireland Office, Office Suite 3, Lisburn Square House, Haslem’s Lane, Lisburn BT28 1TW

Wales
• Tel: 029 2044 7540 Email: wales.team@ncas.nhs.uk
• Address: NCAS Wales Office, First Floor, 2 Caspian Point, Caspian Way, Cardiff Bay, Cardiff CF10 4DQ

Out of hours emergency contact: 020 7972 2999

NCAS and NCAS-related resources

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And finally...

"As meetings go, that was one of my better ones!"