Managing Poor Performance and Doctors in Difficulty

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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
  - (Currently free at the point of delivery - considering new business models for NCAS with the Department of Health from FY14/15)
What we do

• Support to local resolution of concerns about the practice of doctors, dentists and pharmacists

• **Case management**
  • Expert support – to local case management
  • Comprehensive service – from telephone call to action plan

• **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

Royal Colleges

Employers
Fitness for Purpose

Regulators
Fitness to Practise

CQC / HIW / RQIA
Systems and Services

NCAS

Professional Associations and Defence Organisations

Deans and Universities

Health Care Management

Health Care Performance Management

National Clinical Assessment Service
Fitness to practise vs fitness for purpose

- Fitness to practise
  - GMC – NCAS and ELAs

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

- Fitness for purpose
  - Employer

  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?
"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
What concerns come forward – three main areas

**behaviour / misconduct – 56%**

**clinical** concerns including governance / safety 65%

**health** concerns 24%

(sample = 1472 cases handled by NCAS Dec 2007 – Mar 2009)
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

Index of relative likelihood of referral, All doctors = 100

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 **25%** 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%
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
Behavioural concerns with age

Per cent of cases with known age

- <30
- 30-34
- 35-39
- 40-44
- 45-49
- 50-54
- 55-59
- 60-64
- 65-69
- 70+

- Not behavioural
- Behavioural

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
  • 65% of referrals with mixed concerns
  • 30% of referrals with clinical concerns (incl. governance/safety issues) alone

• Includes:
  • Inexperienced
  • Lack of knowledge
  • Poor training
  • ‘Burnout’.

"Nurse, get on the internet, go to SURGERY.COM, scroll down and click on the 'Are you totally lost?' icon."
What can you do about concerns?

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

Advice from NCAS

Internal audit, Local review or Royal College
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!

The daydreams of cat herders
Frameworks for managing concerns in doctors

• *Maintaining High Professional Standards in the Modern NHS* (MHPS) (secondary care)

• *The National Health Service (Performers Lists) Regulations 2004 No 585* (primary care)
Maintaining High Professional Standards in the Modern NHS (MHPS)

Structure of MHPS (2005)

• Five parts and an *Appendix* (academics):
  
  • 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'.

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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.
- 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.

**Assessment**
- Health
- Behaviour – psychometric testing, behavioural psychology, MSF
- Clinical practice in context

Only about 5% of referrals!
Contacting NCAS – what happens?

- Initial contact with NCAS case management service:
  - Caller from Referring Body (RB) should carry decision-making authority, so usually CEO or relevant Director (HR, MD, CD, DPA or PA)
  - Brief details of the case given and a time agreed for NCAS Adviser call-back – RB decides the priority and timing of this
  - Detailed telephone discussion with Adviser – letter confirms advice
  - If not resolved at first instance, continuing support from NCAS as required – “from telephone call to action plan” - including NCAS assessment and Back on Track service
NCAS assessment – overview

An independent view on the performance of the practitioner within the wider context of their practice

• **Models**
  • Full performance assessment – developmental, holistic approach across all domains: clinical skills, behaviour, health, work context
  • Assessment of Behavioural Concerns (ABC)
  • 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
Action plan outcomes 2008-2011

N = 173

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

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