General Dental Council

Insights from GDC fitness to practise concerns

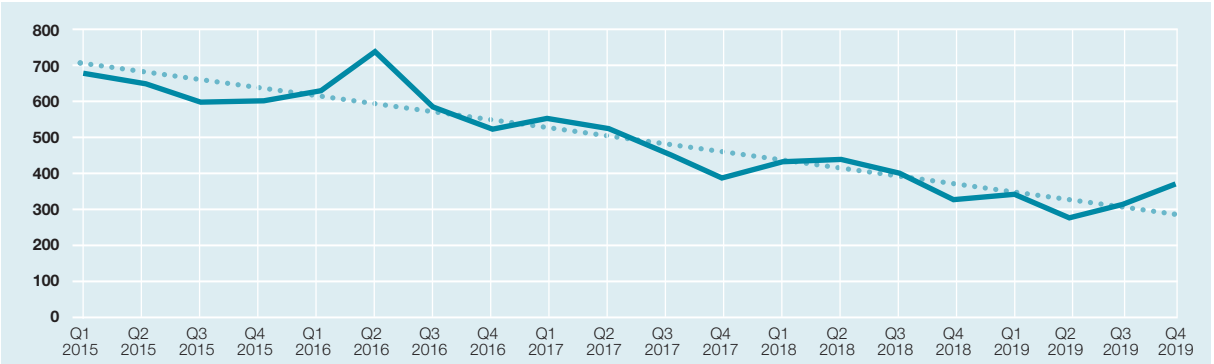
Spotlight on consent: Q4 2019

1. Concerns raised with the GDC

Table 1: Number of concerns received by quarter 2015 – 2019

Year	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
2015	681	656	604	606	2,547
2016	635	733	593	530	2,491
2017	553	526	461	396	1,936
2018	435	447	402	336	1,620
2019	342	283	311	**351**	1,293[1]

Figure 1: Concerns received by the GDC, by Quarter, 2015 – 2019



1 This figure is the total number of cases that were created in 2019 and a decision was made. It does not include cases created in 2018, even where a decision was made in 2019, cases that did not record a decision in 2019, or cases that were cancelled at either at initial assessment or later in the FtP process. For these reasons, the figure reported differs from the total number of concerns received by the GDC in 2019, as reported in the GDC 2019 FtP statistical report, which was 1,415.

2. About this publication

We are committed to providing a fair and transparent fitness to practise process, where concerns raised with us are dealt with in the right setting and within an acceptable timeframe. The system must protect members of the public and patients and maintain public confidence in the dental professions. Our aim is to do this while reducing costs and the number of concerns raised with us by shifting our focus from enforcement to prevention.

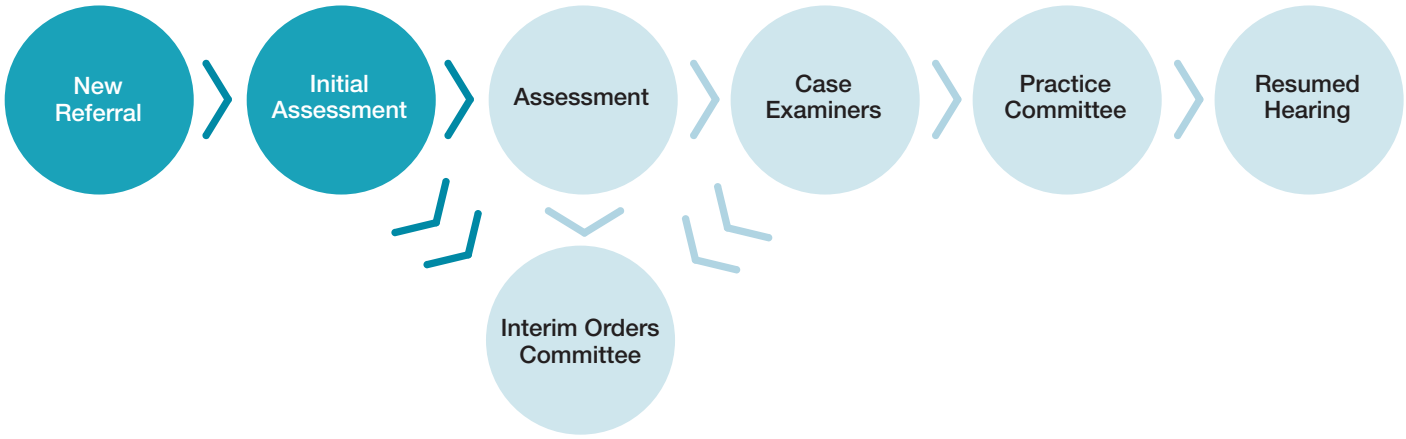
An important part of this approach is to share our insights from the fitness to practise process, to help improve the understanding of the types of concerns raised with us. Equipped with this knowledge, dental professionals can be reassured of their current approach to various aspects of practice or can identify any potential issues or areas in need of improvement.

This publication considers the concerns raised at initial assessment in relation to consent in Quarter 4 (Q4) 2019, October to December.

3. Initial assessment stage of the fitness to practise process

All concerns raised with us are considered by the initial assessment decision group. The group meets daily to review any concerns received and is made up of GDC staff members, including clinical dental advisers. Figure 2 illustrates how the initial assessment stage fits into the fitness to practise process, further details are also available on our website.

Figure 2: Initial assessment stage



4. Consent

Obtaining valid consent is one of the nine principles that registered dental professionals must adhere to at all times. Our expectations of dental professionals in relation to obtaining valid consent are outlined in Standards 3 of the Standards for the Dental Team. The Standards subdivide obtaining valid consent into three clear elements.

- Standard 3.1 states that dental professionals must 'Obtain valid consent before starting treatment, explaining all the relevant options and the possible costs.'
- Standard 3.2 requires dental professionals to 'Make sure that patients (or their representatives) understand the decisions they are being asked to make.'
- Lastly Standard 3.3 states that dental professionals must 'Make sure that the patient's consent remains valid at each stage of investigation or treatment.' By 'valid' we mean that a patient must have freely given their consent, and must have given it having been afforded an opportunity to discuss and consider the range of options available to them, including having no treatment at all.

Dental Professionals are required to find out what their patients want to know, as well as what they think their patients need to know. This is important because it helps to ensure that the patient wants and expectations are discussed, even if they are unable to be met by any treatment options. Discussions about treatment options should also encompass why a dental professional thinks a particular treatment or course of action is necessary and appropriate.

Patients might also want to know about the possible outcomes from following a course of treatment or having a procedure, and to understand the risks and benefits involved.

Patients have the right to withdraw their consent at any time, to refuse treatment or to ask for it to be stopped after it has started. Dental professionals must ensure that their patients are aware of these rights, and observe their patients wishes unless there are overwhelming or clinical grounds for not doing so.

5. Cases relating to consent

Of the 351 concerns raised in Q4, 48 (14%) cases were opened that involved an issue relating to consent, only one case was closed without further action.

With reference to matters heard at a GDC hearing in 2019, there were 83 considerations of issues relating to 'failure to obtain valid consent'. This ranked fourth of all fitness to practise hearing considerations, and followed in order from the top 'failure to provide good quality care', 'personal behaviour', and 'patient records.'[2]

2 GDC 2019 Fitness to Practise Statistical Report.

6. What types of cases were opened relating to consent?

A total of 47 cases were opened in Q4 of 2019 relating to consent. The following are examples of some of the cases opened at the initial assessment stage:

- A concern was raised by a patient that a dentist had not obtained consent for the treatment that was provided to them. The patient stated that their teeth had been treated in a manner that they did not believe was necessary. The patient maintained that the dentist had not explained what treatment would be undertaken and they considered that the dentist had taken advantage them.
- A patient raised a concern relating to a tooth breaking during an extraction. Their concern was that the risk of this happening had not been explained to them. The patient felt that they had been pushed into signing a form relating to their treatment. They stated that English was not their first language, and that they had been unsure of what they were signing.
- A patient informed us of a concern about a dentist who had carried out treatment on their teeth, even though they had explicitly stated they did not want the teeth to be treated. The dentist is said to have insisted on trying out the treatment, which was ultimately unsuccessful. The patient stated that they believed they had been used as an experiment.
- We received a concern about a dentist's attitude towards a patient in relation to treatment for a chipped filling. The concern referred to the dentist trying to persuade the patient to undergo root canal treatment against their wishes.

7. Why is obtaining valid consent important?

Consent is the bedrock to providing good care. Without valid consent you are at risk of providing care that is not suitable or is inappropriate for their patient. Securing valid consent by providing information and advice to a patient ensures you have clarity about a patient's expectations and needs, which can help you in providing treatment options that are suitable for the patient's circumstances.

The past few decades have seen a 'sea change' in the way treatment and care discussions are considered across most forms of medical care. This change is epitomised by the growth of 'shared decision-making' (SDM) across both primary and secondary care. In simple terms SDM is about equalising the balance of power between healthcare professionals and their patient, recognising that they each have expertise that needs to be considered in any treatment decisions.

You will bring your knowledge and experience of dental problems and the treatments options suitable to address them. The patient will bring their own lived experience, and the needs and wants that they would like any treatment to address. No treatment will be suitable be every patient, and you will not be able to meet every patient's wish, but engaging in open discussion with a patient will enable you to better understand their needs and wants, and to provide them with advice and recommendations that are reflective of these, even if they cannot all be met.

The issue of informed consent has been further bolstered by the Montgomery Case ruling, which moved consent from being about providing the most reasonable options from the practitioners perspective, to it being about ensuring a patient is fully informed about all relevant treatment options, even if a practitioner does not feel a particular option is one that they would chose for themselves.

Consent and communication are two sides of the same coin. Communicating well with a patient is more likely to ensure that consent given for a course of action is as fully informed as possible, and less likely to be questioned during or after treatment. And, where we receive a concern regarding treatment from a patient, we are less likely to open a case where there is clear evidence (ideally contemporaneous notes) of the dental professional having discussed all suitable treatment options and their outcomes, risks and benefits.

Further guidance

You can find further information and guidance from:

- NICE information about shared decision-making
- NHS England information about shared decision-making
- The Lancet, How the Montgomery Judgement is reconfiguring Consent in the UK, 2018