An exploration of the experiences of ethnic minority practitioners and International Medical Graduates of the management of concerns about their medical practice

Opinion Research Services
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This study was conducted in accordance with ISO 20252:2019, ISO 9001:2015 and ISO 27001:2013.

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1. Executive summary

This section summarises the findings from in-depth interviews with 11 practitioners from ethnic minority backgrounds and/or those who are International Medical Graduates (IMG) who were the subject of Practitioner Performance Advice cases. The interviews were conducted by Opinion Research Services (ORS) as part of NHS Resolution's new research programme. Please read the full report for a comprehensive account of interviewees' experiences. The experiences shared and included in the report include the handling of the case by the employer[1] and Practitioner Performance Advice.

This research supports NHS Resolution's second strategic priority: 'Share data and insights as a catalyst for improvement'. The research is intended to give Practitioner Performance Advice a better understanding of the experience of practitioners by hearing from them directly and individually. It will also guide the continuous improvement of the Practitioner Performance Advice service by helping it to improve the management of cases and to interact with practitioners in a more compassionate way by ensuring they feel heard, supported, and understood. It can also provide insights into how we can better support health care organisations in the management of concerns.

Case / concern background (page 13)

Participants had concerns raised about their performance between 2011 to 2021. A few were subject to a couple of concerns during that time. Practitioner Performance Advice only selected practitioners for the interview sample whose cases had been closed (that is, the case was fully resolved from their service's perspective)[2]. However, five of the 11 practitioners interviewed said that their cases had been fully resolved. A further two has been resolved, but not to participants' satisfaction, and the remainder were ongoing with their employer. Most participants' role and organisation had changed following their cases. Some had restrictions in place; others had moved organisations; and two had been excluded.

Case handling (page 14-19)

Most participants were told by a senior member of staff within their organisation that their employer had sought advice from, or the involvement of, Practitioner Performance Advice via phone call. This was usually followed by a formal letter from the employer and may also have included the forwarding of a copy of the advice letter to the employer from Practitioner Performance Advice.

In general, information about the involvement of Practitioner Performance Advice was not thought to have been conveyed sensitively by employers. For example, participants said that they were given incorrect information about their case; were told about it whilst at work rather

[1] Primary care practitioners may be part of a contractual rather than an employment relationship. For ease of reference, we have used 'employer' throughout this report.
[2] Closure decisions are made on the individual merits of the case, but will include consideration of whether the organisation/contractor has a plan in place to resolve the concerns and whether any further advice or interventions are needed

than in a discrete meeting; or were denied representation during an initial meeting with their manager about their case.

Most participants had very little knowledge about how their performance concerns would be handled. Few understood the role of Practitioner Performance Advice in the process. This was compounded by employers generally not sharing information from Practitioner Performance Advice about the case or explaining their role in the process.

Participant's suggestions for improving case handling included employers dealing with concerns internally without involving Practitioner Performance Advice; employers looking at the context of concerns; employers and Practitioner Performance Advice providing more information about potential outcomes; and treating practitioners with compassion.

Case management (page 19-21)

Some participants discussed their case with their line managers and found them to be supportive. Others were not permitted to or did not feel able to, mainly due to perceptions of bias and unfairness. In terms of positive case management, where line management (and team) support was available, it was appreciated.

Several negative aspects of employers' case management were raised. These included poor communication; lack of consideration for assisted mediation and for the concern's context; providing conflicting advice; and racist attitudes.

Involvement of Practitioner Performance Advice (page 21-24)

Perceptions of support from Practitioner Performance Advice were mixed. Some participants commended it, whereas other felt that they had received no or little useful support from Practitioner Performance Advice.

Participant's perceptions of the way they were treated by Practitioner Performance Advice also varied. Those who felt that they had received helpful support from Practitioner Performance Advice also praised the way they were treated by them, commending the Adviser's responsiveness, communication, and listening skills. Conversely, some participants felt that Practitioner Performance Advice had treated them impersonally; advised their employers against them; did not ensure that the employer handled their case fairly; and did not communicate clearly with them.

Participants made several suggestions as to how Practitioner Performance Advice could improve. These included offering more explanation of what the service is and what it can offer; better communication; more transparency and openness; verifying information provided by employers regarding concerns; better follow-up of initial approaches by practitioners; better consideration and promotion of assisted mediation to prevent cases from escalating unnecessarily; and recognition that practitioners from outside the UK may need more help due lack of support networks.

Other support (page 25-27)

Participants had support from a range of other organisations and individuals during and after their case. This came from friends and family; the Medical Protection Society (MPS), the General Medical Council (GMC), trade unions, the Practitioner Health Programme (PHP), and

GPs. Participants praised most of the support they received, although felt that unions could have provided more scrutiny and challenge of employers. They would also have welcomed more emotional support, and more support from their employers.

Fairness (page 27-30)

When asked about the characteristics of a fair process, participants said that it should be open; transparent; free from blame but not accountability; based on truth; consistent but mindful of individual circumstances; and free from racial bias.

Most participants did not feel they had been treated fairly by their employers. Reasons for this were that employers had not followed proper procedures when handling concerns, and the perceived divide between clinicians and HR/management.

Participants expressed mixed views on whether Practitioner Performance Advice had treated them fairly. Some felt they had been treated fairly because Practitioner Performance Advice listened to them and took all relevant information into account. Conversely, others did not feel treated fairly because Practitioner Performance Advice did not verify information employers gave them regarding concerns and did not consider the full range of information in relation to concerns.

Most participants felt discriminated against based on their ethnicity and/or where they qualified. One also noted that they may have been discriminated against based on their religion. This was reflected in the way their cases were handled, and the higher rates of concerns raised against practitioners from ethnic minority backgrounds.

Organisational culture within the NHS (page 30-31)

Most participants described a culture of bullying, discrimination, and blame within the NHS and an unwillingness to address it. They also noted that the NHS is reluctant to listen to practitioner's concerns, often demonising and ostracising them, although some expressed pride and admiration for the NHS. Participants also noted that discrimination is more of an issue in less culturally diverse geographical areas, and that employers were more likely to expedite the investigation of concerns against practitioners from ethnic minority backgrounds/those who had qualified abroad.

Long-term impacts (page 31-33)

Participants noted many ways in which their case has impacted them long-term. These largely resulted from trauma, stress, and anxiety, leading to mental ill-health. Career-related impacts were also noted, including a tendency to more defensive practice, personal doubt, unwillingness to go the "extra mile", and loss of faith in NHS processes. Despite the largely negative impacts reported by participants, some positive impacts were highlighted in relation to practitioner's personal development; greater empathy for colleagues; and desire to improve working practices.

Moving forward (page 33-35)

Participants recommended that, to address the issues outlined in this report, the NHS should recognise and tackle the systematic discrimination that they felt exists within the NHS. They also advocated a review of discrimination within the NHS and identifying ways of properly considering and learning from issues of concern.

Notably, participants highlighted the need to understand why practitioners from ethnic minority backgrounds/those who had qualified abroad had more concerns raised about them and were more likely to be subject to disciplinary procedures than white practitioners. Practitioner Performance Advice should fully explore concerns raised about practitioners from ethnic minority backgrounds/those who have qualified abroad to enable them to understand their context and should encourage employers to offer mediation.

Issues to address (page 36-37)

ORS identified several issues to address for Practitioner Performance Advice to consider regarding how they can improve their handling of concerns relating to practitioners from ethnic minority backgrounds/those who have qualified abroad. These included:

- Working with employers to jointly inform practitioners as soon as possible when advice is sought
- Making initial and ongoing contact with practitioners sensitively and appropriately
- Engaging proactively with employers to offer follow-up advice
- Encouraging employers to discuss cases with practitioners
- Clarifying Practitioner Performance Advice's level of input into cases upfront and throughout
- Sharing advice letters with practitioners
- Offering remote review meetings with practitioners
- Signposting practitioners to appropriate sources of support
- Verifying the information given to them by employers
- Bringing any allegations of racism made by practitioners against employers to the attention of the NHS England
- Challenging employers where Practitioner Performance Advice believes that employers have not handled or resolved complaints fairly and appropriately, escalating to regulators such as the Care Quality Commission (CQC) who investigate these issues if needed.

2. Introduction

Background to the research

NHS Resolution's Practitioner Performance Advice (formerly the National Clinical Assessment Service, NCAS) provides impartial advice to healthcare organisations to effectively manage and resolve concerns raised about the practice of individual practitioners and team function. It was established in 2001 and is now a service delivered by NHS Resolution under the common purpose of providing expertise to the NHS on resolving concerns fairly, sharing learning for improvement, and preserving resources for patient care.

Practitioner Performance Advice provides a range of services to NHS organisations and other bodies in England, Wales, and Northern Ireland, including:

- Advice
- Assisted Mediation
- Team Review
- Behavioural Assessment
- Clinical Performance Assessment
- Professional support and remediation – action plans and reviews of external action plans, and
- Training courses.

Each year, it receives around 800 new requests for advice from healthcare organisations with concerns about the practice of individual practitioners and teams.

About the research

Aims

As indicated in recent analysis of cases between 2017/18 and 2021/2[3] and wider research[4], practitioners from ethnic minorities and/or who are IMG are over-represented in Practitioner Performance Advice cases compared to the number of doctors on the Medical Register, and the wider medical workforce.

As such, this qualitative research study was designed to examine and learn from recent Practitioner Performance Advice cases involving these practitioner cohorts. It is part of a new research programme, which seeks to improve how the organisation handles concerns about practitioner performance, helping it to interact with practitioners in a more compassionate way

[3] Who are the practitioners we advise on and are there any patterns of concerns? - NHS Resolution
[4] fair-to-refer-report_pdf-79011677.pdf (gmc-uk.org)

by ensuring that they feel heard, supported, and understood. Learning from the research programme will also be shared more widely, as appropriate.

This project aimed to establish:

> **What are the experiences of ethnic minority and overseas qualified practitioners who are the subject of Practitioner Performance Advice cases?**

The research focused on understanding the lived experience of individual practitioners who were the subject of cases to Practitioner Performance Advice through exploring their perceptions and perspectives.

Methodology and methods

Practitioner interviews

Sampling and recruitment

The project comprised 11 in-depth interviews with practitioners from ethnic minorities and/or who are IMG to explore their experiences of Practitioner Performance Advice and having a concern raised about them. Practitioners had experienced various aspects of services from Practitioner Performance Advice, with some receiving advice only, and others participating in interventions such as action plans and assessments. Practitioner and case characteristics were as follows:

- All practitioners were doctors. Seven practitioners were Asian or Asian British; one was Arab; one was Black British; one was White European (non-UK); and one was White Irish
- Three practitioners were aged between 30-39; two were aged between 40-49; two practitioners were aged between 50-59; two were aged between 60-69; and one was 70+. One declined to give their age
- Six practitioners qualified abroad, and five qualified in the UK
- Nine cases were in secondary care, and two were in primary care, and
- Seven cases related to conduct concerns two to clinical practice concerns one to a behaviour concern; and one to concerns about the practitioner's health.

Practitioner Performance Advice recognises the adverse impact of concerns being raised about performance, and the potential for participating in related research to be upsetting for those involved. The service therefore led a comprehensive and robust screening process incorporating a wellbeing check to identify suitable practitioners (who met the inclusion criteria) who had a case with Practitioner Performance Advice and direct interactions with the service from April 2016 onwards. Only practitioners who had been made aware that they had been the subject of a case were invited to take part in this research.

Prospective participants were then contacted to ask if they would be willing to take part in the research and, if they were, asked to contact ORS to arrange an interview. 10 of the 11 participants were recruited in this way; the eleventh was informed of the research by the General Medical Council (GMC) and subsequently contacted ORS to express interest in taking part.

The research sample is small, so cannot be taken as representative of the views of all ethnic minority practitioners and IMGs whose employers had approached Practitioner Performance Advice with concerns about their performance. Regardless of this, participants gave detailed feedback which permits detailed insight into their experiences, which usefully informs the aim of the project.

All participants were offered a £40 e-voucher or the opportunity for a donation of the same amount to be given to a registered charity of their choice as a token of thanks for taking part. This reflects usual practice in qualitative social research of this nature.

Discussion agenda

All interviews were undertaken remotely (via telephone or videoconference), lasted, on average between 45 and 60 minutes, and broadly covered the following[5]:

- How the practitioner's case was handled, managed, and resolved
- The involvement of Practitioner Performance Advice
- Any other support they received
- How fairly they felt their case was handled
- Organisational culture within the NHS, and
- The longer-term impacts of their case.

Safeguarding and support

ORS took the following steps to reassure and safeguard the practitioners interviewed:

- Providing detailed information about the research and the interview beforehand, including the details of relevant support agencies
- Obtaining written consent to take part
- Offering the choice to have a friend, support worker, or family member present during the interview
- Reassuring them that they would not be identified in the ORS report or case studies, and that anything they contributed to the research would neither be added to their casefile at Practitioner Performance Advice, nor have any bearing on how Practitioner Performance Advice interacted with them, or any advice it gave in connection with them

[5] A copy of the topic guide which includes the questions asked during the interviews is included in the appendix.

» Reassuring them that they did not have to answer any question they did not want to; could stop the interview at any time; and could change their mind about taking part, even after the interview.

About the report

The interviews considered a wide range of important issues that are reported fully in the following chapters. This report has been structured to address each of the areas of discussion in detail. The views of interviewees have been aggregated to give an overall report of findings, but any significant differences in views have been drawn out where appropriate. ORS has also produced two case studies that portray the experiences of a couple of practitioners in detail. These are available separately.

Verbatim quotations are used, in indented italics, not because we agree or disagree with them – but for their vividness in reflecting points of view. ORS does not endorse the opinions but seeks only to portray them accurately and clearly. While quotations are used, the report is not a verbatim transcript of the sessions, but an interpretative summary of the issues raised by participants in free-ranging discussions.

When reading the report, it should be borne in mind that as an in-depth qualitative study, the intention of this project was to gather the experiences of as broad a range of practitioners as possible within a small sample size. Moreover, the views expressed only reflect those who chose to participate, and therefore cannot be taken to be representative of all those with experience of a Practitioner Performance Advice case.

Please note that several participants referred to Practitioner Performance Advice as NCAS in their interviews. While we have referred to the service as Practitioner Performance Advice in our narrative, we have retained the acronym NCAS in any verbatim comments used to reflect their feedback in its truest form.

Acknowledgements

ORS and Practitioner Performance Advice would like to thank the participating practitioners for sharing their experiences so openly and candidly. ORS and Practitioner Performance Advice recognise that sharing their experiences may have been difficult for practitioners and are grateful that they gave their time and effort to this work, which Practitioner Performance Advice will use to improve the experiences of other practitioners in future.

ORS thanks Practitioner Performance Advice for commissioning this important research, and we hope the findings will prove useful in understanding and improving practitioner experiences. We are particularly grateful to Hanna Gillespie-Gallery, Sanjay Sekhri, Neil Armstrong, and colleagues for their assistance in developing and managing the project.

3. Main findings

Case / concern background

When asked when concerns were first raised about their performance, participants gave dates ranging from 2011 to 2021. A few had been subject to a couple of concerns during that time.

Practitioner Performance Advice only selected practitioners for the interview sample whose cases had been closed (that is, the case was fully resolved from their service's perspective). Participants had differing views regarding the resolution of their cases, however. Five of the 11 practitioners said their cases had now been fully resolved. A further two cases had been officially resolved, but not to participants' satisfaction. The remainder were ongoing, with two participants either currently or soon to be attending an employment tribunal.

> **"It's still ongoing. I had a MPTS [Medical Practitioners Tribunal Service] hearing… 10 days ago… So, when there's a case going on with the GMC [General Medical Council] or where there's suspensions or concerns regarding performance… the panel where the GMC sit present their case and then my medical leader would be presenting my views… "**

In terms of specific outcomes, a few participants said that following the resolution of their cases, their role and organisation are the same as before concerns were raised, with no restrictions.

Only one said their role and organisation are the same as before concerns were raised, but with temporary or permanent restrictions. They had returned to work after recovering from stress, only to find they had been removed from some of their roles within the Trust – in their view unfairly.

> **"… When I had returned and recovered from the stress, my Clinical Director removed me from any supervision role, depicting me as a failure and not managing to do this job... So, that episode had finished, and I wasn't very satisfied with anything that happened"**

A few others have moved organisations, while performing the same role with no restrictions. One participant, whose case was closed, resigned from their original organisation, and moved to another as a result of their experiences and their perceptions of a culture of bullying there.

> **"The official outcome was that the case was 'dismissed'. My duties were not [restricted] in spite of specific recommendations and there was pressure put on the case manager to actually recommend some disciplinary action… I subsequently resigned because of the culture of the organisation and their…bullying, basically"**

Two participants were excluded from their roles in primary and secondary care. One of these has now taken early retirement.

Case handling

Most participants were told by a senior member of staff that their employer had sought advice or the involvement of Practitioner Performance Advice

As noted, only practitioners who had been made aware that they had been the subject of a case were invited to take part in this research. Most practitioners were informed by a senior member of staff (medical directors, divisional directors, and clinical directors were all mentioned) that their employer had sought advice or the involvement of Practitioner Performance Advice. An informal phone call followed by a formal letter was the typical approach.

One participant said that their organisation's Responsible Officer had discussed the situation with them before Practitioner Performance Advice was contacted, which they welcomed. Another alleged that their Trust had been receiving advice about them for two or three years without their knowledge. This made them feel as though the process lacked honesty and transparency. This participant therefore suggested that Practitioner Performance Advice should inform practitioners who had concerns raised about them directly, rather than merely suggesting that employers do so.

> **"[Practitioner Performance Advice] should make doctors aware that they exist…they should contact the doctor and advise them that they have received something, and then advise them… If they had done that in my case…I would have known my case was going on three years before…they kept advising behind my back"**

In one case, the practitioner was invited to a meeting with their medical director and clinical director and told to take someone with them. At that meeting they were informed that a serious criminal allegation had been made against them and that the police were involved. The police then seized their mobile phone and asked the practitioner to take them to their office and their home; and they were told not to come to work until further notice. Upon asking the medical director whether this was the correct procedure, the practitioner was informed that advice from the National Clinical Assessment Service (NCAS, now Practitioner Performance Advice) had been sought and followed. However, the practitioner then received a letter from NCAS, the advice in which was contrary to their employer's actions.

> **"I received a NCAS letter which they had written to the hospital detailing what advice they had given them on the day. There was huge disparity between what advice NCAS had given and what they had done… [The NCAS advice] was not followed"**

The same practitioner was then subject to what they considered a sustained campaign of bullying by their clinical director, culminating in a visit from them when working at a clinic to advise the practitioner to resign due to an impending concern to the GMC by their medical director, who only a few months earlier had revalidated the practitioner.

> **"… Suddenly he came… to see me privately and he said he had come to advise me that I should resign today. I said, 'Why?'; 'Because otherwise you will be in trouble'… Because**

the medical director was going to complain about me to the GMC, so it would be better that I leave the Trust today…"

The information about the involvement of Practitioner Performance Advice was generally not thought to have been conveyed sensitively

None of the practitioners interviewed thought they had been given the above information sympathetically – or even truthfully in some cases. For example, one alleged that their employer had given them incorrect information about the timing of Practitioner Performance Advice's involvement in their case.

"I think it wasn't done sensitively at all, or even appropriately… I was told verbally by the Trust that they had involved NCAS in January, but I later found out that the Trust had communicated with NCAS in March so it didn't feel like the Trust was being truthful in what they said… "

One practitioner particularly criticised the fact they were informed about allegations against them while they were working at a clinic, as opposed to being offered a discrete meeting to discuss them outside of work.

"… I thought was completely inappropriate because I was at work, and I was on call, so I had to continue working for a 24-hour period. I was handed a letter that said that concerns were raised, and they were discussing it… "

In addition, another practitioner said they had been denied representation during an initial meeting with their manager to discuss the allegations against them, an issue compounded by the unexpectedly hostile nature of the meeting.

"When asked to give my side of things… I remember initially going in and thinking they were going to be on my side… It felt like a grilling, basically. And that was not what I had been advised was going to be happening. I wanted to take my representative with me. She was not available, and, in hindsight, I should probably not have gone along to that meeting without her. There was something that felt… they had some kind of agenda, and they were not willing to shift it to allow me to have the correct representation... It was a horrible experience…I was going to two colleagues who I thought would support me, whereas I found out it was like, 'How are we going to get you'?"

Participants had very little knowledge about how their case would be handled

Most participants had very little awareness about how their case would progress at the outset, not helped in some instances by their perception of a lack of knowledge and direction from their employer.

"I had no idea about what was going to happen and the people from the Trust even had no clue as well about what was going to happen… so they couldn't actually explain [it] to me because they themselves had no idea… what it was all about…"

> **"… [The Medical Director] made contact; they phoned me and said they were going to start but that's it. There was no detailed discussion or anything about, 'This is what we have to do'… The Medical Director did not have any of these conversations with me. I was more like, 'I am doing this investigation; I am letting you know, thank you for seeing me' and so the meeting was over in literally ten minutes. There was no discussion about it"**

In particular, there was limited understanding of Practitioner Performance Advice's role in the process and that it is available to offer support to both employers and practitioners.

> **"I didn't have any idea of what NCAS was supposed to do or how it would help me… My employer had contacted them a couple of years before… I was not aware at all, and I was surprised… I [then] heard something about NCAS that their job is not only to advise the employer, but to also help me, which I didn't know before… "**

In one case, this understanding was allegedly further constrained by the employer not sharing information and advice from Practitioner Performance Advice with the practitioner – and by a lack of responsiveness on the part of Practitioner Performance Advice when the practitioner tried to make proactive contact with them to better understand what support they could offer.

> **"I noted in one of the letters… written by an NCAS Adviser to the employer, that they should have [shared information] with me but my employer never shared… what NCAS had said about my case... I contacted NCAS myself and I couldn't get through. It is very difficult to contact them. After a lot of struggle, I got through to somebody"**

One practitioner thought they understood how their case would be handled at the outset, only to find that they had very little understanding as it progressed, in their view, in a fair and unbiased way.

> **"I didn't [understand], simply because I was expecting my case to be handled fairly and throughout it was handled totally unfairly and it was a total bias… [Practitioner Performance Advice explained it] but the fairness bit was totally missing… "**

In most cases, the role of Practitioner Performance Advice in handling their case was not properly explained

A few participants said they had not been given any specific information about the role of Practitioner Performance Advice and that they would have appreciated more.

> **"It might have been useful to know how long the procedure would take and how long the outcome will be and someone saying the chances of this being successful are this high and low…"**

One practitioner was not given any information verbally, but was directed to the Practitioner Performance Advice website, where they were able to read about the role of Practitioner Performance Advice. Another was sent a generic letter by their clinical director outlining the support available, but they could not recall this including anything specific about Practitioner Performance Advice.

In one case, the practitioner contacted Practitioner Performance Advice to ask about the support they could provide, to be told that they could write to the organisation and that one of their advisers would be in touch. When an adviser made contact, little information or advice was forthcoming.

> **"Ultimately, I said to them, 'You are useless, and you can't do anything for me' and they said, 'No, no advice'… I said, 'I am not getting anything from you' and they stopped talking to me and then I stopped talking to them"**

Only one practitioner was proactively contacted by Practitioner Performance Advice who explained their role and the support they could offer. This individual was highly complimentary about the organisation, suggesting that early, personal contact makes a positive different to perceptions.

> **"They were good. They contacted me and were taking my queries and saying there was so much they could do. I am overall very well satisfied. They were a life saver for me and probably I wouldn't be practising [without them]…"**

Practitioners sought and/or had support from a range of other organisations at an early stage of their case

Most participating practitioners had sought and/or had support from other organisations or individuals early on in their case. Indeed, only one explicitly said that they had not and that:

> **"… I was actually left completely on my own"**

Several participants had contacted the British Medical Association (BMA), most of whom were positive about the help it was able to offer in supporting and advocating for them.

> **"The BMA were there because… there were still reservations about how I should return to work and the processes via occupational health had come to a standstill... The BMA attended with me when I had HR meetings… It was helpful because I wasn't in a position to… send any emails that were coherent or try to formulate an argument on my behalf. I felt too unwell. And that was really helpful from that point of view; that they were looking at the legalities of it and fairness side of it and I was just trusting in them"**

The Medical Protection Society (MPS) was praised by one participant as "the only people that I felt were supportive", whereas another couple of participants were disappointed with the somewhat cursory nature of their interaction with the organisation and the lack of tangible support offered.

> **"Just MPS. They may have advised me that I could speak to someone… It was very brief and just the usual of, 'I am really sorry you have had this complaint, but this is what you have to do', and that's it…"**

Other avenues of support mentioned at this stage were the GMC, trade unions, the Practitioner Health Programme (PHP), and individual GPs. The GMC was particularly praised by one participant for 'getting things done' and facilitating their return to work.

"… The occupational health consultant who was initially dealing with my case was not really giving anybody a definite yes or no as to whether I could return back to work, and nobody wanted to take that responsibility, so that's why I referred to the GMC… It was really, really helpful. The GMC investigation process was really smooth and straightforward for my case"

It should be noted here that one participant had sought support from several organisations, but was disappointed not to be offered any "solid" help, and only to be signposted toward online counselling sites and reading materials.

Suggestions were made to improve case handling

When asked to suggest improvements to the way in which their case was handled, a couple of practitioners felt that their employer should have dealt with it internally and more informally, had there been better "fact-checking" processes in place – as well as more assisted mediation at the outset.

"I don't have any issue with the outside agencies. I have major issues with our managers. Both cases were nonsense. They go in with both feet before they check the facts… "

"… It was alleged that I bullied another doctor that I worked with… I felt when I first saw the allegation that the Trust would initiate an assisted mediation because that's what the Trust's own policy says… this is what the GMC says… So, I was very surprised that within a few days of this allegation, the Trust went along and said they wished it to be a formal investigation… I felt the best way to handle this case should have been mediation… but instead of having a compassionate approach… the Trust probably wanted to get me under a behavioural contract so that I don't raise patient safety concerns..."

Similarly, a couple of participants felt that their employer should have made more effort to look at the context of the allegation against them, particularly with respect to the dynamics at play within their team.

"Maybe… look at the problem within the team. That was the problem. My team was saying, 'Right' and I was saying, 'No, it's left'…"

"For an element of bullying to be believed there needs to be a certain hierarchy which wasn't there in my case… I was struggling as a new consultant raising patient concerns and not getting any changes done in the team for the management of the patient or the staff, so literally I had no power…"

Participants also recommended the provision of more information and advice both from employers and Practitioner Performance Advice, particularly around potential outcomes and what assistance is available to navigate a stressful situation.

"[There was] nothing about the chances of it being successful or what the potential outcomes could have been or how it could have affected me. It was the first formal

complaint I'd had… and so I didn't know what could have happened or that this is how the Patient Advisory Service [Practitioner Performance Advice] could have helped"

More specifically, one participant felt strongly that the communication they received from Practitioner Performance Advice from the outset was dehumanising in that they were only referred to as a number, rather than by their name.

"… One major point as well is that in the communication to the practitioners, they never mention the practitioner's name; you are named by numbers. When you got those emails, you feel like a criminal"

Another participant described their employer's disciplinary process as somewhat dehumanising, and that those undertaking reviews may require better resources, support, and training in doing so.

"As you get to more senior levels of management and disciplinary, without taking away the need for the right actions, I think there is a way to see people as human beings rather than cases… I don't think the majority of people go all out to provide a disservice to people like me. I think it's how to allow THEM the support they need and the resources to be able to do the work in a way which is going to be a win, win for everyone… "

Case management

Some participants discussed their case with their manager, others did not

A few participants had discussed their case with their managers and had found them to be very responsive and supportive, which had helped enormously during the difficult initial period. However, in one case, this support ended once they had been referred to occupational health, which they found difficult to deal with.

"… He was extremely supportive; cuddles, everything! … But once I was referred to occupational health… I went about a whole year without having any contact with anybody else from the Trust. That was hard…"

Others had not discussed their cases with their managers for several reasons, but mainly because of perceptions of bias and unfairness.

"I knew that my manager was fairly in the camp of the people who were gunning for me"

"… There is a very strong clique and there is no way that you will get fairness and that you will get support. You only get support once everything has been resolved… They never actually discussed it and the concerns were released in the NHS Resolution document given to me for me to comment on. That was the level of discussion. I never had a one-to-one discussion. Not once… "

Others said they were unsure of what they could discuss with their manager, whereas another few said they were not allowed a conversation, and merely told to "go with the flow".

"… In the medical side of things, your Medical Director is your overall manager, but I also had a Clinical Director who was my immediate line manager. She stopped talking to me and so there was no discussion of like, 'I'm so sorry that someone has made a complaint. Do you want to discuss about how to address it? Tell me what's going on? Can we reflect together?'… I got no support and the version I was given was to just carry on with it"

In terms of positive case management, where line management (and team) support was available, it was appreciated

When asked to highlight positives around the way their case was managed, a couple of participants highlighted the support they received from their line manager and/or team and the feeling of "having somebody on your side". In one case, the practitioner had been sent to a different unit as per their request, and greatly valued:

"Good feedback from an independent team rather than the team who was singling me out and raising concerns"

A number of less positive aspects of case management were raised, however

In considering the less positive aspects of case management by the employer, it is perhaps unsurprising that poor communication was raised, as was the lack of consideration given to assisted mediation and the background context to certain allegations (as already noted).

"… They didn't explore mediation options or explore the fact that I was a young, new consultant working in a team with CQC measures [and] a high turnover of staff… They didn't want to explore anything. It was like nothing was right"

Another key issue raised by one practitioner was the provision of conflicting advice by their employer. They alleged a degree of "passing the buck" between occupational health and their clinical director which delayed their return to work, and which was only resolved by the intervention of the GMC.

"… Occupational health said, 'I can't. It would have to be the director'. And the clinical director said, 'I can't, it would have to be occupational health'. Occupational health would say, 'Well, I can't say if you're fit to work in that process. I don't work in that process'. That was the most frustrating part… going on for probably a good nine months before I referred myself to the GMC… Occupational health doctors are caught in their responsibilities between being employed by the Trust and wanting to fulfil the Trust's requirement and it's sometimes in conflict with what's best for their patient …"

A specific issue relating to fairness was raised by one practitioner, who alleged that in the official internal report into their case, everything they said was in double quotations "as if it should not be believed", whereas everything the person raising the concern said was written as if it were fact. This, they felt, had influenced their medical director to accept the report with no challenge.

The same practitioner also alleged racist attitudes in case handling and management. When an allegation was made against their team manager, who was white, an investigation was only instigated after many months. It concluded that the issues raised stemmed from difficult team dynamics. Conversely, in the practitioner's case, an investigation into a similar allegation started within days and resulted in disciplinary action for bullying.

> **"…With the team manager, who was a Caucasian male, the Trust was hesitant because they thought that 'Oh, this is just a case of team dynamics and it's not working well' and that's what they concluded [in that case]… In my case it was that I was bullying, and I should be subject to this disciplinary panel... Imagine the different outcomes in the same team with the same allegations but with a different race; it changes so much… When [senior members of staff] are alleging that our manager was bullying them, the Trust is not taking notice, whereas when [someone] alleged that I was bullying them, then immediately the Trust swung into action…**
>
> **… I genuinely feel there was nothing positive at all. In fact, if there was anything, it was humiliating and traumatic and something that puts you off working in the NHS forever... It tells you about an organisational culture which is shameful and very, very toxic"**

Involvement of Practitioner Performance Advice

Perceptions of support from Practitioner Performance Advice were mixed

A few participants commended the support they had received from Practitioner Performance Advice, particularly with respect to their case handler's communication, responsiveness and the simplicity and helpfulness of the process.

> **"There was a case handler to contact and if I had any queries, I would email them, and they would respond. They would tell me who was in the team and who could do what in the process, so they were always reliable in replying and updating me"**
>
> **"… The GMC had made its recommendations … and it was now a matter for me looking to return back to work safely. So, that's when they were involved… It was very simple, and it was the least complicated part of the whole process. They called to say that they were going to be looking to see how they could come up with a supportive plan… talking to me and my employers. And then I had a phone call and that involved an interview and then recommendations. It was quick and simple"**

However, several others said they had received no or very little useful support from Practitioner Performance Advice, who had allegedly either told them they were unable to get involved in their case or were unable (or, some felt, unwilling) to provide any practical support.

> **"I can recall receiving a letter from them. And when I had some concerns, I actually contacted them, probably on two occasions… It was just very much like, 'We're not going to get involved'. They corrected maybe one little bit of misleading information, but that was about it…"**

"… It came to NCAS. NHS England suggested that would be perhaps a way for me to find support in terms of returning to work. I had a couple of conversations and… to cut to the chase, nothing very drastically progressed or came out of it … nothing practically helpful…"

Participants' perceptions of the way they were treated by Practitioner Performance Advice were also mixed

It is perhaps to be expected that those who felt they had received good support from Practitioner Performance Advice also praised the way they were treated by them. Again, participants praised their adviser's responsiveness, communication and listening skills – as well as the way in which they were supported to return to work.

"100% outstanding… I requested that I was sent somewhere else so that I could recover from my psychological trauma and… get independent evidence that there was nothing wrong with me or my behaviour or my practice. That is why I am really grateful for this process, because it brought back my confidence, made me believe in myself again... I am very happy with the process really"

"… They responded to my approach, and they did look at the case and came up with the ways they could help me. So, that was helpful… I feel they listened… And they supported me back to work..."

Less positively, however, concerns were raised about impersonal treatment and a lack of impartiality. Specifically, one practitioner alleged that Practitioner Performance Advice was advising their employer against them unilaterally and without their consent. Another felt that it could have done more to ensure the employer's case investigation was done in a fair and equitable way; and another said that concerns they had raised about the fairness of the process, as well as information that came to light as their case progressed, had been ignored.

"… I raised concerns about the fairness of the procedure... I raised concerns about the information that was given to them. I subsequently raised concerns about the investigation and the case investigator, and nothing was done about it. So, I was just wondering, what was actually the role of the PPA?… When some crucial information was given to them, they didn't take it on. They didn't pursue it… The lack of following local processes and normal procedures for complaints against doctors. All those processes were not followed and the PPA, the adviser was aware of this and just ignored it"

Similarly, one practitioner described Practitioner Performance Advice as an "extension of the Trust" due to their perception that they were doing their employer's bidding.

"…They seemed to me like another extension of the Trust because they just seemed to do what the Trust wanted to do… rather than to do any of the things that would have been support [for me]… At the end of it I did write an email saying that I was concerned about how my case was being handled and there is evidence of racism, and they said they can't actually deal with it. So, for me, the existence of Practitioner Performance was the same as being non-existent…"

Lack of transparency was another issue raised at this stage. One practitioner said that although they were told in their first communication from Practitioner Performance Advice that there was no substance to the allegation made against them and that they would not be taking it forward, following conversations between Practitioner Performance Advice and their employer (from which the practitioner was excluded) the decision was reversed with no explanation.

> **"…NHS Resolution is supposed to act independently of the Trust… and they don't act independently. When the Trust is asking something, they do it… For the practitioner… It's a very unfair system"**

Another practitioner, who has been subject to two concerns, described how the first time, their managers had already decided on a plan of action for them prior to involving Practitioner Performance Advice. This was apparently accepted by Practitioner Performance Advice without any discussion or direct communication with the practitioner. The second time however, Practitioner Performance Advice did write directly to them and offer a face-to-face discussion: the practitioner supposed that lessons had been learned from the first experience and was grateful for this.

> **"… I got the impression that… they were worried about their reputation for being severe or not being circumspect because the first time… I wasn't offered a chance to speak to [Practitioner Performance Advice] but the second time I was, and the guy seemed very keen to talk to me. That may have been because by the time I spoke to him I was very, very cross [about] that first time…"**

Several suggestions were made as to where Practitioner Performance Advice could improve

One of the most common suggested improvements for Practitioner Performance Advice was to offer more explanatory information about what it is and what can offer, for it was said that many practitioners are unaware of this.

> **"They should make doctors aware that they exist… Their role should be… formalised by a union or any other authority so [it] is defined…"**

Although some practitioners commended Practitioner Performance Advice's communication, others felt that it could make improvements in this area. In particular, requests for face-to-face meetings were apparently declined, which led some participants to comment on a lack of transparency and openness.

> **"It would be helpful if the NHS Resolution would take time with the practitioners, just to sit down one-to-one and to go through the documents and get an idea about it… A discussion about what happens and then transparency about the process and about the outcome, about what is going to happen…"**

Also with respect to transparency and openness, one practitioner questioned whether it is possible to challenge Practitioner Performance Advice in the event of dissatisfaction with the way a case is being handled. They had not felt able to do so for fear of recrimination, and so

sought clarification around the audit processes in place to ensure fairness and possibly avenues of challenge.

> **"… I could not possibly challenge them because at the end of the day they could get me into more trouble for something I didn't do. What are the processes to ensure that the advisers are actually fair? Who is actually auditing this thing? Everything is a closed book… The adviser did not tell me, for instance, 'If you are not satisfied with the way we are handling your case, this is who you should go to'"**

Better verification of the accuracy of the reported concerns received by Practitioner Performance Advice was suggested by a couple of participants, particularly to ensure that the advice it gives on practitioners' performance is based on correct information.

> **"If they had had accurate facts each time… I think they open themselves up to criticism by giving advice on doctors' performance based on information that is not right. They assume that people that are telling them this stuff have done their jobs properly and got the accurate information but, obviously, in my case, twice, that wasn't correct…"**

> **"It might be that the MD did not inform them of the whole circumstances, but also they did not check with me as well what was going on… they could have called me, but they didn't"**

Other suggestions were around better follow-up of initial approaches by practitioners; better consideration and promotion of assisted mediation to prevent cases from escalating unnecessarily; and recognition that practitioners from outside the UK may need more help due lack of support networks.

> **"… What probably would have been helpful would have been to have some kind of follow-up… For them to come back and say, 'Hey, how are you getting on? We sent you this thing and we're just wondering if you need any other things.' [That] might have continued the relationship rather than me just give up… That would have kept me engaged and perhaps to bring some resolution to return to work earlier… "**

> **"Assisted mediation… They could have explored those options from the beginning, but they didn't. Mediation could have been great for everyone's time and even mental health… "**

> **"I know a lot of people going through this who are not supported… I had a lot of support from outside from people in the UK and from Europe as well and from NHS units, but there are other people who don't know anyone in the UK**

Finally, in relation to comments made above about a lack of practical support, it was also said that:

> **"… Rather than send ten links for support, you need to… provide on hand support for practitioners…"**

Other support

Practitioners had support from a range of other organisations and individuals during and after their case

Some participants had received invaluable informal support from family, friends, and colleagues during their case. One practitioner described a positive relationship with a workplace mentor, whose consultations they sit in on three or four times a week to keep themselves up to date with clinical practice and in a work-based routine.

Others had again sought help from organisations such as the BMA, the GMC, PHP, and their union – and from their GP (primarily as their mental health had been negatively impacted).

The support provided by the BMA was generally praised, and typically consisted of representation and advocacy at meetings; practical and moral support; and ensuring timely outcomes.

> **"The BMA was helpful because they pushed the Trust to get this to completion and they were good at that… They could see that the Trust was extending the whole process longer and longer and they said, 'It needs to come to a conclusion now' and they were also pushing the Trust to write a final letter and when it was concluded they were pushing as well to say, 'Is this now done?'"**

Only one negative experience was reported, and that was in relation to the BMA helpline. It was described as a "conveyor belt" whereby a practitioner is allowed only one short phone call during which little practical advice and support is offered.

> **"… It didn't feel like the person at the other end of the phone was particularly interested and gave me anything else but generic advice… I was expecting some proper listening and some proper counselling and definitely some follow-up… There was none of that. The whole call probably lasted five to ten minutes"**

The support offered by the GMC and the PHP was again commended. In particular, the latter was said to have offered valuable (and free) help in coping with mental ill-health.

> **"… I had a personal contact who was particularly helpful and knowledgeable and, of course, the therapy etc. was all free. So, that really helped, especially since by this stage the Trust weren't paying me..."**

Similarly, one participant had approached the Association of Clinical Psychologists and been offered six sessions of counselling. This had not only been valuable in terms of the support and information provided, but also in validating that many other doctors had been put in their position.

> **"… They said they had seen lots of doctors like me who had safety concerns and had been victimised and had mental health problems as a result. Time and time again they said this was not a personal failure in my personal life… I was thankful to meet this**

counsellor. They signposted me to other organisations… and that's how I managed to get more and more support"

There was a sense among those who had accessed it that the support provided by unions could have been better. There was particular disappointment with the lack of scrutiny and challenge when several similar cases were raised within the same teams.

"They could have said, 'Hang on, this case sounds very similar to [another] case and this is the second doctor in the team to be alleged to be bullying others… The Trust management is swiftly springing into action, but actually with all the issues they are raising, nothing is being done about it.'"

"The union could have been quite vocal, but they [weren't]. They just said, 'Let's just carry on"… There were three doctors who worked with the same team and the team next to us… who raised patient care concerns and the three of us were treated in the same way and someone alleged bullying…"

More emotional support would have been welcome

When asked whether there was any support they needed but did not receive, practitioners mainly highlighted emotional support, including professional counselling. This was again considered especially important for those with no informal UK-based networks.

"You need a lot of support. You need [to be told], 'Go to this' and… it's the mental support. I am the only foreign person in the [department] and I was not supported by anyone. I was left on my own to deal with it…"

Few practitioners had received formal support from their employer or elsewhere after their case closed

Most post-case support appears to have been offered by family, friends, and supportive colleagues.

"I feel very lucky that since all this is sorted out, I go to work every day, do my job, and hold my head high. People value me the same as before. I'm still working in a different way with people supporting me…"

This was fine for most participants (many of whom simply wanted to "move on" by this point), though a couple felt they would have valued some more formal support from their employer or from an alternative source in coming to terms with one of the most difficult periods of their life, and to better understand what they needed to do to improve their practice.

"There was no sensitivity about my own mental health support or needs and to explore how I felt having been a consultant for less than a year and then being subjected to a serious investigation that could tarnish your medical career forever... There was no conversation about that and no acknowledgement…"

"... A scheme... which is able to support doctors like me because I want to learn from my mistakes. I want to put it to good… To have that bigger thinking, visionary thinking; that would be helpful..."

Fairness

The main characteristics of a fair process are many and varied

Participants were asked to outline what they felt were the main characteristics of a fair process. They gave the following feedback:

Fair, open and transparent

- ***"A fair process has to be open… honest… balanced. A fair process has to analyse all the actual facts and reach balanced conclusions"***

Free from blame but not accountability

- ***"There should be no blame and there should be repairing of relationships and at the same [time] there shouldn't be any lack of accountability or responsibility"***

Based on truth

- ***"It has to be based on the truth… Management Performance are doing all their work on the assumption that the managers are… being accurate in their facts. So, it can't be fair if it's not based on the truth"***

Consistent, but mindful of individual circumstances

- ***"It's most like I am a GP to my patients, you know. I want to treat them all the same but at the same time understanding the individual … This is the ethos that I'm sensing that PPA will want to be giving towards me and my medical colleagues"***

Free from racial bias

- ***"A culture of treating everyone fairly regardless of their ethnicity"***

Most practitioners did not feel they had been treated fairly by their employers

Only one participating practitioner felt they had been treated fairly by their employer, having returned to work, and been well supported following the resolution of their case.

Others highlighted what they considered to be unfair treatment in terms of proper procedures not being followed; investigations being instigated based on "gossip"; and judgements being made around what had happened prior to investigation. Moreover, one practitioner felt they had been unfairly penalised financially by not being placed on medical suspension, whereby they would have continued to receive a salary while their case was being reviewed.

"… That never happened. And I never sought any reimbursement; I just wanted to get my job back. But it was a long time"

The perceived divide between clinicians and HR/management was a factor in participant's perceptions of unfairness, for there was a definite sense that those who deal with concerns and allegations internally are somewhat remote from the day-to-day clinical environment, and thus lack the understanding and empathy to look at the situation holistically. Moreover, it was suggested that:

"… When you deal with people you only see at official meetings, it becomes like someone who doesn't really care has a lot of influence on your case"

Encouragingly, although one participant had not felt fairly treated by their employer, they said that the situation had improved significantly once Practitioner Performance Advice became involved. This participant felt that Practitioner Performance Advice listened to them and supported them to return to work under more favourable conditions.

Opinion was mixed on whether practitioners were treated fairly by Practitioner Performance Advice

A couple of participants said they had been treated very fairly by Practitioner Performance Advice. They had felt listened to and were confident that all the relevant information had been taken into account.

One practitioner felt they had been treated fairly in the circumstances. That is, Practitioner Performance Advice had acted reasonably based on what it had been told:

"But what they were told wasn't true …"

Another, though, felt that Practitioner Performance Advice had made no attempt to corroborate whether the information provided to it by their employer was accurate, to ensure that the employer followed due process, or to ensure a balanced investigation.

In one case, although the practitioner was happy with the fairness of the process in the first instance, they felt that decisions became more balanced toward their employer as time went on. Another suggested that positive testimonials from colleagues, mitigating circumstances, and evidence of racial discrimination had been disregarded in their case.

"I did write in my witness statement that there had been mitigating circumstances in my team… The investigator said, yes, there were mitigating circumstances, but they refused to acknowledge how this might have influenced the team relationships and dynamics… I [also] had testimonials from 20 nurses to say that I had no problems and that I was very caring, and I communicated well with them, but all of those things they did not want to take into account..."

"I said there was racism and there was no acknowledgement… It was almost like I was talking to a wall"

Others corroborated this, suggesting that extenuating circumstances had not been properly considered in their case either. For example, one practitioner felt that an understanding of where they had trained and how that affected their practice would have been beneficial, as would a discussion around their history of mental ill-health, substance misuse, and difficult familial circumstances. Another had suffered a significant bereavement and previous racial bullying and discrimination at work, and they again felt that insufficient account had been taken of the impact of this on them.

> **"I feel like my own personal circumstances were not considered… I had taken a gap in training… because my [close relative] was very unwell and… then he passed away… [Another reason] I had taken a gap was that even though I was a trainee, I felt bullied and discriminated [against] and so I had to complain to Health Education England… So, they were aware that I had been a victim of bullying and that I had alleged that I had been subject to racial discrimination. Then my [relative] passed away and they had been aware of a lot of personal circumstances, but they didn't take any of those things into account…"**

Most practitioners felt discriminated against based on their ethnicity and/or where they qualified

Most participating practitioners felt discriminated against to a greater or lesser degree based on their ethnicity and/or where they qualified. When asked about other protected characteristics, one also noted that they may also have been discriminated against based on their religion. Participants tended to argue that institutional discrimination is very evident within the NHS and that the training offered abroad is viewed as somehow lesser, when in fact it is just different. Much of the time, this discrimination is allegedly "swept under the carpet".

This was thought to be reflected in the way some participants' cases were dealt with by both their employer and Practitioner Performance Advice. They perceived discrimination from all quarters, not least because:

> **"… One of the hallmarks of racism is denial and so essentially when I told NHS Resolution that I felt… the whole thing is in the realms of institutional racism because a white manager was alleged to be bullying but the outcome was different, I was told that I have communication [issues]. NCAS did not want to acknowledge it. The Trust, they degraded me, and degradation is a hallmark of racism. When I said the whole thing was racist and they needed to look into it, they just said they couldn't do anything and [it was] almost as though they did not care about me at all... I think there has been a big level of discrimination: denial, degrading. These are hallmarks of racism"**

> **"… We choose to support senior management at the detriment of clinicians, particularly if the clinician is of ethnic minority. As an ethnic minority person, you are guilty until proven otherwise and that is exactly how I was treated. I had been working at the Trust for [many] years, not a single complaint against me, absolutely unblemished record and**

as soon as this complaint came in there was totally disproportionate action against me…"

Moreover, one practitioner was strongly of the view that practitioners from ethnic minorities and/or who qualified abroad are more often subject to concerns around practice that is "within the variation of clinical work". This is most problematic in ethnically homogenous teams and organisations, they added.

"The other problem was the lack of diversity in the team; there was one ethnicity and that was white and that is why we had the issue"

Even one of those who had not felt discriminated against based on their ethnicity during their case acknowledged that all members of the suspended doctors group at the GMC are from an Asian background. They speculated that doctors who were not from ethnic minority backgrounds may not want the support of the group but thought it more likely that practitioners from ethnic minorities and/or who qualified abroad are disproportionally subject to disciplinary processes.

Organisational culture within the NHS

Most practitioners described a culture of bullying, discrimination and blame within the NHS

Most of the practitioners interviewed described a culture of bullying and discrimination within the NHS, and an unwillingness to address it. Indeed, one participant alleged ongoing unsavoury behaviour on the part of their managers and colleagues after their case was resolved, which was not even acknowledged, let alone resolved.

"… Everybody's keeping their mouth shut. How are we ever going to resolve discrimination in the NHS if these sorts of behaviours are not tackled?... I think this is the culture within the NHS… Everybody is very keen to keep their mouth shut and not tackle bad behaviour; instead accepting that the victim is blamed… "

It was also said that the NHS is reluctant to listen to concerns raised by practitioners, often demonising and ostracising those who raise them. Moreover, there is also apparently a persistent culture of blame. Of course, not accepting that mistakes are being made – or seeking only to apportion blame when they do - prevents the ability to learn from them.

"Raising concerns [if you are a practitioner] is actually extremely difficult in the NHS, simply because anybody who raises concerns is labelled as a troublemaker… Anybody who doesn't put up and shut up is a troublemaker and there's no support available; none whatsoever"

"… An organisation could say that, 'Yes, we are not 100% perfect and let's see what we can do about it', but when I raised patient safety concerns with them they became very defensive and they tried to turn it around and say, 'Oh you're not ready, you're not able to cope with the job. Maybe it's you'…"

It should be noted, though, that some participants described enormous admiration for and pride in the NHS as a whole and felt that there are only pockets of poor behaviour among some employees.

> **"… It's not the NHS as an entity which is the problem… It's certain people within the NHS and that exists within any profession"**

It was again highlighted that discrimination is often more of an issue in areas that are not as culturally diverse. Indeed, one participant had worked at both a large hospital in a major city, and a smaller, more rural one: they described very different experiences.

> **"I think there is a local problem and not an NHS problem because I have been in [a large inner-city hospital], and it is not a problem [there]… [In that hospital] you have people from Asia and Afghanistan, and you are in a multi-culture. In the [other hospital] you were in a mini culture"**

Related to this, the positive impact of cultural and ethnic diversity within workplaces was noted by a couple of participants, who felt that cliques are less likely to form, and discrimination is far less evident.

> **"My workplace is quite diverse, and I like that… because you don't feel that there are different cliques or people ganging up on you; there isn't any discrimination in that sense. But I have worked in places where there has been, and you can feel the difference. It can have a huge impact on your stress levels…"**

As for whether the culture within their employer organisation had impacted their case, some felt it had not whereas others felt it had. Most notably, there was again a sense that there is a tendency to rush into formally investigating situations involving practitioners from ethnic minorities, whereas more time and care is typically taken when allegations are made against white practitioners.

> **"I think it influenced [it] greatly… I gave examples [of bullying] and they were very resistant of that approach… The Trust did not want to investigate and when they investigated, the outcome was not telling the truth… I think because they are inherently racist that is why they did not deal with it… Everything about the culture of their organisation has influenced the case… "**

Long-term impacts

Participants noted many ways in which their case has impacted them long-term

The main long-term impacts on practitioners tend to result from ongoing trauma, stress, and anxiety, manifesting as mental ill-health. These impacts are so significant for some that they have either now left practice or can only work part-time.

> **"… I was off practice for a very long time. Now I'm back to practice only part-time and I can't cope with a full-time job anymore because it just sort of stresses me out… "**

“I’m very good at my job but I can’t do it anymore because you can’t go to work looking over your shoulder all the time which is what I feel I am. There’s more to life… ”

"I have had to leave the Trust that I’d worked for, for… [many] years. Of course, it has affected my mental health and disappointingly nobody has been interested"

One practitioner described the multiple impacts of their case not only on their mental health, career, and self-esteem, but also on their reputation and standing within their family and community.

"This had a dramatic effect on myself… and not only on myself... I am head of the family and the pride of my family, so it damaged the pride in the community... My reputation... It damaged me quite a lot... It has damaged my esteem and has damaged and affected my learning and de-skilled me because of my health and the stress of all that... "

Several practitioners described an ongoing feeling of unfairness about how they were treated, which again adversely affects their mental health. In particular, where people continue to view the allegations against them as malicious or based on untruths (or they have proven to have been), it is difficult for them to find closure when those who “orchestrated” them are not sanctioned in any way.

“When you have a practitioner referred and the independent process or whatever rules that this was not validated, there [should] be some sort of comeback. I think the problem I had is that whoever did these things to me, there would be no comeback to them, and I put up with a lot of adversity, until my mental health couldn’t take it anymore… ”

“I would have liked my managers to know what they were doing. They just do what they like, and you have no comeback… They just destroy your life and get away with it”

A tendency towards more defensive practice was described by one practitioner, who suggested that many clinicians now tend to over-investigate and over-treat “purely to stop them making a barrage of complaints against us... ”. A couple of others said that they no longer raise patient safety concerns for fear of potential recriminations.

“It has changed me in that I would be quite vocal in raising patient safety concerns… Even if I see something now in my team which I think doesn’t give good patient outcomes, I end up keeping quiet because I don’t want problems. I can’t and I think I am too traumatised… It has influenced me greatly”

Ongoing career-related impacts, lingering personal doubts, an unwillingness to go the “extra mile”, and a general loss of faith in the NHS and its processes were also highlighted as long-term impacts of having had concerns raised about their performance– as was the fact that some of those who have been subject to the process will spread the word about their experiences, potentially deterring practitioners from overseas from seeking a career in the NHS.

“When it comes to appraisals, you still have to put that there has been a significant event and it still has some bearing on your career in a way”

"… You start to doubt yourself… I never, ever in my whole career had any complaints, any incidents, nothing. I only had amazing and positive comments…"

"I have totally lost faith in the NHS and its procedures, and I've also lost my will to go the extra mile. My commitment was extremely high, and I don't think at this stage I can commit myself again to another Trust in the way I was committed… because I just don't trust the system anymore"

"… I have followers back home in [country of birth] and in this country, so what has happened to me can be very public and that will influence the inflow of doctors coming from abroad, and we are hankering for doctors. It is self-defeating"

Despite the largely negative impacts reported above however, some positives were raised in relation to practitioners' personal development and working practices; their greater empathy for colleagues; and their desire to improve working practices at their employing organisation.

"... Having been through those experiences and blessedly coming out in the light... [it] has allowed me to develop myself. My personal development has seen huge benefits... To be able to look at things holistically in terms… of the bigger picture... There were times when I was in the darkness it felt like I might as well be dead. But had it not been for the case then perhaps I would not be where I am in my thought process"

"I have gained more insight into the struggles of doctors on the shop floor... I'm more supportive of junior doctors. I'm more keen to get involved with HR meetings, to do badgering. Getting well has impacted on me more than any organisational process. The fact that I can now work in a different way has made a difference. It means I can be consistent and reliable at work. I feel like I've had to learn the hard way about what my limitations are. I feel fortunate that my Trust are listening to what I need... I have great mental health support in place. I function better..."

Moving forward

Better recognition of unconscious bias, and acknowledgement of apparently systematic discrimination within the NHS, was considered essential in addressing many of the issues reported above. It was repeatedly said that there is currently a reluctance to raise concerns for fear of the consequences of being labelled a "troublemaker" and that as long as this continues to be the case, there can be little progress towards a just and learning culture. As one practitioner put it:

"… Because of the lack of awareness, and because there is a denial of that, they are not able to prevent it…"

Indeed, one of the most common suggestions for improvement raised by participating practitioners was for a systematic review of discrimination within the NHS and identifying ways of properly considering and learning from issues of concern.

"The Medical Council has such a beautiful statement: 'A difficult doctor is not a problem. It is usually a symptom of a difficult system' and I think it is a statement to help people look at something systemically and not individually... I have met so many doctors who have been through similar processes... They raise safety concerns and instead of listening to those… everyone is accused of misconduct… Every day the number of these doctors are increasing, and I am seeing the same story repeated again and again so the NHS need to look at it systemically…"

"… It shouldn't be about blame but learning from your experiences and mistakes. There is no way you can get to where you are without making mistakes. We are human and mistakes happen and it's not that we are doing it intentionally…"

Of particular relevance to this study, there was a strong sense that it is now time to understand why ethnic minority and overseas qualified practitioners are disproportionally subject to disciplinary procedures, and to put in place actions to address this.

"Nobody reviews complaints against doctors… Yes, there are multiple studies saying that people from ethnic minorities are more likely to get in trouble and get referred and disciplined etc… But who is actually looking into this and ensuring that it doesn't happen? Has somebody actually sat down and looked at all those cases and said, 'I'm going to find out why this person was referred and why this person who is not from an ethnic minority was not referred when they had exactly the same concerns raised against them?' The system is built in a way that the employer's assessment of the case is not questioned"

This, it was felt, would also help the NHS achieve a just and learning culture that is based on transparency, openness and truth.

With particular regard to Practitioner Performance Advice, given it is widely known that ethnic minority and overseas qualified practitioners are subject to more disciplinary procedures than white and UK-qualified ones, it was suggested that Practitioner Performance Advice could place an internal marker onto, or raise an "alert" in, cases which involve ethnic minority and overseas qualified practitioners, to enable them to fully explore and understand their context. Once again, encouraging mediation at as early a stage as possible in a case was also recommended, as was ensuring that Practitioner Performance Advice Case Advisers are suitably knowledgeable and experienced, or at least know where to seek expert help if required.

"Complete resolution at an early stage in a proper manner… There needs to be more understanding of informal discussions and… what can be verbally sorted between two people or two organisations... When it goes on the paper, it becomes more formal, and it can be hardened... I think the communication is [an issue]"

"When people are dealing with cases like mine… to have the experience, or if they do not have the experience, to be able to seek people who have that level of experience… People who are appropriately experienced, suitable and qualified to take a holistic look at a case and the person who they are dealing with… "

Finally, one practitioner sensed that Practitioner Performance Advice is not viewed as a valuable resource, or given sufficient respect, by some senior managers within the NHS, using the example of Practitioner Performance Advice recommendations being disregarded. They were strongly of the view that:

"NCAS has to be… seen as more effective and they should have more say in things because the Trust continued… their misbehaviour…"

4. Issues to address

Based on the findings from this research, ORS have identified the following issues for Practitioner Performance Advice to consider, to improve how they handle concerns relating to ethnic minority practitioners and those who qualified abroad.

Case handling and management

Practitioner Performance Advice and employers should jointly inform practitioners as soon as possible when advice is sought, providing clear, consistent, and detailed information about how their case will be handled; about the respective roles of Practitioner Performance Advice and employers in this; possible case outcomes and the repercussions of them; and about sources of emotional, legal, and practical support for practitioners.

Practitioner Performance Advice's initial (and ongoing) contact with practitioners should be made sensitively and in an appropriate way. Training should be provided to all relevant staff to ensure that they interact with practitioners consistently.

After initial advice is provided, Practitioner Performance Advice should engage proactively with employers to offer follow-up advice on resolving cases, within a reasonable timeframe.

Practitioner Performance Advice should consistently encourage those responsible for managing cases to discuss them with practitioners at appropriate intervals throughout their cases.

Involvement of Practitioner Performance Advice

Practitioner Performance Advice should clarify their level of input into cases upfront and throughout, making clear what they can and cannot do. Some remote review meetings with practitioners (e.g., via telephone or videoconferencing) could be offered, where feasible and practicable.

Practitioner Performance Advice should share advice letters with practitioners to enhance transparency.

Practitioner Performance Advice should signpost practitioners to appropriate sources of tailored support.

Fairness

Practitioner Performance Advice should seek to clarify information given to them by employers where it conflicts with that provided by practitioners to ensure fairness.

Where practitioners allege that employers have displayed racism or any other form of discrimination while handling concerns raised about them, Practitioner Performance Advice should bring it to the attention of NHS England, who are currently monitoring the involvement

of ethnic minority practitioners in disciplinaries through the Medical Workforce Race Equality Standard[6] (MWRES).

Moving forward

Practitioner Performance Advice should challenge employers where they believe that employers have not handled or resolved complaints against practitioners fairly and appropriately. If Practitioner Performance Advice detect repeated instances of this behaviour among employers, they should escalate to regulators, such as the CQC.

[6] Further information about the MWRES can be found here: https://www.england.nhs.uk/wp-content/uploads/2021/07/MWRES-DIGITAL-2020_FINAL.pdf

Appendix

The interview topic guide is presented below.

Topic guide for NHS Resolution Lived Experience Research

Introduction

Thank you very much for talking to me today. My name is [NAME], and I'm a senior researcher from an independent research company called Opinion Research Services (or ORS). As you know, we're working with NHS Resolution to explore the experiences of practitioners from ethnic minority backgrounds and/or those who have qualified abroad who have had a case with Practitioner Performance Advice (formerly known as the National Clinical Assessment Service or NCAS).

This research is part of NHS Resolution's new research programme, which seeks to improve how the organisation handles concerns about practitioner's performance, helping it to interact with practitioners in a more compassionate way by ensuring that they feel heard, supported, and understood.

- The interview should take around an hour, depending on your answers, and will focus on:
- How your case was handled, managed, and resolved
- The involvement of Practitioner Performance Advice
- Any other support you received
- How fairly your case was handled
- Organisational culture within the NHS
- Longer term impacts of your case.

Protecting your data and anonymity is very important to us, and to NHS Resolution. If it's OK with you, we would like to record the interview so that it can be properly written up. We will not share the recording with anyone else, including NHS Resolution. We will be writing a report and some case studies for NHS Resolution based on what you and the other practitioners we interview tell us. While we may use what you say in our report and/or case studies, we will not name you or use any information that potentially identifies you.

ORS will destroy any information which identifies you as an individual (including the recording) three months after the end of the project (likely July 2022), but the rest of your responses will be kept for research purposes. ORS strictly adheres to the principles of the Data Protection Act 1998/2018, as well as the EU General Data Protection Regulation (GDPR). If you would like more information on how we will use and store data for the project, please see our privacy policy at and NHS Resolution's privacy notice at [address].

Before we start, there are no right or wrong answers, so please be honest and open about your experiences. You are not obliged to respond to any questions you are uncomfortable answering, and you can change your mind about taking part in the interview at any time. If you

feel you need support after the interview, there are some details of relevant support services on the information sheet we gave you – if you would like me to give you those details again, please just say.

Would you like to ask me any questions before we begin?

1. Background

1a. I don't need to know the specific details of your case, but please can you tell me:

When were concerns first raised about your performance?

Has the situation been resolved, or is it still ongoing?

[**Researcher**: Ask these two questions only if an outcome has been reached]:

When was an outcome reached for your case?

In terms of your professional role, I'd also like to know what the outcome of your case was. I've got a list of possible outcomes for your case that I'll read out to you, and I'd like you to tell me which one best represents your situation, or if your outcome was different:

- My role and organisation are the same as before concerns were raised, with no restrictions
- My role and organisation are the same as before concerns were raised, with temporary or permanent restrictions
- I was suspended or excluded from my role
- I changed organisations and/or roles
- I am retired or no longer working as a health practitioner.

We will talk about how fairly you feel your case was handled later on in the interview, but if I may, I'd like to start off with some questions about how your case was handled, managed, and resolved.

2. The handling of your case

Before I ask you the questions I have about the handling of your case, it might be helpful if I define the purpose of Practitioner Performance Advice.

Practitioner Performance Advice is a service delivered by NHS Resolution under a common purpose which is to provide expertise to the NHS on resolving concerns fairly, share learning for improvement and preserve resources for patient care.
Where circumstances give rise to performance concerns, Practitioner Performance Advice are available to help, whether by providing advice or support for resolution through our own services or by signposting to other means of support.
Practitioner Performance Advice offers a range of services, including:
- Advice
- Assisted Mediation
- Team Review
- Behavioural Assessment
- Clinical Performance Assessment
- Local Performance Assessment

- Professional support & remediation – action plans and reviews of external action plans
- Training courses.

2a. How and by whom were you first told that your employer had sought advice or the involvement of Practitioner Performance Advice?

- Prompt: To what extent was the decision to involve Practitioner Performance Advice in the handling of the concerns about you communicated sensitively and appropriately by your organisation?

2b. To what extent did you understand how your case would be handled?

2c. How was the role of Practitioner Performance Advice in handling your case explained to you?

2d. Would you have liked any other information about how your case would be handled? If so, what?

2e. What support were you offered at this stage of the process?

2f. Did you contact your professional organisation at this stage?

- Prompt: If so, what advice and support did you receive from them, and how helpful was it?

2g. How could the handling of your case have been improved?

3. Managing your case

I'd now like to ask you some questions about how your case was managed. I'm aware that the person who managed your case might have been a clinical director, a contract manager, or someone different.

Please can you confirm who was responsible for managing your performance at the time?

[Researcher: Please use the interviewee's preferred terminology when referring to their "manager" in this section]

3a. Did you discuss your case with your [manager]? If so, how, and when did you discuss it?

- *Prompt: Did the frequency of your meetings or discussions with your [manager] vary at different points throughout your case?*

[**Researcher:** If the interviewee says that they did not discuss their case with their "manager", please move on to section 4]

3b. How responsive was your [manager] to any questions or requests for information you had?

3c. How supportive was your [manager] throughout the handling of your case?

3d. What, if anything, was positive about how your case was managed?

3e. What, if anything, was less positive about how your case was managed?

3f. How could the management of your case have been improved?

4. The involvement of Practitioner Performance Advice

4a. How and when were Practitioner Performance Advice involved with your case?

- *Prompt: How did the involvement of Practitioner Performance Advice vary at different points throughout your case?*

4b. Overall, how were you treated by Practitioner Performance Advice?

4c. What, if anything, did Practitioner Performance Advice do well?

4d. What, if anything, did Practitioner Performance Advice do less well?

4e. How could the input of Practitioner Performance Advice into your case have been improved?

5. Other support

5a. Did you access any other support to help you during or after your case? If so, what support did you access, and which organisation(s) provided it?

[Researcher: Probe for formal (e.g., occupational health, counselling) and informal types of support (e.g., support from friends, family, religious leaders / organisations) here]

5b. **[Researcher:** Ask questions 5b-5g for each type of support received]

How did you find out about this support? Were you signposted by your manager, Practitioner Performance Advice, or someone else at work?

5c. At what point during your case did you access this support?

5d. To what extent did the support you had meet your needs?

5e. What, if anything, was particularly good about the support you received, and why?

5f. What, if anything, could have been better about the support you received, and why?

5g. Is there any support that you needed, but didn't get?

- *Prompt: At what point during your case would this support have been most helpful?*

[**Researcher**: Ask Q5h only to those whose cases are still ongoing, and who have not yet covered this question in their previous answers]

5h. What support, if any, did you receive after your case had ended?

- *Prompt: How far did this support meet your needs? Would you have liked any more or different support after your case?*

5i. **[Researcher:** Ask Q5i only if interviewee says that they did not access any support]

Why didn't you access any support?

- *Prompt: Have you encountered any barriers in accessing support? If so, how could they be overcome?*

6. Fairness

I'd now like to ask you some questions about how fairly you were treated during your case. Before I do, I'd like to share NHS Resolution's definition of a just and learning culture with you.

A just and learning culture is the balance of fairness, justice, learning – and taking responsibility for actions. It is not about seeking to blame the individuals involved when care in the NHS goes

wrong. It is also not about an absence of responsibility and accountability. It involves repairing and building trust and relationships when things have not gone as planned, and ensuring everyone's needs are met, no matter who they are.
This is achieved by treating everyone fairly, no matter what their background is, and helping them to speak up. A fair culture develops working practices that move people away from fear and blame, including tackling incivility and bullying, and addressing the health and wellbeing needs for staff to help them work safely.

6a. In your own words, what are the main characteristics of a fair process?

6b. To what extent were you treated fairly by your employer during your case, and why?

- *Prompt: What, if anything, affected how fairly your employer treated you during your case?*

6c. To what extent were you treated fairly by NHS Resolution during your case, and why?

- *Prompt: What, if anything, affected how fairly NHS Resolution treated you during your case?*

6d. To what extent was all of the relevant information taken into account when your case was being considered?

- *Prompt: E.g., family circumstances; personal issues, etc.*

6e. Did you feel discriminated against based on your ethnicity, and/or based on where you qualified, during your case?

- *Prompt: If so, when, how, and by whom?*

6f. Are there any personal characteristics that you feel were not considered during your case that should have been?

- Prompt: Age; gender reassignment; being married or in a civil partnership; being pregnant or on maternity leave; disability; religion or belief; sex; sexual orientation.

6g. [Researcher: Ask Q6g only if interviewee says that they were treated unfairly or discriminated against] How could this have been prevented?

7. Organisational culture within the NHS

7a. In your own words, how would you describe the culture where you work?

7a. How, if at all, do you feel the culture where you work influenced your case?

7b. How, if at all, has the experience of your case influenced your views on the NHS?

7c. How, if at all, do you feel the NHS could better support practitioners who are involved with Practitioner Performance Advice cases?

8. Longer term impacts of your case

8a. How, if at all, has your case affected you over the longer term?

- *Prompt: Work-related impacts, e.g., role/position; performance; scrutiny; work-life balance; finances*

- *Prompt: Personal impacts, e.g., self-confidence; self-esteem; physical and mental health; impact on family.*

8b. How, if at all, could these impacts be prevented or lessened?

Prompt: Would you like any more or any different support? If so, what kind(s) of support?

9. Conclusions

9a. Thank you so much for your time today. That was everything I wanted to discuss. Are there any other issues that you wish to raise in relation to what we've discussed?

THANK INTERVIEWEE AND CLOSE