

**PATHOLOGY DELIVERY BOARD**

**PROTOCOL FOR MEMBERSHIP OF THE HOME SECRETARY'S**

**REGISTER OF FORENSIC PATHOLOGISTS**

**BACKGROUND**

- (i) The Home Secretary maintains a personal register of forensic pathologists who have been identified to be of sufficient skill and standing to provide credible expert assistance to police forces, coroners and courts in the field of forensic pathology (the "**Register**"). Members of the **Register** are engaged and paid by individual police forces on a case by case basis and are variously employed by an institution (such as a university, an NHS Trust or an independent provider), self-employed or a combination of both employed or self-employed. The **Board** makes no payment directly to any member of the **Register**.
- (ii) Whilst there is no express legal obligation on any police force or coroner to use forensic pathologists on the **Register** there is an expectation that police forces and coroners will only use members of the **Register** to conduct forensic post-mortems where the deceased has died in suspicious or potentially criminal circumstances.
- (iii) The Home Secretary has delegated authority to the **Board** to maintain the **Register** and to make recommendations on who should be admitted to the **Register**. The **Board** has obligations to maintain the integrity of the **Register** and to maintain public confidence in the criminal justice system and to ensure that the **Register** only lists those who retain the Home Secretary's confidence to provide expert and credible assistance to the criminal justice system. The **Board** is supported administratively by the **NPIA**.
- (iv) As a quality assurance mechanism, the **Board** on behalf of the Home Secretary has approved a structure of **Group Practices** around England and Wales to ensure that members of the **Register** share best practice and have effective opportunities for peer review and professional development.
- (v) The **Board** has determined that to improve the standards of forensic pathology and protect the integrity of the **Register** and maintain public confidence in the criminal justice system it is necessary to impose a minimum and maximum forensic pathology workload and a maximum overall workload.
- (vi) The **Board** has identified situations where a member of the **Register** is likely to lose the confidence of the Home Secretary and is likely to be removed from the **Register**, which are described as critical events.
- (vii) The **Board** has identified situations where a member of the **Register** should notify the **Board** so that it can ensure that the integrity of the **Register** is not impaired, which are described as notifiable events. These include matters that could call into question the good standing of members of the **Register**.

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- (viii) The **Board** will support the continuing professional development of members of the **Register** and will maintain the forensic pathology service for the criminal justice system in England and Wales

**PROTOCOL**

**Status of the Protocol**

1. The purpose of this document is to set out the expectations that the **Board** has of members of the **Register** in their dealings with the Criminal Justice System. This protocol does not create and is not intended to create an employment or other contractual relationship between you and the Home Secretary, the Home Office, the **Board** or the **NPIA**. The appendices to this protocol do not form part of this protocol but are included for information and may be amended by the **Board** from time to time.

**Workload**

- 2.1 You shall undertake at least **20** forensic post-mortems on behalf of police forces each calendar year unless you have express written permission of the **Chair** or the **Secretary** (for example if you are unavailable due to maternity or illness).
- 2.2 You shall not undertake more than **95** forensic post-mortems on behalf of police forces each calendar year unless you have express written permission of the **Chair** or the **Secretary**.
3. You shall have no other professional or legal commitments that would prevent you from providing an effective service to a police force.
4. If you are in your first year as a new member of the **Register** the **Board** recommends that you should examine at least 30 and no more than 60 suspicious deaths.

**Standards, Audit and Appraisal**

5. You shall comply with the **Code of Practice** and **Code of Conduct** and shall work in a **Group Practice**.
6. You shall comply with the terms of the Memoranda of Understanding between your **Group Practice** and the relevant police forces.
7. You shall comply with the **Board's** requirement that all forensic post-mortems carried out for the Criminal Justice System must be the subject of Critical Conclusions Checking.
8. You shall comply with the **Board's** requirements for continuous professional development
9. All **Group Practices** will be audited quarterly by the **Board** to ensure compliance with this Protocol and in particular in respect of the rules on

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workload, critical conclusions checking, and appraisals. Further audits may be initiated at any time by the **Board**. You must co-operate with any audit.

10. An audit may require you to indicate on a strictly private and confidential basis your workload (by number of cases and/or hours) on work other than that on forensic post-mortems for the criminal justice system (e.g. your work on coronial autopsies, defence autopsies or for the NHS). The purpose of this provision is to allow the **Board** to satisfy itself that quality is not jeopardised by overwork. This will be done in exceptional circumstances only.
11. As part of any audit you may be required to provide a sample of recent autopsy reports provided by you for use in the Criminal Justice System.
12. You will participate in the internal and external appraisal systems in operation within your **Group Practice**.

**Notification, Suspension and Removal**

13. You must notify the **Chair** as soon as you are knowingly the subject of a **Critical or Notifiable Event**. Failure to do so will amount to a disciplinary offence as an act of misconduct and will be dealt with under the **Disciplinary Rules**.
14. In the event of a **Critical Event** or **Notifiable Event** being notified to the **Secretary**, the **Chair** has the discretion to suspend you immediately from the **Register**. Whether or not the **Chair** does suspend you, the **Chair** will write to you requesting written representations from you within 7 days. The **Chair** will then have the absolute discretion
  - (a) to remove you from the **Register** on behalf of the Home Secretary if the matter relates to a **Critical Event**
  - (b) confirm your suspension or
  - (c) lift your suspension. The **Chair** may seek the advice of the **Board's** Registration and Training Committee on whether to lift your suspension.
15. In the event of a complaint against you (which does not relate to a **Critical Event**) for a breach of the **Code of Conduct** or the **Code of Practice**, the complaint will be dealt with under the **Disciplinary Rules**.
16. Nothing in this Protocol inhibits the Home Secretary or the **Chair** from taking such action they deem necessary to maintain the integrity of the **Register** or public confidence in the Criminal Justice System and such action may include removal or suspension from the **Register** and notification to the Criminal Justice System of such action.

**Return of materials**

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17. In the event that you cease to be a member of the **Register** you shall, if requested, return to the **Secretary** any document, electronic media, information or other materials provided by the Home Office, the **NPIA** or the **Board**.

**Mentoring for new or returning members of the Register**

18. Your six month period as a new or returning member of the **Register** will be on a temporary basis and your performance will be reviewed by the **Board's** Registration & Training Committee under procedural rules it shall determine and your continued membership of the **Register** is conditional upon successful application for permanent membership of the **Register**.

**Data Protection & Freedom of Information**

19. You accept that as part of the **Board's** obligation to protect the public interest and maintain the integrity of the **Register** it may need to disclose information relating to you, to concerns about your medical practice or your professional conduct or competence and to any allegations of a criminal offence by you to the Crown Prosecution Service, to **GMC**, to the Human Tissue Authority, the Forensic Science Regulator, the Home Office, the Legal Services Commission, the Royal College of Pathologists and to other similar relevant public bodies and you consent to such disclosure and waive any copyright you may have in any document or report to allow such disclosure.
20. Your **GMC** registration number will be included on a version of the **Register** submitted to the **GMC** under the Memorandum of Understanding between the **Board** and the **GMC**.
21. The **Board** through the **NPIA** shall circulate to all coroners, chief officers of police and chief crown prosecutors in England and Wales a version of the **Register** which details:
- Your **GMC** registration number
  - The date you most recently joined the **Register**
  - Any previous periods as a member of the **Register**
  - Your medical and medico-legal qualifications
  - If applicable the name of your employer and your job title
  - Your telephone and email contact details
22. The **Board** through the **NPIA** shall publish a public version of the **Register** on the **NPIA's** website setting out the names and **Group Practices** for members of the **Register** and the names any member of the **Register** who is suspended from the **Register** and the reason for that suspension.
23. From time to time the **Board**, the Home Office and the **NPIA** are contacted by defence lawyers seeking contact details or recommendations for pathologists for particular cases. The **Board**, the **NPIA** and the Home Office shall not disclose your contact details to defence lawyers. If you wish to

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make yourself available for defence work (whether privately funded or through the Criminal Defence Scheme) you shall be responsible for your own marketing. No recommendations will be made by the **Board**, the Home Office or the **NPIA** to defence lawyers for pathologists for particular cases.

**Revisions to the Protocol**

24. The Home Secretary or the **Board** may issue a revised protocol at any time to replace this protocol and your continued membership of the **Register** will be conditional on your signature of any such revised protocol. The Protocol will be reviewed by the **Board** once the **GMC's** revalidation programme has been completed.

**Cooperation with Resilience Measures**

25. As a member of the **Register** it is expected that you will participate in the UK-DVI (Disaster Victim Identification) team for deployment within the UK in the event of mass fatalities.

**Representation**

26. During your period on the **Register** (save for any period when you are suspended from the **Register**) you may represent yourself as "a member of the Home Secretary's Register of Forensic Pathologists".
27. You must not represent yourself as "accredited" by the Home Office, the Home Secretary, the **Board** or the **NPIA**. It is your obligation to ensure that any publicity materials or directories accurately record your status on the **Register**.

**Suspension and Disciplinary matters**

28. In the event that you are suspended from the **Register** you may only represent yourself as a member of the **Register** if you indicate that your membership has been suspended.
29. In the event that you are suspended from the **Register** or subjected to disciplinary proceedings under the **Disciplinary Rules** you must co-operate with notifications to the prosecution and defence in any cases in the criminal justice system with which you are involved (whether for the prosecution or the defence).

**Liability**

30. You are responsible for maintaining professional indemnity insurance. The **Board**, the Home Secretary and the **NPIA** accept no liability for professional negligence by members of the **Register**.

31. **Definitions**

"**Board**"                      The Pathology Delivery Board.

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- “Chair”** The Chairman of the **Board** as defined in the **Disciplinary Rules**. In the absence of the **Chair** the Deputy-Chair may exercise the **Chair's** powers under this Protocol and the **Disciplinary Rules**
- “Code of Conduct”** As defined in the **Disciplinary Rules**.
- “Code of Practice”** As defined in the **Disciplinary Rules**.
- “Critical Event”** The following are critical events:
- (i) failure to ensure your work is subject to Critical Conclusion Checking
  - (ii) unreasonable refusal to subject the work of another member of the **Register** to Critical Conclusion Checking
  - (iii) failure to comply with any audit initiated by the **Chair**, the Home Secretary or the **Board**
  - (iv) failure to comply with CPD, appraisal or revalidation required by the **Board**
  - (v) failure to comply with any other mandatory requirements of the **Board**
  - (vi) failure to provide DNA and fingerprint samples for Police elimination
  - (vii) ceasing to have CTC Clearance
  - (viii) ceasing to be fully registered with the **GMC**
  - (ix) ceasing to hold a specialist registration with the **GMC** in:
    - (a) Histopathology with a sub-specialism in Forensic Pathology;
    - (b) Forensic Pathology;
    - (c) Forensic Medicine; or
    - (d) Histopathology;
  - (x) ceasing to hold a current licence to practice medicine in the UK
  - (xi) ceasing to have the legal right to work in the UK
  - (xii) ceasing to practice forensic pathology in the UK
  - (xiii) ceasing to work in a **Group Practice**
  - (xiv) failure to examine at least 20 suspicious deaths in a calendar year on behalf of police forces without express written permission of the **Chair**
  - (xv) examining more than 95 suspicious deaths in a

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calendar year on behalf of police forces without express prior written permission of the **Chair**

**“Disciplinary Rules”** the disciplinary rules issued by or on behalf of the Home Secretary in respect of the **Register**

**“GMC”** the General Medical Council

**“Group Practice”** a group practice recognised by the **Board**

**“Notifiable Event”** The following are notifiable events:

- (i) being arrested or charged in connection with a criminal offence anywhere in the world
- (ii) receiving a summons in respect of a criminal offence anywhere in the world
- (iii) receiving or accepting a caution in respect of a criminal offence (including a conditional caution under the Criminal Justice Act 2003) or in Scotland a fiscal fine or some other admission of a criminal offence
- (iv) being convicted of a criminal offence anywhere in the world
- (v) being subject to bankruptcy or other insolvency proceedings or being made bankrupt anywhere in the world
- (vi) being served with proceedings for disqualification as a company director or being disqualified as a company director anywhere in the world
- (vii) being notified of potential or actual action or investigation relating to an alleged breach by you of the Data Protection Act 1998 or the Human Tissue Act 2004
- (viii) being refused registration with the Independent Safeguarding Authority or having registration with the Independent Safeguarding Authority removed or suspended
- (ix) being notified by the **GMC** of a complaint against you or having a condition imposed on your registration

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with the **GMC**

- (x) being notified of criticism of your conduct, professionalism, skill, credibility or competence by a judge in proceedings in which you have given evidence (whether orally or in writing)
- (xi) being notified by a police force that they do not intend to instruct you further generally or on a specific case
- (xii) becoming a patient under the Mental Health Act 1983
- (xiii) being suspended, placed on garden leave or dismissed by your employer
- (xiv) being given an Anti-Social Behaviour Order
- (xv) accepting the option of paying a Penalty Notice for Disorder at the upper tier or a Fixed Penalty Notice under the Anti-Social Behaviour etc (Scotland) Act 2004 penalty level
- (xvi) being successfully sued in your individual capacity under the Protection from Harassment Act 1997 or under discrimination legislation.
- (xvii) being the subject of a civil injunction
- (xviii) being the subject of a restorative justice outcome
- (xix) the seizure, theft or loss of confidential or classified data relating to forensic pathology

**“NPIA”** National Policing Improvement Agency.

**“Secretary”** The secretary to the **Board** as defined in the **Disciplinary Rules**

**Signature** \_\_\_\_\_

**Member of the Register**

**Date**

**Signature** \_\_\_\_\_

**Chair**

**Date**

**Appendices to the Protocol**  
**As at 1 July 2010**

**Appendix 1**  
**Critical Conclusions Checking**  
***Issued by the Board May 2006***

The sole purpose of the Critical Conclusions Check is to ensure that a completed Special Autopsy report is internally consistent before it is submitted to the Senior Investigating Officer.

The Critical Conclusions Check is not intended as a certificate of verification of fact similar to the joint autopsy report ('double doctor examination') of Scotland.

It is not intended to offer differences in interpretation of the facts provided as in a second autopsy ('defence autopsy').

It is not intended to replace audit or peer review.

The principal criterion to be applied by the checker is this:

**On the facts given in the report, are the conclusions valid?**

No attempt should be made to examine scene or autopsy photographs.

No attempt should be made to verify the nature or size of injuries from photographs, diagrams or the like.

No attempt should be made to review histological material.

However, the checker should consider the findings of any ancillary tests quoted in the body of the original report, such as histology, toxicology, neuropathology, microbiology etc, in considering the validity of the conclusions.

In considering the adequacy of the scientific evidence available, the checker should also consider significant omissions from the report: for example, failure to verify an essentially histological diagnosis by microscopy, or failure to carry out a crucial test on which the validity of a conclusion depends.

The checker should carefully guard against introducing matters of mere personal preference or local custom in identifying significant omissions.

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**Appendix 2  
Group Practice  
Issued by the Board on 1 July 2010**

With effect from **1 September 2010** a group practice will only be recognised by the **Board** if it:

1. comprises a minimum of three forensic pathologists drawn from the **Register**. (A forensic pathologist can be a “full member” of only one practice but may work for other practices as an associate) who have signed the protocol for membership of the **Register**. For the avoidance of doubt, an associate can (in the discretion of the **Board**) be counted as one of the three required members of a **Group Practice**
2. has a signed a contract or Memorandum of Understanding with at least one police force in England and Wales and which provides copies of all memoranda of understanding to the **Board**
3. satisfies the **Code of Practice**
4. has a “rota coordinator” with responsibility for scheduling forensic pathologists rotas ensuring that there are at least 3 members of the **Register** on the rota and that there is an equitable distribution of rota time between the forensic pathologists on the rota
5. is committed to undertake (subject to demand) at least 180 cases in any 12 month period.
6. meets storage requirements as agreed by the **Board**.
7. is committed to ensuring that for each case a preliminary report is supplied to the coroner and Senior Investigating Officer within 14 days of the autopsy.
8. complies with the **Board**'s requirements for Critical Conclusions Checking, audit and appraisals
9. ensures that all staff with access to draft reports on images relating to forensic pathology have the appropriate security clearance
10. discloses to the **Board** annually its strategy for short medium and long-term workforce planning (including recruitment, retention and succession planning)

Where police, pathologists and coroners all wish to change the group practice boundaries a joint application should be made to the **Board** to do so.

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**Appendix 3**  
**Staged Reporting**  
***Approved by the Board on 1 July 2010***

Members of the Register are required from **1 September 2010** to provide staged reports in accordance with this note.

1. A preliminary report in criminal justice system statement format must be sent to the coroner and the SIO (separate signed copies) within 14 days of the forensic post mortem examination. This should include a provisional cause of death (if it can be determined), a brief summary of any relevant findings and a list of retained material and further actions (a suggested template enclosed)..
2. If a subsequent forensic post mortem examination is arranged then the subsequent forensic pathologist should contact the first to discuss arrangements. The first forensic pathologist should have the opportunity to attend the subsequent post mortem if they wish. In order to facilitate early release of a body the first forensic pathologist should be prepared to provide a draft copy of the report in order that findings of fact can be confirmed. Although such a draft would ultimately be disclosable within the Criminal Justice System its purpose is solely to inform the second pathologist.
3. A final report is produced in criminal justice system statement format incorporating any further findings such as the results of toxicology and neuropathology. As this can take some months it is important that those involved in case management keep the prosecution team aware of likely delays at Plea and Directions hearings. Some forensic pathologists may choose to issue interim reports, again in statement format prior to completion of all outstanding tests depending on the nature of the case.

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**Appendix 4  
Template Memorandum of Understanding  
*BEING PREPARED BY FOR CONSIDERATION AT NEXT PDB***

**Appendix 5**  
**The Code of Conduct**  
*Approved by the Board on 1 July 2010*

**Good Medical Practice in Forensic Pathology**

This document is based on 'Good Medical Practice' – the duties and responsibilities of a doctor registered with **GMC** – and follows the general format of that document. It comes into effect on **1 September 2010**.

Good Medical Practice applies to every registered medical practitioner.

The forensic pathologist also has other additional important responsibilities and, as an expert witness, his or her primary duty is to the court and the interests of the criminal justice system whether acting for the prosecution or the defence.

**Good forensic medical practice**

1. To provide a good standard of practice in forensic pathology you must:

**1.1. Preparation**

- a) take all reasonable steps to ensure you have the information necessary to carry out the work required
- b) take all reasonable steps to gain access to all relevant available evidential materials necessary to reach a meaningful conclusion
- c) seek advice or help from other medical or other specialists as and when necessary

**1.2. Examination**

- a) carry out all your work in accordance with the established principles of your Profession
- b) provide or arrange specialist investigations where necessary
- c) ensure that, except when it is necessary to conduct destructive tests, the integrity and security of evidential materials are maintained whilst in your possession, and the integrity and security of any information derived from all evidential material is also maintained
- d) accept full responsibility for all work done under your direction
- e) conduct all your professional activities in a manner which protects the health and safety of yourself, your colleagues and the public

**1.3. Responsibility to others**

- a) conform to the appropriate law relating to the retention of material from autopsies, and to guidelines on these matters issued by the **Board**, the Royal College of Pathologists, or any other relevant body

**1.4. Reporting your results**

- a) provide the results of your investigations to the instructing coroner as expeditiously as possible
  - b) provide the results of your investigations to the investigating officer as expeditiously as possible
  - c) present your advice and evidence, whether written or oral and whether for the prosecution or defence, in a balanced and impartial manner
  - d) Evidence prepared for the judicial process must represent your own independent and unbiased opinion, and must not be influenced by the case of any of the parties involved.
  - e) be prepared to reconsider and, if necessary, change your advice, conclusions or opinion, in the light of new information or new developments in the relevant field, and to take the initiative in informing those who have a legitimate interest in your advice, conclusions or opinion promptly of any such changes made.
  - f) take appropriate action if you have good grounds for believing there is a situation which could result in a miscarriage of justice
2. In undertaking your work you must:
- a) recognise the limits of your competence and provide advice and evidence only within those limits
  - b) decline to undertake work you are not competent to perform or do not have access to the necessary facilities or equipment
  - c) be willing to consult colleagues
  - d) be competent in undertaking examinations and making diagnoses
  - e) keep clear, complete contemporaneous records of the relevant medical and scientific findings and the information given to those who use your expertise
  - f) provide all appropriate information to colleagues who may be assisting you
3. If you have good reason to think that your health and safety or that of those who assist you is compromised by inadequate premises, equipment, or other resources you should draw the matter to the attention of the coroner, the police force and others who may legitimately have an interest (Local Authority, Health Trust etc). You should record your concerns and the steps taken to inform others.

**Maintaining good medical practice**

#### **4. Keeping up to date**

You must:

- a) keep your knowledge up to date throughout your working life. In particular, you should take part regularly in educational activities which maintain and further develop your competence and performance
- b) take all reasonable steps to maintain professional competence, taking account of relevant research and developments

#### **5. Maintaining your performance**

You must:

- a) work with colleagues to monitor and maintain the quality of your work. In particular, you must participate openly and honestly in regular and systematic audit
- b) respond to the results of audit to improve your practice by taking whatever steps you, the **Board**, the Royal College of Pathologists or **GMC**, consider necessary
- c) respond constructively to the outcome of reviews, assessments or appraisals of your performance

#### **6. Teaching and training, appraising and assessing**

##### **Teaching and training**

You should be willing to contribute to the education of students or colleagues. In order to do so, you must:

- a) develop the skills, attitudes and practices of a competent teacher
- b) ensure that students are properly supervised

#### **7. Making assessments and providing references**

You must:

- a) be honest and objective when appraising or assessing the performance of any doctor including those you have supervised and trained
- b) provide only honest and justifiable comments when giving references for, or writing reports about, colleagues. When providing references you must include all relevant information which has any bearing on your colleague's competence, performance and conduct

#### **8. Obtaining consent**

You must ensure that you have obtained consent from the coroner, or from some other appropriate body or individual, before undertaking any procedure for which specific consent is required.

#### **9. Respecting confidentiality**

You must preserve confidentiality unless:

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- a) it is mandatory to disclose specified information or you have been explicitly authorised by a relevant person or body to do so
- b) ordered by a court or tribunal to disclose specified information
- c) required by the law to disclose specified information to a designated person
- d) there is an overriding duty to the court and the justice system for disclosure

**10. Good communication**

You must:

- a) describe your findings as fully as possible and in a manner which is fair and comprehensible to the users of your reports, who may have no medical or scientific knowledge
- b) adduce appropriate and properly reasoned conclusions, wherever possible giving a cause (or causes) for the death

**11. Working with colleagues**

**11.1 Treating colleagues fairly**

You must always treat your colleagues fairly. You must not:

- a) discriminate against colleagues on grounds of their sex, race or disability, nor must you allow your views of colleagues' lifestyle, culture, beliefs, colour, gender, sexuality or age to prejudice your professional relationships with them
- b) undermine trust by making malicious or unfounded criticisms of colleagues

**11.2. Conduct or performance of colleagues**

If you observe problems in the performance, conduct or health of a colleague you must take appropriate steps to ensure such problems are made known to relevant authorities, including if appropriate, the **Board** and the **GMC**.

**11.3. Arranging cover**

You must be satisfied that, when you are off duty, suitable arrangements are in place within your **Group Practice** to provide continuity of service to the coroners and the police forces with whom you have an agreement to provide a service.

**12. Probity**

**Behaviour**

You must act at all times with honesty, integrity and objectivity, recognising that your overriding duty is to the judicial system. In so doing you must:

- a) demonstrate due respect for the human remains that you are required to examine
- b) not discriminate on grounds of race, beliefs, gender, language, sexual orientation, social status, age, lifestyle or political persuasion

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- c) declare any prior involvement or personal interest which may give rise to a conflict of interest, real or perceived
- d) declare any external pressure which might influence the result of an examination

**13. Research**

If you undertake research you must:

- a) ensure that prior approval where necessary has been obtained from an independent research ethics committee for all aspects of that research
- b) conduct research with honesty and integrity

**14. Financial and commercial dealings**

You must be honest in all your financial and commercial dealings.

**15. Health**

If you know, or suspect, that you have a serious condition which could affect your judgement or your performance you must take and follow advice from a consultant in occupational health or another suitability qualified colleague. You should not rely on your own assessment of your condition.