

Appeals Circular A03/24

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Learning points from recent appeals PART B: IOT and Review hearings

IOT

- ▶ [IB v General Medical Council \[2024\] CSIH 4](#) reiterated some key principles in cases of alleged criminal misconduct:
 - ▶ When the IOT is assessing the seriousness of the allegations, it is appropriate to have regard to the terms of the criminal charges themselves. Any attempt to look behind the charges would amount in effect to an assessment of the strength of the case against the registrant and would be akin to factfinding, which is not the role of the IOT.
 - ▶ the IOT is required to carefully consider the proportionality of its response in dealing with the risk of damage to public confidence if the practitioner is subsequently convicted of a criminal offence, but they were allowed to continue working with patients while awaiting trial. The public would know that the practitioner enjoyed the presumption of innocence (before the trial), but in appropriate circumstances, they might balance that with the knowledge that prosecution lawyers considered that there was a sufficiency of evidence.

Review hearings

- ▶ [Arkorful v Social Work England \[2024\] EWHC 73 \(Admin\)](#) provided some useful general reminders about the function of review hearings:

- ▶ A review hearing is *not* an appeal or an opportunity to reopen the earlier determination, but a procedure to consider and determine, with the benefit of evidence and submissions, whether the practitioner's fitness to practise remains impaired as a first step before going on to consider whether to extend or vary the original order;
- ▶ a reiteration of *Khan v General Pharmaceutical Council [2017] 1 WLR 169* - a review hearing is a vehicle for monitoring the steps taken by the registrant towards securing professional rehabilitation. The focus is upon the current fitness to resume practice, judged in the light of what they have, or have not, achieved since the date of the conditions/suspension. The reviewing tribunal will note the particular concerns articulated by the original tribunal and seek to discern what steps, if any, the registrant has taken to allay them during the period of their conditions/suspension.

Kind regards

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