

Taking interim orders into account

Supplementary guidance to the *Sanctions guidance*

- 1** The aim of this guidance is to provide tribunals with supplementary guidance on the limited circumstances in which it will be appropriate to take the time spent by a doctor under an interim order of suspension into account as a *relevant factor* when determining the appropriate substantive sanction. It is intended to promote consistency and transparency in decision making and should be read in conjunction with the Sanctions Guidance.

The purpose of interim orders

- 2** A doctor may have had an interim order in place to restrict or remove their registration while the GMC investigated the concerns and / or while awaiting hearing. Nevertheless, interim orders serve a very different purpose to substantive sanctions; an interim orders tribunal makes no findings of fact and its test for considering whether to impose an interim order is entirely different from the criteria that medical practitioners tribunals apply when considering what, if any, is an appropriate sanction to place on a doctor's practice.
- 3** Generally, the tribunal should not give undue weight to whether a doctor has had an interim order and how long the order was in place. However, the time spent under an interim order of suspension may be a *relevant factor* to consider in a limited set of cases.

Interim order of suspension as a *relevant factor*

- 4 Where a tribunal is considering the appropriate and proportionate length of sanction, the tribunal should take the time spent under an interim order of suspension into account as a *relevant factor*.
- 5 In practice, it is likely that the time spent under an interim order of suspension will only be a *relevant factor* where the sanction is being imposed purely on the grounds of public confidence. In many of these cases, given the different purposes of interim and substantive orders, a previous interim order of suspension is unlikely to have a significant impact. Nevertheless, it must still be considered.
- 6 If the tribunal determine that action is required to protect the public, the time spent under an interim order is unlikely to be a *relevant factor*, as to take it into account and substitute a shorter sanction (or no sanction) would leave a public protection gap.
- 7 In all cases the tribunal must be satisfied that the substantive order is sufficient to protect the public interest, including the upholding of public confidence in the medical profession.

Effect on sanction

Erasure

- 8 If the tribunal determines that a sanction of erasure is appropriate, the issue of the effect of time spent under an interim order of suspension does not arise.

Suspension

- 9 Where the tribunal decides that a sanction of suspension is an appropriate response, then time spent under an interim order of suspension may be relevant when determining the proportionate period of suspension purely on the grounds of public confidence.

Conditions

- 10** If the tribunal concludes that conditions are a suitable regulatory response, time spent under an interim order of suspension is unlikely to have any effect on the length of time that the conditions need to be in place.

Making and recording decisions

- 11** It will be for the tribunal to determine in each case whether the time spent by the doctor under an interim order of suspension is a *relevant factor* and if so, to explain how it affects the sanction imposed. The tribunal must take care to record their reasons.