

Undertakings at Medical Practitioners Tribunal hearings

- 1 Under Rules 17(4) and 22(3) of the General Medical Council (Fitness to Practise (FTP) Rules Order of Council 2004, the Medical Practitioners Tribunal (MPT) may, where it finds a practitioner's fitness to practise impaired, take into account any written undertakings agreed between the GMC and the doctor (including any limitations on his or her practice) which the GMC considers appropriate.
- 2 Where the GMC and the practitioner agree undertakings, the MPT may close the case with no action. The MPT should take undertakings into account only where:
 - a the MPT considers the undertakings to be sufficient to protect patients and protect the public interest.
 - b the practitioner has expressly agreed to the Registrar disclosing details of those undertakings (save those relating exclusively to the health of the practitioner) to:
 - i any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;
 - ii any person from whom the practitioner is seeking such employment or such an arrangement; and
 - iii any other enquirer.
- 3 In circumstances in which an MPT makes a finding that the practitioner's fitness to practise is impaired, the *Sanctions Guidance*¹ (March 2016) sets out the only circumstances where an MPT should accept undertakings and not make an order on a doctor's registration. These are in circumstances where:
 - a All the requirements set out at paragraphs 1 and 2 are met, and

¹ Under *Deciding what sanction to impose when a doctor's fitness to practise is impaired* http://www.mpts-uk.org/DC4198_Sanctions_Guidance_23008260.pdf

- b** The MPT is satisfied that the undertakings cover any conditions that it would otherwise impose, and
 - c** The MPT is satisfied that the doctor has sufficient insight to abide by the written undertakings given before the tribunal.
- 4** If the MPT is not satisfied that undertakings are appropriate, it should proceed to consider a sanction. There will not be an opportunity for a further submission of undertakings.
- 5** If the MPT agrees to make no order having accepted the agreement of undertakings between the practitioner and the GMC, the undertakings will be reviewed by the Registrar rather than a tribunal.
- 6** The MPT can only consider undertakings where the doctor and the GMC agree on the terms of the undertakings.

Procedure before a fitness to practise tribunal

- 7** The procedure outlined in paragraphs 6 to 12 below relates to all cases which are heard by MPTs.
- 8** When an MPT has found a practitioner's fitness to practise to be impaired, it is open to the doctor or the GMC to propose undertakings that they will invite the other party to agree. This will be the only opportunity for a doctor to agree undertakings at tribunal stage.
- 9** Where either party proposes undertakings, there will be a short break in the hearing to allow for the parties to consider the undertakings. The tribunal must actively manage the hearing, including how long the parties have to agree undertakings at this stage. The tribunal will allow an hour, with parties expected to report on the agreed undertakings at the end of the hour. If the parties have not been able to agree final undertakings but are close to doing so, the tribunal may consider extending the hour for a short period to allow the parties to finalise their agreement.
- 10** All undertakings should be drawn from the existing *Undertakings bank*², where possible.
- 11** If the GMC informs the doctor that undertakings have not been accepted, the tribunal will reconvene to consider a sanction.

² http://www.gmc-uk.org/DC4351_Undertakings_Bank_25416205.pdf

- 12** If the GMC and doctor agree a set of undertakings, (including notifying the doctor that the undertakings will be disclosed to any enquirer, save those relating exclusively to the doctor's health, and that they will be made available through the List of Registered Medical Practitioners), the hearing will reconvene. The undertakings will be presented to the MPT for consideration.
- 13** When considering the undertakings, the MPT should give thought to the following questions in order to assess whether the conditions outlined at paragraph 2 and 3 above are met.
- a** Is the doctor's fitness to practise impaired?
 - b** Have undertakings been agreed between the doctor and the GMC?
 - c** Have the undertakings been made in writing?
 - d** Are the undertakings sufficient to protect patients and protect the public interest?
 - e** Is the tribunal satisfied that the undertakings cover any conditions that it would otherwise impose?
 - f** Does the practitioner expressly agree that the Registrar shall disclose details of the undertakings (save those relating exclusively to the doctor's health) to:
 - i** any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;
 - ii** any person from whom the practitioner is seeking such employment or such an arrangement; and
 - iii** any enquirer.
 - g** Are the undertakings workable, measurable, attainable and proportionate?
 - h** Is the tribunal satisfied that the doctor has sufficient insight to abide by the written undertakings given before it and that there is no other reason to suggest that the doctor will not comply with them?
- 14** If the answer to all of the questions above is yes, the tribunal may decide that undertakings are sufficient as an alternative to imposing any sanction.

Post-hearing procedure

- 15** At the end of the hearing, if an MPT decides to take into account written undertakings agreed between the GMC and the doctor, MPTS staff will add the undertakings to the doctor's registration record.

- 16** The GMC will monitor and review all undertakings (eg by actively seeking reports from employers and GMC advisers), and consider any new information received in relation to them, including representations from the doctor or information to suggest that the undertakings need to be varied or are no longer appropriate. The Case Examiners can make decisions on variation or revocation, where information is received which would suggest this is appropriate. The GMC Registrar will consider any breaches of undertakings to determine what action is appropriate or proportionate and whether a referral to the MPTS to arrange for the matter to be considered by a MPT at a review hearing should be made. The Registrar may also consider referring the matter to a MPT review hearing where there has been a failure by the doctor to agree a variation to the undertakings or where the doctor's health, performance or knowledge of English has deteriorated, or otherwise gives rise to further concerns regarding his fitness to practise.

(See separate guidance on *Dealing with breaches of undertakings and criteria for referral to a medical practitioners tribunal*)

Updated 31st March, 2016

Annex A - Template undertakings form

[CASE NAME]

[DATE OF HEARING]

I, [Name], General Medical Council reference number [xxxxxxx], hereby undertake the following*:

[Public undertakings]

- 1.
- 2.
- 3.

[Confidential undertakings]

- 4.
- 5.

The above undertakings reflect the evidence I provided on oath to the medical practitioners tribunal of the Medical Practitioners Tribunal Service on [date].

I am aware that the General Medical Council will monitor my compliance with the above undertakings by [seeking regular reports from my employer/details of any other steps which seem appropriate].

I am aware that [the above undertakings] [public undertakings listed above] will be disclosed to third parties should the General Medical Council receive enquiries about my registration status and be made available on the List of Registered Medical Practitioners in line with the GMC's publication and disclosure policy.

Signed Dated.....

*The number of undertakings in each section is not fixed. Please draw them from the *Undertakings bank*.