

Policy guidance for Medical Practitioners Tribunals/Chairs conducting reviews on the papers

Introduction

- 1 This guidance is for Medical Practitioners Tribunals ('MPT') and Interim Orders Tribunals ('IOT') or Chairs conducting reviews on the papers.
- 2 The aim of this guidance is to promote consistency and transparency in decision making.
- 3 The *Sanctions Guidance*¹ sets out principles relevant to the imposition of sanctions in relation to findings of impairment by an MPT. Separate guidance exists on imposing interim orders² and Non-compliance hearings³. This guidance should be used in conjunction with the relevant guidance where a matter is to be heard on the papers.

Powers

The Medical Act 1983

- 4 When an order made by either an MPT⁴ or an IOT⁵ is due to be reviewed, the parties agree on the proposed outcome and the Registrar has provided the MPTS with

¹ *Sanction guidance, 2015* [http://www.gmc-uk.org/concerns/hearings_and_decisions/sanctions_referrals_guidance.asp]

² *Imposing Interim Orders, 2015* [http://www.gmc-uk.org/DC4792_Imposing_Interim_Orders_Guidance_for_the_IOT_and_MPT_28443349.pdf]

³ Rule 17ZA

⁴ Section 35D(13) of the Medical Act 1983

⁵ Section 41A(3A) of the Medical Act 1983

confirmation in writing of the agreement, the MPTS will arrange for a Tribunal or a Chair to consider the proposed outcome on the papers.

- 5 Because there is no provision for the tribunal or chair to impose an immediate order at a review on the papers, the Registrar will not ask the MPTS to review the case on the papers where an immediate order is part of the sanction submission. If the chair or the tribunal do not agree with the outcome proposed by the parties, or otherwise determine that it is necessary, they can decide that a full review hearing be held with the opportunity for both parties to attend.

The General Medical Council (Fitness to Practise) Rules 2004 ('the Rules')

- 6 The Rules⁶ provide that a matter must be considered on the papers where it has been referred to a tribunal for a review hearing and the MPTS receives confirmation in writing that the parties agree the terms of an order which the Tribunal could make under sections 35D(5), (6), (8), (10) or (12) (MPT) or 41A(3) (IOT) of the Act. The confirmation in writing will consist of an agreement signed by both the Registrar and the doctor which is sent to the MPTS by the Registrar.

The purpose of sanctions

- 7 The purpose of sanctions is to protect the public. This is the statutory overarching objective, which includes:
 - a protecting the health, safety and wellbeing of the public
 - b maintaining public confidence in the profession
 - c promoting and maintaining proper professional standards and conduct for the members of the profession⁷
- 8 Each subsequent reference to protecting the public in this document should be read as including the three limbs of the overarching objective set out in paragraph 9.

⁶ Rule 21B of the Fitness to Practise Rules 2004 is in relation to MPT review hearings and Rule 26A is in relation to IOT review hearings

⁷ The overarching objective set out in section 1(1A) of the Medical Act 1983 (inserted by the General Medical Council (Fitness to Practise and Overarching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015).

Equality and diversity

- 9** The GMC has a statutory obligation to make sure that procedures set out in their rules for dealing with concerns about doctors appearing before a Medical Practitioners Tribunals or Interim Orders Tribunals are fair and just. Anyone who is acting for the GMC or the MPTS is expected to be aware of, and adhere to, the principles of equality and human rights legislation that are relevant to their role. Decision making should be consistent and impartial, and comply with the public sector equality duty.

Tribunal or tribunal chair

- 10** The Rules provide that consideration on the papers may be carried out by the chair of the tribunal or the tribunal itself⁸.
- 11** Whether the review on the papers is carried out by a full tribunal, or a tribunal chair, is at the discretion of the MPTS. A tribunal chair is likely to be appropriate in most cases. References in this guidance to the chair should be taken to mean a tribunal chair who is making the decision alone.

Considerations at review

- 12** When reviewing a matter on the papers, the tribunal or the chair should have due regard to the principles and considerations of the relevant guidance, as listed at paragraph 3. These principles will be integral to any consideration for the tribunal or the chair in deciding whether or not to make the order on the agreed terms.

Material for consideration

- 13** In order for the review on the papers to take place, the GMC and the doctor will have come to an agreement on a proposed sanction or order and the Registrar will have notified the MPTS of the agreement. The information presented to the tribunal will vary based on the type of hearing but should include:
- a copy of the agreement signed by the Registrar (or Assistant Registrar), on behalf of the GMC, and the doctor
 - a bundle of any information relevant to the previous decision along with any information received in the intervening period
 - evidence of the doctor's compliance with any existing conditions (imposed by a previous tribunal)

⁸ Rule 21B (2) of the Fitness to Practise Rules 2004

- 14** Where the agreement is to revoke a sanction the information presented will be more limited, containing the outcome of the investigation and details of any action taken.

Decision

- 15** When presented with the record of agreement between the GMC and the doctor and supporting information, the tribunal or chair has only two options:
- Where the tribunal or chair is satisfied that the agreement reached is appropriate for the protection of the public (as outlined at paragraph 9), they can make the order on the agreed terms.
 - Where the tribunal or chair cannot make the order on the agreed terms proposed because, for example, they are not satisfied that the agreement adequately protects the public, or they are in any doubt as to the doctor's capacity to agree to the proposed action, they can direct that a hearing takes place to conduct the review.
- 16** The tribunal or chair should be satisfied that the information provided to the doctor makes clear the consequences of his or her agreement to the sanction.
- 17** If, for any other reason the tribunal or chair feels that that the matter should be heard in full, they should make a direction to that effect.

Decision reasoning

- 18** The tribunal or the chair will be expected to detail the reasoning behind their decision. This will be particularly important where the decision is for a hearing to be held. At the subsequent hearing, the tribunal will have sight of this reasoning.

Power to direct reviews

- 19** Under Rule 21B, the decision maker does not have the power to direct a review of the order which is made on a review on the papers.
- 20** Under section 35D of the Medical Act 1983, the Registrar (or Assistant Registrar acting under delegated authority) has a power to direct a review of the order. An Assistant Registrar will be asked to consider directing a review as required.

- 21** In accordance with our *Guidance for Assistant Registrars on directing reviews on doctors subject to restricted registration* the Assistant Registrar is likely to direct a review where no review has been directed and the sanction is for 6 months or more⁹.

Publication and disclosure

- 22** Where the tribunal or the chair make the order on the agreed terms, the outcome of a review on the papers will be recorded on the List of Registered Medical Practitioners (LRMP) in the same way as a full hearing outcome according to the outlines set out in the *Publication and disclosure policy*.¹⁰

19 July, 2017

⁹ http://www.mpts-uk.org/DC8220_Guidance_for_ARs_doctor_subject_to_restricted_registration.pdf_64121438.pdf

¹⁰ http://www.gmc-uk.org/DC4380_Publication_and_disclosure_policy_36609763.pdf