

How the non-compliance hearing process works

Background

The GMC may refer a doctor to a medical practitioners tribunal for a non-compliance hearing where a doctor has failed to comply with a request to provide information or with a direction to undergo an assessment of performance, health or English language, and where by doing so the doctor has hindered the GMC's ability to investigate concerns about a doctor's fitness to practise. The diagram on page 3 sets out the stages as described below.

Stage 1 - Consideration of non-compliance

At a non-compliance hearing, the medical practitioners tribunal will be asked to consider: whether the doctor has failed to submit to or comply with an assessment, or with requirements imposed in respect of the assessment, or has failed to provide information requested of him/her.

Where the medical practitioners tribunal determines that the request or direction was reasonable, and that the doctor has failed to comply without a reasonable excuse, it will make a finding of non-compliance.

Stage 2 - Sanction

Where a medical practitioners tribunal has made a finding of non-compliance, it will go on to consider the appropriate sanction and whether action against the doctor's registration is likely to be necessary in order to protect the public. The medical practitioners tribunal has the power to consider the following sanctions:

- ▶ conditional registration for up to 3 years – this may be a single condition to comply with the request or direction within a specified timeframe and / or conditions the medical practitioners tribunal determines are necessary to protect the public interest
- ▶ suspension for up to 12 months

The medical practitioners tribunal may also consider that an immediate sanction is necessary. It may further go on to consider any interim order currently in place against the doctor.

Review

The non-compliance sanction will be reviewed shortly before it is due to expire. At a non-compliance review hearing, the medical practitioners tribunal may revoke or vary the sanction, or may impose a further period of sanction. Where a doctor has already been suspended for a continuous period of 2 years, the medical practitioners tribunal may suspend the doctor's registration indefinitely.

Where a doctor has complied with the request or direction at an early stage in their sanction period, an early review may be arranged.

Further Information

A non-compliance hearing will not consider whether a doctor's fitness to practise is impaired. However, in many other respects, non-compliance hearings function as other medical practitioners tribunals. Therefore, the information on the MPTS website, www.mpts-uk.org/resources-for-doctors-MPT may also be of assistance when preparing for your hearing

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STAGE 1

Consideration of non-compliance

Once any preliminary legal arguments have been dealt with, the tribunal considers the question of non-compliance.

The tribunal considers the evidence presented by the GMC's representative and by the doctor or the doctor's representative on whether the doctor has failed to:

- comply with a reasonable request to provide information, or
- undergo an assessment on performance, health or knowledge of English.

The tribunal decides in camera whether to make a finding of non-compliance.

If the tribunal makes a finding of non-compliance, the case continues to stage 2.

If the tribunal does not make a finding of non-compliance, the hearing ends.

STAGE 2

Decision on sanction

The GMC's representative and the doctor or the doctor's representative make submissions on sanction.

The tribunal may make an interim order, or may revoke or vary any interim order already in place.

The tribunal decides in camera which sanction, if any, to impose. Possible outcomes:

No action

Suspension
(max one year)

Conditions
(max three years)

This may be a condition to comply within a specified timeframe or whatever conditions the tribunal considers necessary to protect the public.

If a sanction is imposed, the tribunal decides on whether an immediate order is necessary.

The tribunal decides to impose immediate suspension or immediate conditions.

The tribunal makes no immediate order.

The hearing ends.

The hearing ends.