

Guidance for Medical Practitioner Tribunals on deciding whether to adjourn to direct an assessment or for further information or reports to be obtained

Introduction

- 1** Where the outcome of an assessment is likely to be relevant to the fitness to practise process, the GMC will usually have directed an assessment, where appropriate, during the investigation stage. In the same way, the GMC will usually have sought information and reports which will enable a Medical Practitioners Tribunal ('tribunal') to reach a full and fair decision.
- 2** In a small number of cases, issues relevant to the doctor's performance, health and/or knowledge of English language arise for the first time during a hearing or further relevant information comes to light. When this happens, the tribunal may wish to consider whether to adjourn the hearing to allow an assessment to be undertaken, or for further information or reports to be provided.
- 3** This guidance sets out the factors to be considered by tribunals when deciding whether to adjourn to direct an assessment, or for further information or reports to be obtained. It also provides guidance to support tribunals in taking appropriate action when reconvening to consider the outcome of an assessment, or the content of further information or reports.
- 4** The aim of the guidance is to promote fairness, consistency and transparency in decision making. When applying the guidance tribunals should have in mind that the purpose of the professional regulation of doctors is to protect the public.

Legislative framework

- 5** In a substantive hearing to determine a new concern about a doctor's fitness to practise, the tribunal can, having regard to the nature of the allegation, adjourn for an assessment to be carried out at any stage before deciding on impairment¹.
- 6** The tribunal may adjourn for further information or reports at any stage before making its decision as to sanction or warning².
- 7** During a review hearing, the tribunal may adjourn its proceedings for any reason, including to direct an assessment or for further information or reports³.
- 8** A tribunal should not adjourn a hearing without first giving the parties a reasonable opportunity to make representations⁴.

Adjourning to direct an assessment

- 9** The tribunal should invite submissions from the parties in relation to whether to adjourn a hearing to direct an assessment is appropriate and proportionate. Submissions will assist the tribunal in identifying: whether directing an assessment is proportionate; the likelihood of the doctor complying; and any additional actions that may need to be completed by the parties following the assessment and prior to the case reconvening.
- 10** The decision whether to adjourn to direct an assessment is one for the tribunal exercising its judgement. Having considered submissions, the tribunal should set out its decision and reasons in a written determination.
- 11** Tribunals may wish to consider the following factors when deciding whether an assessment is required:
 - a** the stage the hearing has reached

¹ Rule 17(7) of the Fitness to Practise Rules 2004 (as amended)

² Under rule 17(9)

³ In accordance with rule 29(2).

⁴ Rule 29(3B)

- b** the nature of the alleged impairment
- c** the nature of the assessment, and
- d** the likelihood of the doctor complying with the assessment.

12 Each factor is considered in more detail below.

The stage the hearing has reached

13 The stage the hearing has reached is relevant to the tribunal's consideration of whether adjourning for an assessment is a proportionate response to issues that exist, or have arisen, in relation to the doctor's performance, health and/or knowledge of English language.

14 If new allegations of impairment arise because of an assessment, the GMC will be required to particularise these allegations and formally disclose them to the doctor⁵. If new allegations of impairment are referred to the MPTS for a hearing, the GMC may apply to join them to the ongoing allegations of impairment. The tribunal will only be able to consider any new allegations if they are properly referred and joined.

15 If the tribunal directs an assessment prior to deciding on the facts and the assessment concerns an allegation of impairment which is already before the tribunal to determine, it is possible that, at the reconvened hearing, one or other of the parties will apply for the particulars of allegation to be amended to reflect the outcome of the assessment.

16 If the assessment raises a new allegation of impairment which is not already before the tribunal to determine, the GMC may decide to make an application to join the new allegation and, if successful, the tribunal may be asked to make findings of fact in relation to that new allegation as well, before considering impairment in relation to all the allegations where the facts have been found proven.

17 If the tribunal directs an assessment following its finding of facts, and prior to deciding on impairment, the tribunal should be mindful that the facts stage is complete and cannot be re-opened. The tribunal should consider the assessment(s) along with the other evidence presented at the impairment stage, when considering impairment in the category to which the facts found proven relate.

⁵ In accordance with rule 7

Nature of the alleged impairment

- 18** In practice, this factor means that the tribunal should provide reasons for their direction in the context of the hearing and the nature of the allegation brought by the GMC.
- 19** Tribunals should not direct an assessment without proper reason or justification. For example, if the allegation brought by the GMC relates to clinical misconduct, and there is no indication that there has been a pattern of poor care, the tribunal should not direct a performance assessment to see whether the misconduct could amount to a performance allegation.
- 20** The tribunal should exercise caution when considering adjourning to direct an assessment that does not relate to the category of impairment under consideration. The tribunal must be clear on the purpose of directing an assessment and how it will enable the tribunal to fulfil its regulatory function in a fair and proportionate way.
- 21** For example, if the allegation brought by the GMC relates to misconduct, the tribunal should only direct an assessment of a doctor's health or knowledge of English language where it is capable of helping them determine an issue in the case, or is needed to inform the tribunal's approach to ensuring the doctor has a fair hearing, such as by making adjustments.

Nature of the assessment

Performance assessments

- 22** Deficient professional performance describes a standard of professional performance which is unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the doctor's work. It is unacceptably low if there is evidence that it departs from the professional standards applicable to the level and specialty in which the doctor works.
- 23** A performance assessment is a mechanism for obtaining objective evidence of a doctor's professional performance, and may include tests of competence and/or other methods of assessment, as deemed appropriate to the case.
- 24** In deciding whether it is appropriate to adjourn for a performance assessment to be carried out, the tribunal would need to consider information about the doctor's current working

position or recent posts, the areas of concern, the grade of the doctor, whether the doctor is still working in the same specialty to which the allegation relates, and whether the doctor is currently in the UK or not.

- 25** The tribunal should always consider whether there are any reasons that a performance assessment is not appropriate or necessary, and these reasons may include:
- a** the doctor has already completed a GMC performance assessment and there is no reason to believe that the doctor's performance has changed
 - b** the clinical allegation reflects a single action or omission, or a number of actions or omissions, which do not amount to a pattern of poor or unacceptably low standards of professional performance
 - c** the doctor has provided evidence of appropriate and effective remediation, and / or
 - d** the doctor is a trainee doctor in Foundation Year 1 (FY1) who is provisionally registered.
- 26** The tribunal may also find it helpful to refer to the GMC's [Guidance for decision makers on directing a performance assessment](#). However, they should be mindful that this relates to directions at an investigation stage, and not all factors will be applicable to the tribunal's consideration.

Health assessments

- 27** Adverse physical or mental health which raises a possibility of impairment can be assessed through a GMC health assessment. The assessment involves the doctor attending appointments with two health examiners appointed by the GMC. It may also be necessary for the doctor to undertake some form of medical testing, for example hair or blood analysis.
- 28** It is possible that health issues may arise at a hearing for the first time. For example:
- ▶ evidence emerges which indicates a health issue may impact on the doctor's fitness to practise, for example, dependence on substances
 - ▶ the doctor behaves in a manner that causes the tribunal to become concerned about the doctor's health
 - ▶ evidence emerges which calls into question the doctor's ability to engage effectively with the proceedings

- ▶ the doctor presents contextual evidence in relation to their health at the time of the events and it is necessary to corroborate the evidence.

- 29** [Annex A](#) contains information about the types of behaviour that may suggest that an individual is unwell. In addition, a perceived deterioration in, or lack of knowledge of, English language may be symptomatic of an undiagnosed health condition or the deterioration of a diagnosed health condition. Health concerns which may impact on a doctor's communication skills include neurodegenerative disorders and acquired brain injuries from either a traumatic or non-traumatic event.
- 30** If information comes to the attention of the tribunal that suggests a doctor might be unwell, the tribunal should consider the context in which the information has arisen, and whether it impacts on their ability to proceed to determine the issues in the case, before deciding that a health assessment is needed. For example, in a misconduct case, a doctor may put forward a specific health concern as an explanation for their behaviour. An adjournment in these circumstances would only be appropriate where the tribunal consider the nature of the health concern is capable of having a direct impact on their ability to determine the issues in the case.
- 31** The tribunal should also be mindful of the need to ask appropriate questions of the doctor or, where appropriate, ask the parties to obtain relevant information from any practitioners treating the doctor and place this before them to aid their consideration of whether it is necessary to direct a health assessment, or whether it would be possible to make any adjustments, for example increased breaks or shorter sitting days, to support the doctor's continued engagement in the proceedings.
- 32** When deciding whether it is necessary to direct a health assessment, the tribunal should remember that whilst certain behaviour can be related to a health condition(s), it can also be capable of arising generally in stressful and / or upsetting situations. In each case, the tribunal will need to weigh up all the available evidence, including whether the behaviour or combinations of behaviour being exhibited by the doctor create a cause for concern about their health.
- 33** The tribunal may find it helpful to refer to the GMC's [Guidance for decision makers on assessing risk in health cases](#).
- 34** The presence of one or more of the factors below may suggest that a health assessment is required:
- a** a concern about the doctor's health arises for the first time during the hearing and there is no existing objective evidence available about their health and how it might impact on

the matters under consideration and / or their current fitness to practise and / or ability to participate effectively in the hearing

- b** the type and severity of the health problem reported is likely to affect the doctor's fitness to practise either now or in the future, for example it has high rates of relapse or is likely to pose a risk to patients, or result in a lack of insight or cooperation on the part of the doctor
- c** the doctor is currently compulsorily detained under the Mental Health Act 1983 or has recently been detained and is now receiving treatment⁶
- d** there are existing performance and/or conduct concerns which seem likely to be related to the doctor's health status/condition
- e** objective medical opinion raises concern in relation to the doctor's level of insight or compliance because of ill health
- f** the doctor lacks insight into their condition and/or has failed to seek appropriate treatment
- g** the doctor has failed to follow the advice of treating physicians and/or occupational health departments, or has ceased to engage with support, and / or
- h** the doctor's health appears to have led to involvement in dishonest or criminal activity.

35 The presence of one or more of the factors below may suggest that a health assessment is not required:

- a** the doctor has already completed a GMC health assessment and there is no reason to believe that the doctor's health has changed
- b** the type and severity of the health problem reported is unlikely to affect the doctor's fitness to practise or pose a risk to patients either now or in the future
- c** there is no evidence to suggest that the doctor's health is having, or is likely to have, an impact on their ability to participate effectively in the hearing

⁶ A health assessment cannot be completed if the doctor is currently detained in this manner, or receiving treatment. If an assessment is required, the tribunal should adjourn proceedings until such time as the health assessment can be completed.

- d** there is no evidence that the doctor's health has had a significant effect on their clinical competency or conduct to date, and / or
- e** there is evidence that the doctor has insight into their condition and is seeking or receiving appropriate treatment or support.

- 36** The tribunal may find it helpful to refer to the GMC's [*Guidance for decision makers on directing a health assessment*](#). In doing so they should be mindful that this relates to directions at the investigation stage, and not all factors will be applicable to the tribunal's consideration.
- 37** Before adjourning to direct a health assessment, the tribunal should consider the purpose of the assessment and ask itself whether it would be more proportionate, and less likely to result in significant delay, to seek relevant information another way. For example, through permitting a short adjournment and issuing case management directions requiring further information or reports to be obtained from treating clinicians or others already involved in the doctor's care. This will be particularly relevant in cases where any concerns or issues that have arisen during the hearing are not directly related to the category of impairment under consideration by the tribunal and / or where it appears to the tribunal that the doctor may reasonably have been able to obtain relevant evidence in advance of the hearing.
- 38** For example, if the allegation brought by the GMC relates to misconduct and information is needed about a doctor's health to inform the tribunal's approach to ensuring the doctor has a fair hearing, such as by making adjustments, it may be more proportionate for the tribunal to seek relevant information by making a direction for further information or reports.
- 39** When directing a health assessment, the tribunal may wish to consider whether they have any questions about the doctor's health that it would assist them, when reconvening, for the health assessors to have addressed to inform the tribunal's consideration of any issues still to be determined, such as facts or impairment, and / or the doctor's ability to participate effectively in the hearing.

Knowledge of English language

- 40** A doctor's fitness to practise may be found to be impaired by reason of not having the necessary knowledge of English to practise medicine safely. A language assessment is a mechanism for obtaining objective evidence of a doctor's knowledge of English language. It assesses a doctor's ability in listening, reading, writing and speaking.

- 41** There may be situations where concerns about a doctor's knowledge of English arise during a hearing. Matters which may give cause for concern about a doctor's knowledge of English include:
- ▶ the doctor requesting or using an interpreter during a hearing
 - ▶ a self-declaration by a doctor that suggests their knowledge of English may be limited, or
 - ▶ where there is another good reason to believe the doctor has difficulty in communicating with, or understanding, others.
- 42** The tribunal should consider the context in which the concerns have arisen, and whether they impact on the tribunal's ability to proceed to determine the issues in the case, before deciding that an English language assessment is needed. For example, in a misconduct case a doctor may put forward communication issues as an explanation for their behaviour. An adjournment in these circumstances would only be appropriate where the tribunal consider the nature of the communication concern is capable of having a direct impact on their ability to determine the issues in the case or on the doctor's ability to participate effectively in the proceedings.
- 43** The tribunal should be mindful of the need to ask appropriate questions of the doctor or, where appropriate, to issue case management directions to require the parties to obtain relevant information to aid their consideration of whether an English language assessment is necessary. The tribunal should also consider inviting comments from parties on whether it would be possible to make any adjustments, for example by using an interpreter, to support the doctor's continued engagement in the proceedings.
- 44** When assessing information which relates to concerns about a doctor's knowledge of English, the tribunal should consider whether or not there is any evidence to suggest an underlying health concern. A perceived deterioration in, or apparent lack of knowledge of, English language may be symptomatic of an undiagnosed health condition or the deterioration of a diagnosed health condition. Health concerns which may impact on a doctor's communication skills include neurodegenerative disorders and acquired brain injuries from either a traumatic or non-traumatic event.
- 45** Where the tribunal has good reason, based on specific evidence, to indicate that health may be an underlying cause of concern about a doctor's knowledge of English it should consider whether a health assessment may be appropriate. Before directing a health assessment, the tribunal should consider the guidance above.

- 46** If a health assessment is directed in these circumstances, the examiners can be asked to comment on whether any medical condition is likely to impact on the doctor's communication skills. In such cases, careful thought should be given to delaying a decision on whether it is necessary to direct a language assessment until further information is available about the doctor's health.
- 47** It may be appropriate for the tribunal to consider directing a further English language assessment where a doctor has completed an English language assessment, has not met the GMC's requirements, and at the hearing seeks to rely on alternative evidence about their knowledge of English relating to the period since they took the assessment. A further English language assessment may assist the tribunal when considering the issue of current impairment.
- 48** When dealing with concerns in relation to English language, the tribunal should have regard to the [*Guidance for medical practitioners tribunals on dealing with concerns about a doctor's knowledge of English*](#).
- 49** The tribunal may also find it helpful to refer to the GMC's [*Guidance for decision makers on directing doctors to undertake a language assessment*](#). However, they should be mindful that this relates to directions at the investigation stage, and not all factors will be applicable to the tribunal's consideration.

The likelihood of the doctor complying with the assessment

- 50** If the tribunal identifies issues, or receives submissions from the parties, in relation to concerns about the likelihood of a doctor complying with an assessment, it may be necessary to consider how to ensure that compliance is achieved. This can be done through issuing detailed directions using the template attached in [*Annex B*](#), as well as identifying an earlier date for the tribunal to reconvene (see below) to enable the tribunal to consider taking action in the event of non-compliance.

Adjourning to allow for further information or reports

- 51** The nature of the further information or reports required by the tribunal may vary, and as such, so will the timescales for obtaining them. However, tribunals should apply the same principles in relation to assessments above, and consider:

- a** the stage the hearing has reached
- b** the nature of alleged impairment
- c** the nature of the further information or reports to be sought, and
- d** the likelihood of the doctor complying with the direction for further information or reports.

- 52** Where the tribunal receives information about an existing health condition or receives new information during the hearing that suggests a doctor might be unwell, they should be mindful of the need to ask appropriate questions of the doctor or, where appropriate, to issue case management directions to require the parties to obtain relevant information (for example, from treating clinicians or others already involved in the doctor's care) to aid consideration of whether to adjourn for further information or reports.
- 53** When adjourning for further information the tribunal may want to provide the parties with case management directions to provide such further information as it would assist the tribunal to see when the hearing reconvenes. If adjourning for reports, the tribunal may wish to consider whether there are any specific questions that it would assist for the reports to address. These considerations will be particularly relevant when adjourning for further information or reports about a doctor's health.
- 54** When deciding whether an adjournment is necessary to obtain further information or reports about a doctor's health, the tribunal should remember that, whilst certain behaviours can be related to a health condition(s), they can also be capable of arising generally in stressful and / or upsetting situations. In each case, the tribunal will need to weigh up all the available evidence, including whether the behaviour or combinations of behaviour being exhibited by the doctor create a cause for concern about their health.
- 55** [Annex A](#) contains information about the types of behaviour that may suggest an individual is unwell. In addition, a perceived deterioration in, or apparent lack of knowledge of, English language may be symptomatic of an undiagnosed health condition or the deterioration of a diagnosed health condition. Health concerns which may impact on a doctor's communication skills include neurodegenerative disorders and acquired brain injuries from either a traumatic or non-traumatic event.

Issuing the direction for an assessment, or for further information or reports to be provided

- 56** Tribunals must provide reasons for their decision to direct an assessment, or direct further information or reports be provided, in a formal determination. Within the determination, they should explain the requirement for the assessment or further information or reports, giving clear reasons. When directing an assessment, the tribunal's determination should also clearly set out the potential consequences of non-compliance⁷.
- 57** Tribunals may also wish to consider issuing case management directions, with specific timescales, in relation to the assessment, further information or reports. This will make it clear to each party what they must do and will assist the tribunal to determine the issue of compliance at the reconvened hearing⁸. A suggested template is provided at [Annex B](#).

Identifying the date to reconvene

- 58** Tribunals must ensure that every effort is made to reconvene as soon as possible to ensure that the matter is dealt with in a timely manner. In considering when to reconvene, the tribunal must take into account the time reasonably required for the type of assessment to be undertaken and for the parties to consider the implications of the assessment outcome, as well as the availability of those involved in the hearing. Further guidance about relevant considerations when determining dates to reconvene can be found in the [MPTS Listing reconvened hearings guidance](#).
- 59** In some cases, the tribunal may hear submissions on, or themselves be concerned about, the likelihood of the doctor complying with a direction to undertake an assessment or provide information. In these cases the tribunal should use its discretion in deciding whether to set two dates to reconvene; one date for the substantive hearing and an earlier date so that the tribunal can consider whether the doctor has complied and, if not, take appropriate action.

⁷ The non-compliance provisions do not apply to failure to provide further information or reports. In these cases the tribunal may take action using their case management powers under rule 16A.

⁸ Where a tribunal issues a case management direction and a party does not comply, under rule 16A the tribunal may draw an adverse inference, refuse to admit evidence or award costs. This is separate to the action the tribunal can take if the doctor fails to comply with a direction to undergo an assessment.

- 60** Where the doctor has complied, the GMC or the doctor may apply to the MPTS Case Management team to vacate the earlier hearing⁹. Such applications must be made not less than 21 calendar days ahead of the earlier hearing, to allow sufficient notice for tribunal members to be stood down.

Nature of the assessment or information sought

Performance assessments

- 61** The assessment can take from six months in the case of a General Practitioner to 12 months and beyond in the case of a specific specialty. For specialist assessments, the timescales are dependent on the availability of the assessors, often dictated by their clinical commitments.
- 62** In addition to the time required for the assessment, tribunals should consider the time required for the GMC to consider the assessment report when it is received, and for it to be disclosed to, and considered by, the doctor in preparation for the reconvened hearing.
- 63** A high level overview of the process for arranging a performance assessment is provided in [Annex C](#).

Health assessments

- 64** Health assessments take between three to four months to complete, and the time can vary based on the doctor's availability to attend appointments with the assessors and submit to any testing.
- 65** As with performance assessments, tribunals should also consider the time required for the GMC to consider the assessment reports, and for them to be disclosed to, and considered by, the doctor in preparation for the reconvened hearing.
- 66** A high level overview of the process for arranging a health assessment is provided in [Annex C](#).

English language assessments

⁹ Rule 29(3A)

- 67** Doctors must be provided with at least 30 days¹⁰ in which to complete their assessment and provide their results to the GMC. The GMC will reimburse the doctor for one test conducted in that period. However, there is no limit on the number of tests that a doctor can undertake at their own expense during that time.
- 68** Within the timescales set, the doctor must provide the GMC with a copy of their test results from the assessment. The GMC Investigation Team will verify those results with the assessment provider. This verification process should take no more than one to two days.
- 69** Unlike performance and health assessments, significant additional time is not likely to be required by the parties to consider the results of the English language assessment.

Further information or reports

- 70** The timescales associated with the further information or reports will be variable depending on the circumstances. Tribunals should seek to clarify the timescales required by inviting submissions from the parties.

Days to set down

- 71** The tribunal should use its discretion when identifying how many days to set down for the reconvened hearing. If the tribunal is minded to set down an earlier date to reconvene and consider compliance, it is advisable to set down one to two days to allow sufficient time, should it be necessary.
- 72** If the tribunal is reconvening to consider the outcome of the assessment and proceed with its consideration of the case, it will need to use its discretion in determining how many days are required. The tribunal may also be assisted by submissions from the parties and must ensure that the reconvene dates are accepted by the MPTS Case Management team before they are finalised.

¹⁰ Schedule 3 to the Fitness to Practise Rules 2004 (as amended) provides that a doctor may be required to comply with a direction to undertake a language assessment within a specified period, which is no less than 30 days and up to a maximum of 90 days.

At the reconvened hearing

Where the tribunal adjourned for an assessment

- 73** When the tribunal reconvenes it will need to identify whether the doctor has complied with the assessment.
- 74** If the doctor has complied, the tribunal may:
- a** proceed to consider the substantive case, or
 - b** refer the allegation to the Registrar for the Case Examiners to consider whether to offer undertakings to the doctor¹¹.
- 75** If the doctor has not complied with the assessment, the tribunal must consider whether to make a finding of non-compliance¹². Tribunals should refer to Part B of the [Non-compliance guidance for medical practitioners tribunals](#) for details of how to proceed.
- 76** In summary, when considering the issue of non-compliance with a tribunal directed assessment, the tribunal will need to consider whether:
- a** the doctor has failed to comply with the tribunal's direction
 - b** the doctor's failure to comply creates a risk to public protection because it means the tribunal cannot determine the allegation of impaired fitness to practise
 - c** there is a good reason for the doctor's failure to comply.
- 77** Where the tribunal makes a finding of non-compliance, it should proceed to consider whether to impose a non-compliance sanction¹³. As the doctor's non-compliance has

¹¹ Rule 17(8)(b). This is only expected to occur in a limited number of cases. For example, where both parties make agreed submissions that the outcome of the assessment is capable of affecting the consideration of seriousness, making consensual disposal a realistic outcome.

¹² Schedule 4, paragraph 5A(3C) and (3D)

¹³ In accordance with Part C of the [Non-compliance guidance for medical practitioners tribunals](#)

prevented the tribunal from being able to go on to determine the outstanding matters in the substantive hearing, that case will adjourn part-heard. Consequently, the doctor's non-compliance will have frustrated the regulatory process which means it is likely that protection of the public will only be adequately achieved by the tribunal directing an order of suspension.

- 78** Where the tribunal imposes a non-compliance sanction, they should direct a review of the non-compliance order; this will be considered before a non-compliance review tribunal.
- 79** If the doctor later complies with the direction and, on review, a tribunal revokes the non-compliance order, a reconvened hearing will be scheduled so that the previously adjourned substantive hearing can resume and conclude.
- 80** If the tribunal makes no finding of non-compliance, it may continue with the substantive hearing, notwithstanding the lack of assessment. When continuing, the tribunal may want to consider whether a further adjournment is appropriate to enable the assessment to be carried out, or alternatively for further information or reports to be obtained.
- 81** When considering whether to further adjourn the substantive hearing, the tribunal should consider submissions received from the parties.

Where the tribunal adjourned for further information or reports

- 82** When the tribunal reconvenes it will need to ascertain whether the GMC or doctor has obtained the further information or reports sought.
- 83** If the further information or reports have been obtained, the tribunal should proceed to consider the case. This can include consideration of whether to adjourn for an assessment¹⁴ or whether another adjournment for further information or reports¹⁵ is necessary and proportionate.
- 84** Where the further information or reports relate to the doctor's health, the tribunal should be mindful of the need to ask appropriate questions to assist their consideration of the relevance and impact of the evidence obtained, and to aid in any assessment of whether a further adjournment may be appropriate, eg for a health assessment to be completed.

¹⁴ Under rule 17(7)

¹⁵ Under rule 17(9)

- 85** If the GMC or doctor has not obtained the further information or reports required, the tribunal may want to consider:
- a** whether a further adjournment is appropriate
 - b** in cases where a case management direction was made, whether to exercise its powers¹⁶, including whether to draw an adverse inference in relation to the doctor's failure to comply. Tribunals should refer to the [*Guidance for medical practitioners tribunals on case management and exercising powers under Rule 16A*](#)¹⁷.

Interim orders

- 86** The imposition of interim orders will normally be considered by the Interim Orders Tribunal (IOT). However, a tribunal may also impose an interim order¹⁸ to meet the regulatory purpose of protecting the public.
- 87** A doctor may have interim restrictions in place at the point of the substantive hearing. Whilst these may relate to the same allegations that are before the tribunal, they may also arise from concerns relating to other heads of impairment that are still being investigated.
- 88** Where the tribunal intends to adjourn to direct an assessment or for further information or reports to be obtained in a case where there is no existing interim order, the tribunal should consider whether it is necessary to impose an interim order, pending its further consideration of the matter.
- 89** Where the tribunal intends to adjourn to direct an assessment or for further information or reports to be obtained in a case where the doctor already has interim restrictions, they should consider whether the existing interim order should be maintained, varied or revoked.
- 90** In all cases, the question for the tribunal is whether an interim order is required to protect the public while the doctor's case continues through the fitness to practise process. This requires the tribunal to assess the risk posed if the doctor's practice is unrestricted.
- 91** The following factors will be relevant to the tribunal's assessment of risk:

¹⁶ Under rule 16A

¹⁷ The non-compliance provisions do not apply to failure to provide further information or reports.

¹⁸ Section 41 of the Act

- a** the nature of the substantive allegations under consideration
 - b** whether there are other heads of impairment under investigation in respect of which an interim order has been, or may be, made
 - c** the nature of the concerns that have given rise to the direction for an assessment or for further information or reports
 - d** the stage the hearing has reached.
- 92** The tribunal should hear submissions from the parties on whether an interim order is necessary.
- 93** The guidance on [*Imposing interim orders*](#) sets out that an IOT may make an interim order when it considers it is:
- a** necessary to protect members of the public
 - b** desirable in the public interest to maintain public confidence and uphold proper standards of conduct and behaviour
 - c** in the interests of the doctor.
- 94** The tribunal should apply the same test and follow the *Imposing interim orders* guidance.

This guidance was last updated in October 2019.

Annex A

Types of behaviour(s) that may suggest than an individual is unwell

Suicidal thoughts or self-harm	Serious or persistent negative ways of thinking or talking	Anger
Severe feelings of anxiety	Failure to respond to communication, or excessive frequency of communication	Tearfulness
Dissociation, unusual ways of thinking	Failure to meet deadlines	Irritability
Delusions	Changes in appetite, weight, sleeping patterns	Poor memory, difficulty recalling facts or events
Rapid or severe fluctuations in mood		
Pressurized and rapid speech		

Whilst certain behaviour(s) can be related to a health condition(s), they can also arise generally in stressful and / or upsetting situations. In each case, the tribunal will need to weigh up all the available evidence, including whether the behaviour, or combinations of behaviour, being exhibited create a cause for concern about the individual's health.

Consideration should be given to how to support the individual during the hearing and, where necessary, reflecting on whether the behaviour(s) exhibited may indicate a health concern which might lead the tribunal to consider if a health assessment would be beneficial before the hearing proceeds further.

Annex B

Tribunal directions

Hearing details

Hearing	«Hearing.Contacts.Doctor. First Name + Last Name»
Hearing Dates	<Hearing. Planned Start Date> to <Hearing. Planned End Date>
Adjourned on	
Reconvene date(s)	

Parties details

GMC Details	Represented by [Name], GMC Legal Team
Doctor Details	[In person][Represented by [Name], [Firm]]

Instructions [delete before finalising version]

- 1 Tribunals should use the following template to set out their directions, and calculate the relevant due dates.
- 2 Directions should be clear and realistic; tribunals may be assisted by the submissions made by the parties.

Directions

Performance assessment

	Direction	GMC due date	Doctor due date
1	GMC to issue the doctor with a Performance Assessment Portfolio	[Date A = Insert date]	

2	Doctor to return fully completed Performance Assessment Portfolio		[Date B = Date A + 28 days]
3	GMC to appoint Performance Assessment Team	[Date C = Date B + 42 days]	
4	Assessment dates scheduled and confirmed	[Date D = Date C + 28 days]	[Date D = Date C + 28 days]
5	Assessment to be completed by	[Date E = Date D + 80 days]	[Date E = Date D + 80 days]
6	Report review date	[Date F = Date E + 42 days]	
7	Report finalised by	[Date G = Date F + 28 days]	
8	GMC to disclose assessment report to the doctor	[Date H = Date G + 14 days]	

Health assessment

	Direction	GMC due date	Doctor due date
1	GMC to issue the doctor with a Health Assessment Form	[Date A = insert date]	
2	Doctor to return completed Health Assessment Form		[Date B = Date A + 14 days]
3	GMC to appoint Health Assessment Examiners	[Date C = Date B + 28 days]	
4	Assessments to be completed by	[Date D = Date C + 84 days]	[Date D = Date C + 84 days]

	Direction	GMC due date	Doctor due date
		days]	
5	GMC to disclose assessment reports to the doctor	[Date E = Date D + 14 days]	

Knowledge of English assessment

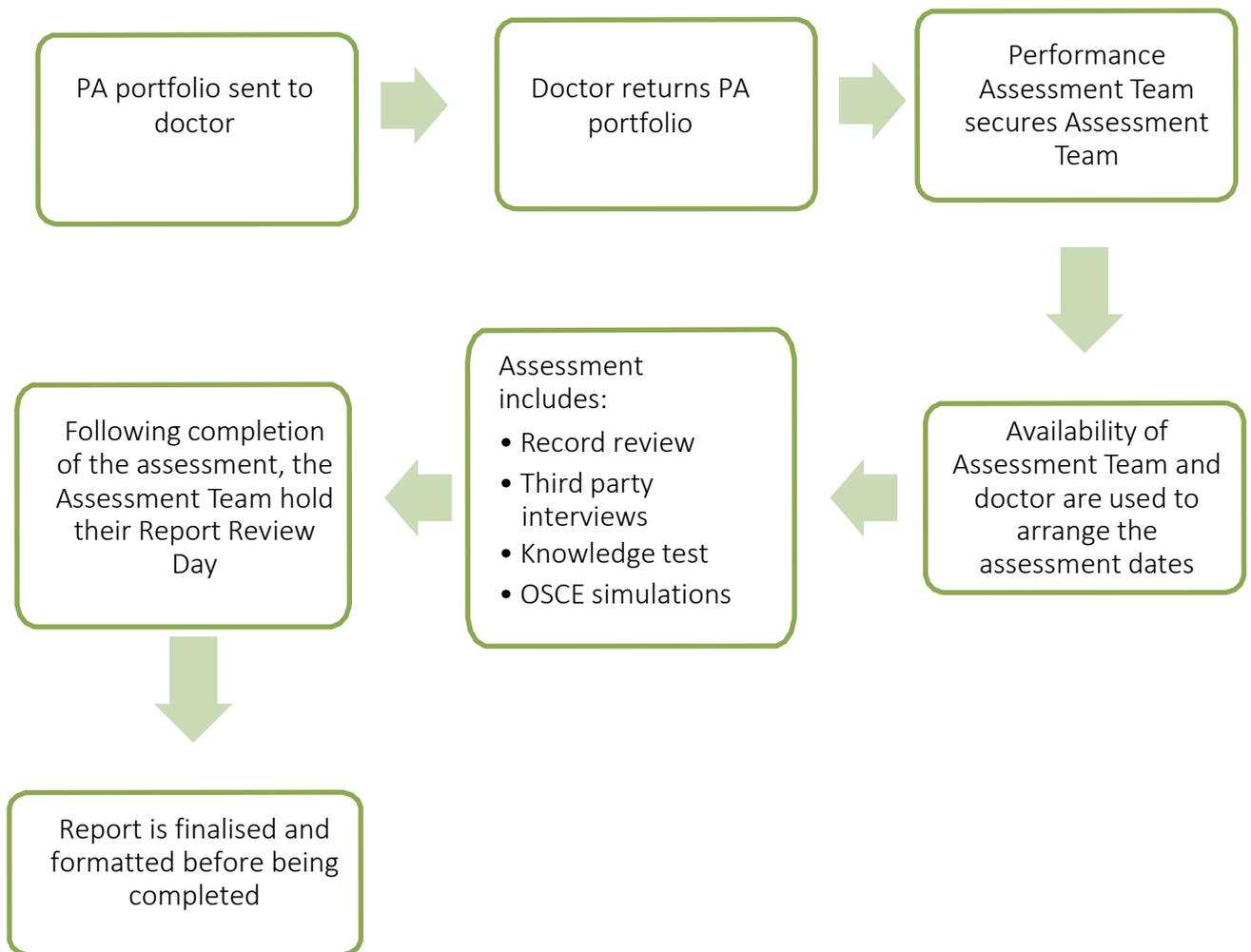
	Direction	GMC due date	Doctor due date
1	GMC to issue the doctor with details of how to book an English language assessment Information	[insert date]	
2	Doctor to provide the GMC with details of their scheduled assessment		Once scheduled
3	Doctor to provide GMC with details of their assessment results		[Within 90 days of direction 1]

Further report / Information required

	Direction	GMC due date	Doctor due date
1	[insert detail]		

Annex C

Overview of GMC performance assessment arrangements



Annex D

Overview of GMC health assessment arrangements

