

Medical Practitioners Tribunal Service

*Medical Practitioners Tribunal
Service Report to Parliament
2020*

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Medical Practitioners Tribunal Service Report to Parliament 2020

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Report to Parliament 2020





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Foreword

As Chair of the Medical Practitioners Tribunal Service (MPTS), I am pleased to introduce our Annual Report to Parliament for 2020.

The MPTS provides an adjudication service for doctors in the UK. We operate separately from the GMC's role in investigating complaints and presenting cases at hearings.

Our tribunals make independent decisions about doctors' fitness to practise based on our statutory over-arching objective to protect the public. Each of our hearings is conducted by three individuals, taken from a pool of around 300 tribunal members, all of whom are appointed, trained and appraised by the MPTS.

The year 2020 was exceptionally challenging for everybody, in all walks of life. The pandemic changed how we all live and work.

In all four countries of the UK, medical professionals, including those who sit on our tribunals, were at the heart of the fight against COVID-19, treating patients and saving lives.

Public protection is our first priority, so, when the pandemic hit, it was important that we found ways to deal with the most urgent cases requiring decisions. This we managed to do and, for the first time in our history, hearings to decide on these matters were held virtually with parties participating remotely.

We were able to set up and run our first virtual hearing within only two days of taking the decision to close our Manchester hearing centre.

That enabled us, throughout the pandemic, to continue to review existing sanctions and consider interim restrictions where necessary.

I am grateful for the hard work and dedication of colleagues and tribunal members in making this happen. I am also grateful for the constructive approach taken by those taking part in our hearings, including doctors and those representing them, who worked with us to make sure cases could proceed wherever possible.

Foreword

It is clear from the feedback we have received that there is a desire to continue using virtual hearings beyond the current pandemic.

It is also clear that there remains a preference for certain types of hearings to take place at our hearing centre - particularly more complex cases where evidence is disputed, or which involve multiple witnesses.

Thanks are also due to all the colleagues and tribunal members who returned to our Manchester hearing centre from August 2020 onwards, to conduct some socially distanced hearings. In this way we were able to conclude a significant number of different types of cases over the year, ensuring that doctors and complainants saw their cases resolved.

On 24 March 2021, the UK Government launched its consultation on reform of healthcare regulation: *Regulating healthcare professionals, protecting the public*.

We believe this is a significant and welcome step towards modernising medical regulation in the UK and will be contributing to the debate and watching the response to the consultation with great interest.

We look forward to playing our part in ensuring any changes that are implemented protect the public and support medical professionals.



Dame Caroline Swift

MPTS Chair

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Who we are

The MPTS runs hearings for doctors whose fitness to practise is called into question.

We are independent in our decision-making and operate separately from the investigatory role of the General Medical Council (GMC).

As a statutory committee of the GMC, we are accountable to the GMC Council and the UK Parliament.

Our governance

Our Chair, Dame Caroline Swift, provides jurisdictional leadership and management for the organisation. She chairs the MPTS Committee, which is required to report on its activities twice yearly to the GMC and annually to Parliament.

In 2020 the MPTS Committee was composed of:

- ▶ Dame Caroline Swift, Chair
- ▶ Joy Hamilton, lay tribunal member
- ▶ Professor Jacky Hayden, medical member
- ▶ Dr Patricia Moultrie, medical tribunal member
- ▶ Judith Worthington, lay member

Our leadership

The MPTS is managed by the Executive Manager, Gavin Brown, and his senior management team. The Executive Manager takes day to day direction from the Chair of the MPTS in the operational management of the MPTS and is also accountable to the GMC's Director of Resources for the efficient and effective use of resources.

Who we are

Our vision

The MPTS Committee sets the strategic vision for the MPTS.

Our vision is to provide a tribunal service that is effective, fair and impartial. A service that:



Makes high quality, well-reasoned, independent decisions to protect the public.



Runs hearings efficiently and effectively, using resources appropriately.



Treats all tribunal service users with respect and fairness.



Has a distinct voice, clearly articulating our role.

Operating during a pandemic

Like all organisations in 2020, we changed how we operate in response to the pandemic.

We responded quickly in March, holding virtual hearings via video call for the first time in the history of UK medical regulation.

This has continued since then with our staff, tribunal members and others taking part in hearings, doing so remotely from their homes or other locations.

Throughout the year, we have sought to run the maximum number of hearings possible, to ensure the public are protected and that doctors and complainants see their cases resolved.

Responding swiftly

The MPTS works closely with its GMC colleagues on business continuity planning. Those plans were put into action in January 2020, as we began to see an escalation in COVID-19 cases around the world.

On 28 January, a GMC-wide Incident Management Team (IMT) was convened, which included representation from the MPTS.

Who we are

On 16 March, the IMT moved the GMC to a 'response phase', which included asking colleagues to take laptops home at the end of every day. That evening, the UK Government issued stricter new guidance, advising that everyone who was able to should work from home. Texts and emails were issued to all MPTS colleagues, explaining who should and shouldn't travel to the office the next day.

On 17 March, we took the unprecedented decision to close the MPTS hearing centre in Manchester. This was necessary to free up medical tribunal members who might have been required to treat COVID-19 patients, and to protect the health of MPTS staff and all those attending our hearings.

That afternoon, we postponed around 130 hearings that were due to take place between March and the beginning of July, contacting every doctor and representative individually.

Most ongoing hearings ceased the following day. By the end of the week, all of our staff – around 100 people – had switched to working from home.

Making decisions remotely

Protecting the public is our over-arching objective, so we needed to find a way to deal with urgent cases requiring decisions.

As part of our business continuity preparations, we had been developing plans for running virtual hearings. These plans were accelerated so the MPTS was able to hold its first virtual hearing on 19 March, only two days after deciding to close the hearing centre.

By working with our tribunal members, the GMC Legal team and the medical defence organisations representing doctors, we were able to act quickly on feedback, to fine tune our virtual hearings process and make it work for all involved.

MPTS tribunals were able to take urgent decisions and ensure the public remained protected – reviewing existing sanctions and considering interim restrictions where necessary. We were also able to increase the number of decisions taken on the papers by legally qualified chairs working remotely. This is appropriate when the doctor and GMC agree on the proposed outcome, for example extending or removing a sanction or interim order.

Next steps in our response

We had initially closed our hearing centre until 6 July, leaving any cases listed after then in our hearings calendar. By April, it was clear that such a return to the hearing centre would not be possible and that further contingency plans would be required.

All hearings were now listed on a prioritised basis, applying criteria which included whether a doctor had an interim restriction, whether a hearing was part-heard, the age of the case and how prepared parties were to proceed.

Who we are

For each case, we have continued to take account of representations from doctors, their representatives and the GMC to help us decide which hearings to prioritise.

Returning to holding hearings at the hearing centre

While we were able to list many hearings to proceed virtually, including some new cases, it was clear that, for many cases, parties did not feel a virtual hearing was suitable.

On 1 June, with the approval of the GMC Executive Board, we announced that all hearings would be held virtually in June and July while, from August, a limited number of hearings would be held at our hearing centre in Manchester, with appropriate social distancing measures in place.

A thorough risk assessment was carried out and significant safety and hygiene measures were put in place throughout our hearing centre. It re-opened on 3 August, fully adhering to the UK Government's COVID-19 Secure guidance.

We planned to hold a limited number of hearings in Manchester each day for the first month, gradually raising our capacity thereafter. Virtual hearings continued to be held each day.

National restrictions return

From 14 October, the UK Government introduced a tiered system of restrictions in England. Essential services, such as hearings, were able to operate in all tier categories. Travel for work also remained permitted. We therefore continued to run hearings in Manchester for those cases where that was the most suitable format.

On 5 November, new national restrictions were put in place in England. We decided that, whilst they were in place, all MPTS hearings would be held virtually, unless the needs of the participants or circumstances of the case made a hearing in Manchester necessary.

This position remained for the rest of 2020 and has continued into 2021. Throughout this time, all decisions on the venue for each hearing have been informed by representations from the parties involved.

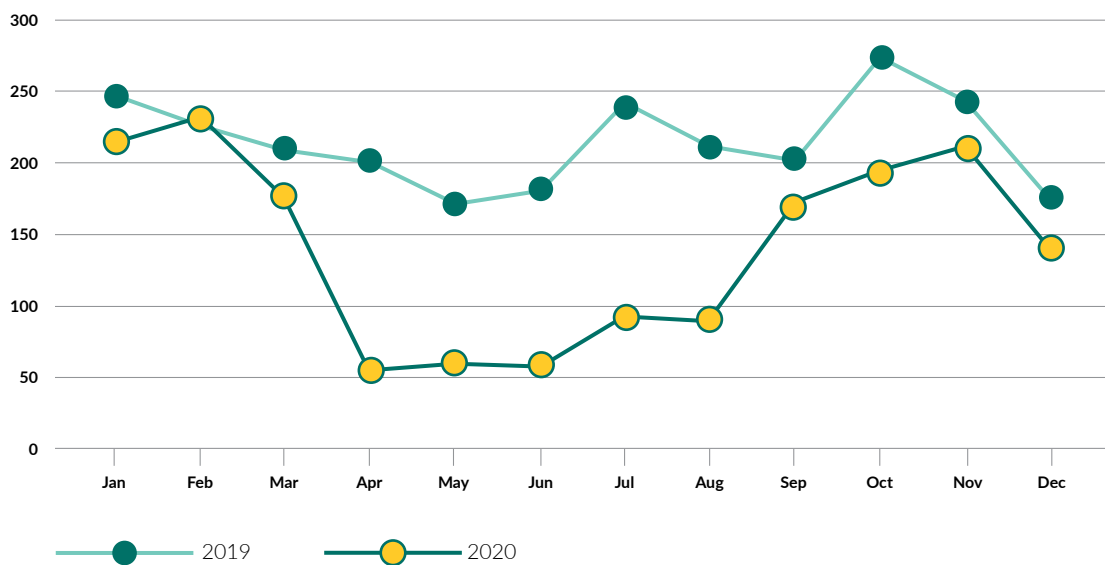
By keeping our hearing centre open for a small number of cases, we have avoided postponing hearings that were ready to proceed. Concluding hearings as quickly as possible is important; delays can be stressful for doctors, patients and others involved in our hearings. It is important for public protection that decisions are reached in cases brought before the MPTS.

Who we are

Over the year

During 2020 the MPTS concluded 1751 hearings (of all types), of which 750 were virtual, 652 were reviews on the papers and 349 took place at the hearing centre.

Comparison of hearing days per month (2019 & 2020)



These figures are inevitably much lower than we would expect for a usual year but, by November and December, we were holding nearly as many hearing days as we might have expected to before the pandemic.

We are grateful for the hard work and commitment of our staff and tribunal members and the support of parties in making this possible.

As national restrictions are eased, and it is therefore possible to hold more hearings at our hearing centre, we will be able to resolve more cases in 2021 than was the case in 2020. We will continue to work collaboratively with doctors and their representatives and our GMC colleagues to achieve this.

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How our hearings work

Usually, we hear the vast majority of cases in our dedicated hearing centre in Manchester. In 2020, most of our hearings took place virtually with a reduced number taking place in Manchester.

As of 31 December 2020, we employed 114 full-time and part-time members of staff to support hearings directly as tribunal clerks and assistants, to list cases, to empanel tribunals, and to appoint, train and develop tribunal members.

Three tribunal members sit on each MPTS tribunal hearing. At least one tribunal member must be medically qualified and at least one must be a lay person who has never held a medical qualification.

In most cases, the tribunal includes a legally qualified chair, who will provide legal advice. In some circumstances, a legal assessor will provide the tribunal with legal advice.

It is the chair's responsibility to manage the conduct of the case both inside the hearing room and during the private deliberations amongst tribunal members.

When making decisions on facts, our tribunals apply the civil standard of proof.

Case management

The MPTS has powers to issue binding pre-hearing case management directions. We believe this is essential to make sure hearings are case-ready on the first day.

All new medical practitioner tribunal hearings are subject to pre-hearing case management, regardless of hearing length.

Our tribunals have powers to award costs if either party (the doctor or the GMC) fails to comply with a direction and behaves unreasonably in the conduct of proceedings. Tribunals awarded no costs in 2020.

Types of hearings

We run two main types of tribunal hearing – **interim orders tribunal** hearings and **medical practitioners tribunal** hearings.

Interim orders tribunal hearings – new cases

The GMC has the power to ask an interim orders tribunal to impose an interim restriction on a doctor's registration while concerns about their fitness to practise are being investigated.

Interim orders tribunals do not make findings of fact, but can make orders suspending a doctor's registration or imposing conditions for up to 18 months if they consider it necessary to protect patients, to protect public confidence or (usually in a case involving the doctor's health) in the interests of the doctor concerned.

How our hearings work

From 19 March 2020 onwards, all new interim orders cases were considered in virtual hearings. We received a lot of positive feedback about this from legal professionals regularly involved in IOT hearings. These hearings are usually short and are held with only a few weeks' notice, so a virtual hearing can be convenient for all involved.

To aid our recovery work, we decided that all new IOT cases will be held virtually until the end of 2021.

Interim orders tribunal hearings – reviews

Interim orders must be reviewed at least every six months and can be extended beyond the initial order length only by the High Court. If an order is varied at review, a further review must be held within three months.

Review hearings can be decided on the papers by a legally qualified chair when both the GMC and the doctor agree on the proposed outcome, thus avoiding the need for a full hearing.

This is appropriate when both parties agree that an order should remain in place (because an investigation is ongoing) or should be revoked (because an investigation has concluded).

From March 2020, we were able to increase the number of IOT reviews carried out on the papers. For the whole of 2020, 59% of all interim orders reviews were held this way. This was an efficient use of our resources and less stressful for those involved in the fitness to practise process.

Medical practitioners tribunal hearings – new cases

If the GMC considers that a doctor's fitness to practise may be impaired, it can refer the doctor's case to us for a medical practitioners tribunal hearing.

A medical practitioners tribunal hearing follows three stages:

- ▶ Facts – are each of the alleged facts proved?
- ▶ Impairment – do the facts found proved amount to impairment of the doctor's fitness to practise?
- ▶ Sanction – if impairment is found, what sanction is necessary to protect the public?

Both the GMC and the doctor may present written evidence and call witnesses to give oral evidence at the hearing.

Medical practitioners tribunals hear the evidence in the case, determine the facts and then decide, on the basis of the facts found proved, whether the doctor's fitness to practise is impaired.

How our hearings work

If a tribunal concludes that a doctor's fitness to practise is impaired, it must consider the following options, taking into account the *Sanctions guidance*:

- ▶ take no action
- ▶ accept undertakings (voluntary conditions agreed between the GMC and the doctor)
- ▶ place conditions on the doctor's registration (for up to three years)
- ▶ suspend the doctor's registration (for up to one year)
- ▶ erase the doctor's name from the medical register.

A doctor's name cannot be erased from the medical register in cases relating solely to the doctor's adverse health or inadequate knowledge of the English language.

Where a tribunal finds a doctor's fitness to practise is not impaired, it may issue a warning to the doctor if there has been a significant departure from the standards set out in the GMC's professional guidance, *Good medical practice*.

Medical practitioners tribunal hearings – reviews

A tribunal can direct that a review hearing be held before a period of conditions or suspension expires. The GMC can also refer a matter to the MPTS to arrange a review hearing.

At a review hearing, a fresh tribunal will determine whether a doctor's fitness to practise remains impaired. If impairment is found, the full range of sanctions is available. As with interim orders tribunals, review hearings can be held on the papers when both parties agree on the proposed outcome, thus avoiding the need for a full hearing.

Medical practitioners tribunal hearings – non-compliance

As part of an investigation, the GMC may direct that a doctor has an assessment of their health, performance, or knowledge of the English language, or that a doctor must provide certain specific information.

If the GMC believes a doctor is consistently or explicitly refusing to comply with such a direction, it may refer them to the MPTS for a medical practitioners tribunal non-compliance hearing.

The tribunal will consider submissions from the GMC and the doctor and make a finding on the issue of non-compliance.

If non-compliance is found, the tribunal can impose a sanction of conditions or suspension. It does not have the power to erase the doctor's name from the medical register by reason of non-compliance.

Issues relating to non-compliance might also arise during a new medical practitioners tribunal hearing.

How our hearings work

Medical practitioners tribunal hearings – restoration

If a doctor wishes to return to the medical register after being erased for disciplinary reasons, they may make an application for restoration to the GMC. A minimum of five years must have elapsed since the original erasure decision.

The GMC refers such applications to a medical practitioners tribunal, who must decide if the doctor is fit to practise and whether it is consistent with our over-arching objective of public protection to allow the doctor to regain their registration.

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Transparency

Public hearings

Medical practitioners tribunals sit in public, unless they are considering confidential information about a doctor's health, or there are exceptional circumstances.

We advertise upcoming public hearings on our website, with a short summary of the allegation that will be made against the doctor.

Anyone can attend a public hearing at the MPTS. We encourage those with an interest in our work to attend and observe, and are regularly visited by groups of medical and law students.

To assist public understanding of our decisions, we have facilities for journalists attending our hearings. All public decisions announced by tribunals are made available to journalists, on request.

The legislation states that interim orders tribunal hearings should be held in private unless the doctor specifically requests a public hearing.

Publishing decisions

After a medical practitioners tribunal hearing concludes, we publish a Record of Determinations which explains the reasons for any decisions taken by the tribunal. This is available on our website for 12 months.

If there has been a finding of impairment, or a warning issued, the same record will also appear on a doctor's entry on the GMC's medical register.

Details of interim orders to suspend or restrict a doctor's registration (pending the outcome of a GMC investigation) are published on our website for six weeks. We do not publish detailed records of decisions taken by interim orders tribunals, unless a doctor has requested their hearing be held publicly.

While the order remains in place, the doctor will appear on the medical register as suspended or subject to conditions.

Register of interests – MPTS Committee

We publish a register of interests for the five members of the MPTS Committee, to support transparency and probity and confidence in our processes.

As a statutory committee of the GMC Council, our Committee members follow the guidance issued to GMC Council members on declarations of interest.

You can find full details of MPTS Committee members' declared interests at www.mpts-uk.org/about/how-we-work/the-committee-and-their-interests

Transparency

Register of interests – Tribunal members

We publish a register of interests for all tribunal members.

This supports transparency, probity and confidence in our processes.

It also helps avoid any conflict of interests that might require a tribunal member to recuse themselves from a hearing.

You can find full details of tribunal members' registered interests at www.mpts-uk.org/TribunalMembersRegister

Equality, diversity and inclusion

Equality, diversity and inclusion are integral to our work, as an adjudicator and an employer. We apply the equality, diversity and inclusion strategy and policies of the GMC.

We aim to be fair and objective in delivering our procedures, and to make sure our processes are free from unlawful discrimination and transparent.

We train our staff and tribunal members to understand how to treat people fairly in our work.

We will make reasonable adjustments for those attending hearings to make sure they can play a full part in the proceedings.

We believe it is important that tribunal members bring a range of diverse perspectives to the role. When appointing new tribunal members we take active steps to encourage applications from a wide range of backgrounds, by targeting advertising and utilising networks with diverse groups.

We undertake monitoring, quality assurance and analysis of the application of our processes as both an adjudicator and an employer to ensure we are meeting this aim and commitments.

Liaison with users of the MPTS

An MPTS User Group was established in 2012 to engage directly with all parties involved in our hearings. Meetings are held twice a year, at which users can raise operational matters of concern with our Chair and Executive Manager.

The meetings are attended by medical defence organisations, the legal firms they instruct, and staff from the GMC's Fitness to Practise directorate who investigate and prepare cases.

In 2020, User Group members provided helpful feedback on our operation of virtual hearings which has helped refine our processes and improve the service we offer.

Transparency

Support for doctors and witnesses

We recognise that hearings can be stressful for anyone attending, whether as a doctor, as a witness or another interested party such as a bereaved family member.

To help people familiarise themselves with our hearing centre and processes, information is available in print and online to anyone preparing to attend a hearing.

Witnesses are called to our hearings by both the GMC and by doctors. At our hearing centre, we provide facilities to allow both parties to look after their witnesses, including a purpose-built waiting room and online resources.

In 2020, many more doctors and witnesses gave evidence remotely than would usually be expected. All those taking part in virtual hearings were offered test calls in advance, with the aim of ensuring that they were comfortable and familiar with the process and technology. Around 14% of doctors appearing before tribunals in all case types in 2020 did so without legal representation. This can be challenging for both tribunals and the doctors concerned.

To help doctors representing themselves better prepare for their hearing, and to reduce the risk of hearings adjourning part-heard, we offer a range of support, including:

- ▶ a number of information booklets, and posters, explaining each stage of a hearing
- ▶ a telephone information service run by students from BPP University Law School Manchester, offering information on hearings procedure (but not legal advice).

Our Doctor Contact Service is available to all doctors on the day of a hearing and is particularly aimed at those attending alone or without legal representation. Since closing our hearing centre in March, we have offered this service remotely, by way of video calls.

A member of our staff unconnected to the doctor's case can be available to talk at any time. The aim of this service is to:

- ▶ help lessen the isolation and stress doctors might encounter
- ▶ signpost useful support material and services
- ▶ provide information about the hearing process.

The service is accessed by around 100 doctors each year and we regularly receive positive feedback for the help provided by our staff.

Transparency

Non-attendance of doctors

In 2020, across all types of hearing, 31% of doctors did not attend and were not legally represented.

In some cases, those doctors ceased to engage with the GMC during the investigation process and, at other times, after referral to the MPTS.

Our tribunals always consider carefully the reasons for absence to decide whether it is fair to proceed. Usually, in a case where the doctor has voluntarily absented themselves for no good reason, the tribunal will decide that it is in the public interest to continue with the hearing.

We continue to make efforts to convey to the medical profession the importance of engaging with the fitness to practise process at the earliest opportunity.

A failure actively to engage inevitably deprives the doctor of the opportunity of presenting their side of the case.

It will also make it difficult for the tribunal to conclude that the doctor has demonstrated the degree of insight and remediation necessary to avoid a finding of impairment and subsequent suspension or erasure.

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Decision-making

Tribunal members

We appoint all tribunal members by means of open competition and select them for their abilities against agreed competencies.

Some tribunal members, including legally qualified members, have been specially appointed and trained to act as tribunal chairs.

The majority of tribunals have a legally qualified chair. A legal assessor is usually appointed to advise a tribunal only if a case manager identifies exceptional circumstances that make it necessary.



As of 31 December 2020, we had 294 tribunal members, of whom **51% were medical members** and **49% lay members** (including legally qualified chairs). No new tribunal members were appointed in 2020.

Diversity of tribunal members

As of 31 December 2020, 45.9% of our 294 tribunal members were female and 22.1% identified as coming from black, Asian and minority ethnic (BAME) backgrounds.

Each three-person tribunal is empanelled according to the availability of each tribunal member. We monitor how often this produces a diverse tribunal.

In 2020, our tribunals had both ethnicity and gender diversity on 36.9% of hearings. On 46.1% of hearings our tribunals had gender diversity only, while on 9.2% of hearings our tribunals had ethnicity diversity only. A non-BAME, single gender tribunal only sat on 7.8% of hearings.

We believe our tribunal members bring a wide range of perspectives to the role. We encourage applications from diverse backgrounds, by targeted advertising and utilisation of networks used by different groups.

Training of tribunal members

All new tribunal members attend several days of in-depth induction training. Our training emphasises the legislation and rules that govern the process for our hearings, the key skills required for the role and practical application of these through a blended training programme.

Decision-making

Tribunal members must keep their skills and knowledge up to date via the regular circulars and updates to guidance that we send them. We also provide e-learning modules, videos and webinars.

Usually, all MPTS tribunal members and legal assessors attend an annual training day, which is tailored to their role. We were not able to run our annual training in 2020. Social distancing rules would have prevented us from delivering it in our hearing centre. Also, we recognised that, as almost half of our tribunal members are medical professionals, many of them would be required to prioritise their frontline duties in responding to the pandemic.

Instead, we hosted optional webinar sessions to share the key learning points identified during 2020. These were attended by over 70% of tribunal members.

These sessions focussed on review hearings and recent case law on assessing the reliability of evidence.

A large amount of new guidance was produced for tribunal members taking part in virtual hearings from March onwards. We provided support and information to assist them to appreciate the additional needs of parties appearing in virtual hearings.

An e-learning module was produced for tribunal members returning to the hearing centre from August onwards, detailing the various hygiene and social distancing measures in place.

In 2021, we intend to take a blended approach to our annual training, with e-learning modules, webinars and an interactive online learning session. The mandatory elements of this training will be equivalent to a full day of training.

Development of tribunal members

So that standards are maintained, tribunal members participate in a number of processes to assist their development.

This includes 360-degree feedback where comments are received from other tribunal members with whom they have sat, and observations of their competencies displayed during hearings are carried out by appropriately trained members of MPTS staff.

Quality assurance of tribunal decision-making

The Quality Assurance Group (QAG) is chaired by our Chair and meets monthly to review a proportion of written tribunal determinations.

The purpose of these reviews is to identify learning points that can assist us to ensure determinations are clear, well-reasoned and compliant with the relevant case law and guidance and to identify any issues which could usefully be incorporated into future tribunal training sessions.

Decision-making

In 2020, the QAG **reviewed 328 tribunal decisions**, including 33% of all MPT decisions and 26% of new IOT decisions.

The QAG also reviews tribunal decisions which have been the subject of appeals, including appeals by, or learning points raised by, the Professional Standards Authority (PSA). During 2020, the PSA raised learning points for both the MPTS and GMC in 10 cases.

Learning points issued by the Quality Assurance Group

In 2020, the QAG issued learning points to tribunal members on a variety of topics. These included:

- ▶ a reminder in January of the various learning points circulated in 2019
- ▶ ensuring the circumstances surrounding a doctor's conviction or caution is summarised in a determination, where it is the reason for impairment
- ▶ when writing determinations, considering that the MPTS has an obligation to redact names and identifiers of witnesses and others
- ▶ ensuring that if bespoke conditions are formulated, they are workable, proportionate and measurable
- ▶ addressing fully any breach of conditions, setting out why it should be dealt with in the way that has been determined
- ▶ when considering an adjournment application, having regard to any earlier such requests and whether there has been any material change
- ▶ a reminder that legally qualified chairs should be clear when legal advice is being given and when an individual opinion is being provided
- ▶ when imposing conditions or a suspension at an MPT hearing, always considering whether a review is necessary and explaining why
- ▶ a reminder that the GMC has a separate power to order a review, where an MPT has not done so
- ▶ a reminder of the relevant parts of the *Sanctions guidance* that should be considered when directing or determining a review hearing.

You can view all learning points issued to tribunal members at www.mpts-uk.org/learning_points.

Decision-making

Updates to tribunal guidance

During 2020, we issued new guidance to tribunal members on:

- ▶ guidance for MPTs on restoration following voluntary or administrative erasure
- ▶ updates to the *Sanctions guidance* and *Conditions banks* to include the phrase 'substance use disorder' in place of substance 'abuse' and 'misuse', in line with recommendations from the Royal College of Psychiatrists.

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Hearing outcomes

Interim orders tribunal hearings – new cases

New interim orders cases were held throughout the year, moving to virtual hearings as soon as our hearing centre closed.

Interim orders tribunals considered 352 new cases in 2020, a similar number to the previous year.

These cases will continue to be held virtually in 2021.

Outcomes in interim orders tribunal hearings	2018	2019	2020
Suspension	48	52	40
Conditions	247	225	234
No action	93	82	78
Total	388	359	352

Medical practitioners tribunal referrals

We received 326 referrals to a medical practitioners tribunal from the GMC in 2020.

This included cases referred:

- ▶ for a decision on the doctor's fitness to practise (new medical practitioners tribunal hearings)
- ▶ for a decision on non-compliance with a GMC direction (non-compliance hearing)
- ▶ for a decision on a doctor's application for restoration (restoration hearing).

These different types of hearings are explained in more detail on p8.

Referral for a new medical practitioners tribunal hearing	287
Referral for non-compliance hearing	10
Referral for a restoration hearing	29
Total referrals for medical practitioners tribunal hearings	326

The number of referrals is greater than the number of hearings because referrals are sometimes cancelled. This might be because information has become available which means the threshold for referral is no longer met, or because of other exceptional circumstances.

Some referrals may include more than one doctor.

Hearing outcomes

Types of cases referred

At a new medical practitioners tribunal hearing, the GMC may allege that a doctor’s fitness to practise is impaired by reason of one more of the following grounds:

- ▶ misconduct
- ▶ deficient professional performance
- ▶ a conviction, or caution, for a criminal offence
- ▶ adverse physical or mental health
- ▶ not having the necessary knowledge of English
- ▶ a determination made by another regulatory body.

The allegation being made against the doctor by the GMC may cover more than one category of impairment. For example, a criminal conviction might be accompanied by further allegations of misconduct or adverse health.

There were 143 new MPT hearings in 2020

Type of alleged impairment in new medical practitioners tribunal hearings	2020
Misconduct	89
Conviction	26
Performance	2
Health	1
Determination by another regulator	1
Language	0
Health	1
Misconduct and performance	2
Misconduct and conviction	6
Misconduct and health	9
Conviction and health	2
Other combinations of the above	5
Total	143

Hearing outcomes

New medical practitioners tribunal hearings

Medical practitioners tribunals made decisions in new cases involving 143 doctors in 2020. That is fewer than would be expected in a year because of the pandemic.

After March, the MPTS listed new MPT hearings on a prioritised basis, applying criteria which included whether a doctor had an interim restriction, whether a hearing was part-heard, the age of the case and how prepared parties were to proceed.

This means that some types of cases are more likely to have proceeded than others, making comparisons with outcomes in previous years difficult.

To put these figures in context, there are over 300,000 doctors on the UK medical register, and the GMC considers around 8,000 complaints about doctors each year.

Medical practitioners tribunal hearing outcomes	2018	2019	2020
Impaired: Erasure	65	55	43
Impaired: Suspension	101	120	52
Impaired: Conditions	25	14	14
Impaired: No action	2	4	0
Not impaired: Warning	10	17	17
Not impaired	41	44	16
Voluntary erasure	3	3	2
Total	247	257	143

Non-compliance hearings

When a tribunal makes a finding of non-compliance, it can impose a sanction of conditions or suspension.

Outcomes in non-compliance hearings	2018	2019	2020
Suspension	7	5	4
Conditions	0	0	0
Non-compliance not found	3	0	2
Total	10	5	6

Hearing outcomes

Restoration hearings

Eight doctors were restored to the medical register in 2020, while ten applications were refused.

Outcomes in restoration hearings	2018	2019	2020
Application granted	5	2	8
Application refused	10	11	10
Total	15	13	18

Review hearings

Since 2016, the MPTS has been able to hold review hearings on the papers. We do this when both parties agree on the proposed outcome.

This is an efficient use of our resources and less stressful for those involved.

From March 2020, we were able significantly to increase the number of IOT reviews carried out on the papers.

Medical practitioners tribunal review hearings	2018	2019	2020
Medical practitioners tribunal review	151	134	130
Medical practitioners tribunal review on the papers	6	7	26
Total	157	141	156

Interim orders tribunal review hearings	2018	2019	2020
Interim orders tribunal review	418	466	428
Interim orders tribunal review on the papers	462	461	626
Total	880	927	1054

Non-compliance review hearings	2018	2019	2020
Non-compliance review	13	13	11
Non-compliance review on the papers	0	0	0
Total	13	13	11

Appeals

How we respond to appeal judgments

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Appeal outcomes

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Appeals

After a medical practitioners tribunal hearing, there is a right of appeal against the final decision for the doctor, the GMC and the PSA.

Appeals are heard by the Court of Session in Scotland, the High Court of Justice of Northern Ireland, or the High Court of Justice in England and Wales.

If a case proceeds to a court hearing, the judge can:

- ▶ dismiss the appeal,
- ▶ allow the appeal, in whole or in part, and
 - ▶ quash the relevant tribunal's decision,
 - ▶ substitute the tribunal's decision for another the tribunal could have given or
 - ▶ refer the case back for a new MPT tribunal decision.

Any **doctor** who has been found impaired by a medical practitioners tribunal can appeal against the decision within 28 days of being notified of the decision of the tribunal.

If a doctor wishes to challenge any other decision made by a tribunal, for example the issuing of a warning, this can be done by way of judicial review.

The **GMC** can appeal against decisions made by medical practitioners tribunals where it believes the relevant decision (including a tribunal sanction, decision to restore a doctor to the medical register or an order in response to a doctor's non-compliance with a fitness to practise investigation) is not sufficient to protect the public.

The **PSA** reviews the decisions of the fitness to practise tribunals or panels of nine healthcare regulators in the UK. It has the right to refer a medical practitioners tribunal's decision to the relevant court if it believes it is not sufficient for the protection of the public. Also, the PSA has a power to join a GMC appeal, and to take over the conduct of an appeal that the GMC decides to withdraw.

How we respond to appeal judgments

Judgments in appeals or in challenges brought by all parties can be helpful in clarifying matters of law and in providing learning points that we can use to improve future decision-making by MPTS tribunals.

We communicate any such learning points to our tribunal members in a number of ways:

- ▶ publishing appeal circulars, which summarise the key information from the judgment and identify any learning points or good practice
- ▶ at our annual training for tribunal members
- ▶ providing updates on the outcomes of appeals directly to tribunal members involved in the appealed hearing (and of the outcome of any remitted hearing following the appeal)
- ▶ providing direct feedback to individual tribunal members, if necessary, as part of their continuous professional development.

Appeals

A summary of learning points issued in 2020 can be seen in the *Decision-making* section of this report.

Appeal outcomes

- ▶ Year columns refer to the date tribunal hearings concluded, not when appeals were heard.
- ▶ Some appeal hearings were postponed or adjourned in 2020 because of the pandemic.

Doctor appeals	2018	2019	2020
Successful	2	2	1
Dismissed	12	18	7
Struck out	0	0	0
Stayed	4	0	0
Withdrawn	4	3	2
To be heard	0	1	10
Remitted to MPT	2	1	2
Total	24	25	22

GMC appeals	2018	2019	2020
Successful	3	3	3
Unsuccessful	2	1	1
Withdrawn	0	0	0
To be heard	0	1	2
Total	5	5	6

PSA appeals	2018	2019	2020
Successful	1	1	1
Remitted by consent	1	0	0
To be heard	0	0	1
Total	2	1	2

Report to Parliament 2021

We will deliver our next report to Parliament in 2022, reporting on our activity in 2021.

This will include an update on our recovery work and how we have adapted our use of virtual hearings to maintain an efficient and effective tribunal service.





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