

## Panellist Circular



11 September 2013

To: Fitness to Practise Panel Panellists  
Interim Orders Panellists  
Legal Assessors

Copy: Panel Secretaries

Medical Practitioners Tribunal Service  
Seventh floor, St James's Buildings  
79 Oxford Street  
Manchester M1 6FQ

Tel: 0161 923 6263

Fax: 0161 240 7199

Email: [enquiries@mpts-uk.org](mailto:enquiries@mpts-uk.org)

### Quality Assurance Group (QAG) – Learning Points

As you are aware the QAG meets monthly to review decisions of the Fitness to Practise Panels and Interim Orders Panels. We felt it would be helpful to share some of the learning points we have identified in recent months. We continue to be reassured by the high standard of large numbers of the determinations which we review and hope that sharing this feedback will assist you all in the drafting of determinations.

#### Interim Order Panel Determinations

- Some determinations have referred to the date on which the original complaint against a doctor was referred to the IOP by the GMC's Case Examiner. Panels have cited any perceived delay in referral to the IOP in giving reasons for imposing no order. The date on which a complaint is first made to the GMC is not a relevant consideration, the trigger for referral to the IOP is, however, a relevant consideration.
- Another factor which the QAG does not consider to be relevant is whether the doctor has received any complaints from any other employers. The panel must base its decision on its assessment of the information before it, insofar as it relates to the risk posed by the doctor.
- There have been many occasions when panels have relied on conditions imposed upon a doctor locally and have chosen not to impose an order on the basis that local conditions manage any risk. Such management could fail should the doctor move, and the panel has a duty to ensure that any risk posed by the doctor is managed wherever, or in whichever specialty, he or she may choose to practise within the United Kingdom. In those circumstances, panels should give full consideration to extending restrictions to the doctor's registration as a whole.

- In order to comply with Section 41A of the Medical Act 1983, as amended, panels should ensure that a timescale in which any order imposed will be reviewed is set out in the determination.
- The QAG wanted to share the following extract from an IOP determination. It considered that the two paragraphs represent good examples of reasoning for conditions being unsuitable and giving reasons for the appropriate period of the order:

“The Panel first addressed whether or not conditions would be sufficient to protect patients and the public interest. The Panel notes that the performance concerns raised range across a number of different areas and raise concerns about your understanding of fundamental and basic areas of Good Medical Practice. In view of these wide ranging and serious concerns the panel could not formulate appropriate and workable conditions to safeguard patient safety and the wider public interest.

...

In deciding on the period of eighteen months, the panel has taken into account the fact that the GMC investigation is still at an early stage, that you have agreed to undertake a GMC health assessment and the time needed for such an assessment to be carried out, a report to be produced, and for consideration of performance concerns that have been raised in relation to your clinical practice.”

### **Fitness to Practise Panel Determinations**

- We have seen examples of panels summarising their opinion of the evidence of the witnesses heard during the course of a hearing. In some cases, witnesses have been described variously as ‘credible’, ‘honest’ or ‘cogent’, or a combination thereof, within the same determination. We would encourage panels to give reasons for accepting or rejecting the evidence of witnesses and to describe those witnesses it believes in a consistent way.
- We have had a number of queries and comments in your feedback about the scheduling of FtP hearings, particularly one-day review hearings. Many panels have commented that a single day was not sufficient to deal with the case in full. This is being considered as part of the Lean review, an MPTS/GMC wide project whose aim is to streamline and improve our processes.

Kind regards

A handwritten signature in black ink, appearing to read "David Pearl". The signature is stylized with a large, sweeping initial "D" and a long horizontal line extending from the end of the name.

His Honour David Pearl  
Chair of Medical Practitioners Tribunal Service