

26 February 2015

To: All Panellists  
Legal Assessors

Cc: Panel Secretaries

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

As you know the QAG meets monthly to review decisions of the Fitness to Practise Panels and Interim Orders Panels and we would like to share some of the learning points we have identified over the past few months. We are reassured by the high standard overall of the determinations which we have reviewed and hope that sharing this feedback will assist you all in the drafting of decisions.

### **Fitness to practise**

#### **Re-convening hearings**

Where hearings need to be adjourned we have previously clarified that priority must be given to arranging reconvened dates at the earliest opportunity taking into consideration the doctor's and the panel's availability. Where the legal assessor is unavailable at this earliest date, the panel should not further delay consideration of the case. The MPTS will make arrangements for an alternative legal assessor to provide support to the panel.

### **Warnings**

Where issuing a warning, consideration should be given to the Guidance on Warnings and the template for drafting [warnings](#). As the warning remains part of the doctor's record for five years and is disclosable to employers after this time (on request), it is important that the purpose and meaning of the warning is sufficiently clear.

### **General points**

#### **Conditions/ Undertakings**

Further to recent queries, we can clarify that while conditions and undertakings are identical in content and therefore in their practical impact on what the doctor can or cannot do they are distinct in that undertakings are a voluntary agreement made between

the doctor and the GMC/MPTS fitness to practise panel. For undertakings the doctor agrees to limit their practice to enable remediation and the GMC case is paused to facilitate that (where they have been agreed with the Case Examiner). Conditions on the other hand involve restrictions or requirements being imposed on the doctor's registration by an MPTS interim orders or fitness to practise panel.

It therefore follows that in some circumstances where a doctor has been found to have breached undertakings, the panel may consider it appropriate (depending on the nature and context of the breach) to impose conditions and the implications of these conditions will differ from the undertakings to the extent that they involve a formal restriction of registration rather than a voluntary agreement by the doctor to limit their practice. Any undertakings may continue to remain in place even where an interim order or substantive sanction is imposed and remain in place until;

- They are varied by the Case Examiner
- They are revoked by the Case Examiner or the Case Examiner direct that they should no longer apply
- The point of a decision of referral to a FTP panel or on the outcome of the review hearing whether the matter has been referred to a panel for a review hearing.

A breach of undertakings in itself will not have the effect of bringing the undertakings to an end. We have included further guidance on undertakings.

### **On-line prescribing**

We have observed an increase in cases where on-line prescribing has been raised as a concern. Good Medical Practice paragraph 16(a) and paragraph 78 and the explanatory guidance 'Good practice in prescribing and managing medicines and devices (2013)' equally apply to on-line prescribing as they do to prescribing in person.

### **Maintaining public confidence**

A number of determinations have recently included the phrase 'maintaining public confidence in the profession *and regulator*' when providing reasons with reference to public interest.

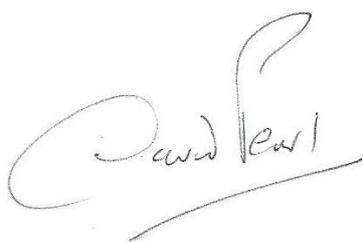
Any references to the public interest test should be accurate.

As referred to at paragraph 19 in the Indicative Sanctions Guidance, case law has indicated that public interest includes:

- protection of patients,
- maintenance of public confidence in the profession and

- declaring and upholding proper standards of conduct and behaviour.

Kind regards

A handwritten signature in black ink, appearing to read 'David Pearl', with a horizontal line underneath.

His Honour David Pearl  
Chair of Medical Practitioners Tribunal Service