

Panellist Circular



28 June 2013

To: Fitness to Practise Panellists
Interim Orders Panellists

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Updates – June 2013

Witness statements

Following changes to Rule 34 whereby panels will usually receive into evidence signed witness statements as evidence-in-chief of the witnesses concerned, panels should be given the opportunity to read the witness statements prior to the commencement of the hearing. **For any hearing commencing after 4 July 2013** (when the changes to the Rules come into effect), we suggest that panels use the first half an hour or hour of the hearing to read any witness statements that have been made available. Parties will still be asked to attend at 9:30am and counsel should use this time to take further instructions or undertake any pre-hearing actions to enable them to start promptly once the panel have read the witness statements. Where witness statements have not been produced, the panel will commence promptly at 9:30am as normal.

Determination drafting guidance

Rule 41 of the Fitness to Practise Rules states that Fitness to Practise hearings shall be held in public unless the particular circumstances of the case outweigh the public interest in holding the hearing in public. In accordance with S35B of the Medical Act, the GMC has a duty to publish the decisions of the MPTS. In those circumstances, we would ask that when panels go into private session under Rule 41, it is clearly stated within the written decision the stage at which the panel went into private session and the reasons for so doing. This is particularly important when there is no allegation that the doctor's fitness to practise is impaired by reason of adverse health.

We would also like to ask panels to discontinue the use of some standard paragraphs which appear at the conclusion of determinations, for example 'The panel will now invite

submissions from... etc'. Such paragraphs give the impression of 'minutes' and we wish to encourage determinations to be drafted as reasoned decisions.

IOP test

We would like to remind IOP panels that the three limbs of the test, ie whether it is necessary to impose an order to protect patients, in the public interest or in the doctor's own interest, should be applied consistently throughout the determination. Furthermore, we wish to encourage thought to be given to which limbs of the test are relevant in the particular circumstances of the case. For example, if the case does not relate to the health of the doctor, then it is likely that it will not be necessary to impose an order in the doctor's own interests, save for certain exceptional circumstances.

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