

Tribunal Circular

21 July 2020

To: MPTS Associates

CC: Tribunal Clerks
Medical Defence Organisations
Employer Liaison Advisers

Seventh floor
St James's Buildings
79 Oxford Street
Manchester
M1 6FQ

0161 923 6263
enquiries@mpts-uk.org
www.mpts-uk.org

Directing reviews in medical practitioners tribunal (MPT) hearings

Reviews directed by MPTs

At the sanction stage in new and review MPT hearings, where suspension or conditions have been imposed, the MPT may direct that a review hearing is held prior to expiry of the sanction imposed¹.

Reviews are an important part of the tribunal process. They provide time for a doctor to address any deficiencies identified by the MPT and an opportunity for the doctor to demonstrate to the reviewing MPT that their fitness to practise is no longer impaired.

It is important for MPTs to consider the power to direct a review in every case where suspension or conditions are imposed, and to explain clearly the decision reached.

Cases referred for review by the GMC

MPT members should also be aware that the GMC has the power² to direct that a review hearing is held where an MPT has not done so. In such circumstances, the MPTS must arrange for a review hearing to be held. There is no power for either the MPTS or an individual MPT to re-examine whether or not to hold a review hearing once it has been directed.

Sanctions Guidance and directing review hearings

Paragraph 163 of the [Sanctions Guidance](#) confirms the importance of no doctor being allowed to resume unrestricted practice following a period of conditional registration or suspension, unless the tribunal considers that they are safe to do so.

¹ Sections 35D(4A) and (11A) of the Medical Act 1983 (as amended)

² Sections 35D (4B), (9A) and (11B)

Paragraph 164 of the *Sanctions Guidance* states (emphasis added):

“In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

- a) they fully appreciate the gravity of the offence*
- b) they have not reoffended*
- c) they have maintained their skills and knowledge*
- d) patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.”*

Paragraph 165 of the *Sanctions Guidance* explains:

“Should there be a change in circumstances in the future and a review hasn’t been directed, under section 35D (4B and 11B) of the Medical Act 1983, the registrar may, at any time before the expiry of the sanction, refer the case back to the MPTS for a review hearing. The reasons given for not directing a review might help inform any decision under this section.”

For these reasons, as noted by paragraph 166 of the *Sanctions Guidance*, it is important that MPTs fully explain any instance where they decide not to direct a review hearing.

Practical considerations

When considering whether to direct a review hearing to take place, the following points will be relevant to the MPT’s deliberations:

- ▶ The *Sanctions Guidance*, while only advisory in nature, recommends that review hearings are considered in **all** cases and that a review should be directed unless the MPT is satisfied that the doctor will be fit (in a new MPT hearing) or is fit (in a review hearing) to resume unrestricted practice at the end of the sanction period. The MPT’s findings regarding the doctor’s level of insight and remediation are likely to be relevant to this assessment.
- ▶ If it would assist the MPT in its deliberations, it is appropriate for the MPT to invite comments from parties on the issue of whether a review hearing ought to be directed if a sanction is imposed. Where required, such clarifications should usually be sought before retiring in camera on sanction.
- ▶ In determining the length of any sanction and whether to direct that a review hearing takes place, the MPT will need to bear in mind whether the doctor will have been provided with sufficient time to remedy the deficiencies identified.

Kind regards
Tribunal Development Section
0161 240 7292
tribunaldevelopmentsection@mpts-uk.org