

**To:** Tribunal Members  
Legal Assessors

**Copy:** Tribunal Clerks

**Date:** 23 March 2017

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

Further to my first meetings as Chair of the Quality Assurance Group, I consider that it will continue to be beneficial if we share with you the learning points that we identify from our monthly reviews of Medical Practitioners and Interim Orders Tribunals determinations.

#### ***Revocations***

Where, at a review hearing, a doctor's fitness to practise is considered no longer impaired, the most appropriate course will usually be for the tribunal, in accordance with S35 D (5)(d) of the Medical Act 1983, to revoke any existing direction for suspension or registration with immediate effect. However, in the limited number of cases where a tribunal considers it necessary for the existing direction to remain in place until the date it is due to expire, therefore not invoking the options in S35D, you are reminded that adequate reasons must be given to support that decision.

#### ***Extending current sanctions when adjourning part-heard***

Where a hearing adjourns part-heard and the tribunal needs to make arrangements to reconvene, we remind you of the necessity to take account of the 28 day appeal period when determining the duration of time for which the current sanction is to be extended.

#### ***Multi-factorial hearings***

We reminded you in the [QAG learning points circular](#) that we issued on 16 December 2016, that S35D (6) Medical Act 1983 states that *'In a health case or language case....a Medical Practitioners Tribunal may give a direction in relation to a person whose registration has been suspended under this section extending his period of suspension indefinitely where – 1 (a) the period of suspension will, on the date on which the direction takes effect, have lasted for at least two years'*. We consider that

the Act explicitly restricts the outcome of indefinite suspension to cases in which the only head(s) of impairment found present are health and/or language and that it does not apply to multi-factorial cases where the maximum period of suspension that can be imposed is 12 months.

### *Dishonesty*

When deciding whether or not a doctor acted dishonestly, we consider that the appropriate test is 'whether according to the standard of reasonable and honest **people** what was done was dishonest'; measuring the standard in terms of 'doctors' rather than 'people' could imply that there is a different standard for doctors compared to the general public. In addition, we remind you that it is not always necessary for the tribunal to ask for or be given the two stage Ghosh direction when considering matters of dishonesty – see Singh J's observation in [Uddin v GMC \[2012\] EWHC 2669 Admin](#) (paragraph 31).

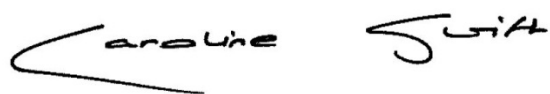
### *Case Manager directions/costs award*

We would like to remind you that, under Rule 16A(2)(c), tribunals now have the power to make a costs award where a rule or case management direction has not been complied with and the conduct of the non-compliant party is thereby found by the tribunal to be unreasonable.

This power can be exercised following an application by either party or of the tribunal's own volition and we would ask tribunals to ensure that they consider using this power, when appropriate, to support the effective case management of the hearing.

I hope that these learning points are helpful and would welcome any discussion on matters that are contained within them.

Yours sincerely

Handwritten signature of Caroline Swift in black ink.

Dame Caroline Swift  
**MPTS Chair**