

To: Tribunal Members
Legal Assessors

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Date: 23 March 2017

Quality Assurance Group (QAG) – Learning Points regarding conditions and undertakings

Further to our recent review of Medical Practitioners and Interim Orders Tribunals determinations at our Quality Assurance Group meetings, we wish to share with you some learning points that were identified.

Undertakings

We wish to remind you that undertakings cease to become effective when a doctor has failed to comply with a previously agreed undertaking and the Case Examiner makes a decision to refer the breach to a tribunal (Rule 10 (8)).

It follows that to impose a condition that a doctor must comply with undertakings confuses the voluntary nature of undertakings with the need to impose conditions. Tribunals should therefore carefully reflect on the appropriate order or sanction in such cases where a breach of undertakings has occurred.

Conditions

When considering if the imposition of conditions is the appropriate sanction in a case where the doctor has in the past demonstrated limited engagement with the investigation (e.g. they may have refused to undergo an assessment), it is likely to be helpful if the tribunal members include in their reasoning any considerations as to whether, and if so why, they feel that the doctor is likely to engage at this stage and comply with the conditions imposed.

Review hearings where pre 2015 conditions have been in place

Where review hearings occur for doctors whose conditions were imposed prior to the 2015 conditions bank, we clarified in the [Panellist Circular – Transition arrangements – moving doctors onto the new banks](#), that we issued on 29 October 2015, that it is

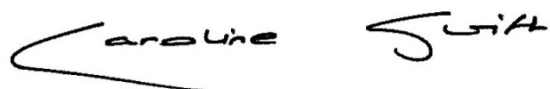
desirable to vary the doctor's restrictions to reflect the current conditions bank as these contain the restrictions that the GMC and the MPTS consider to be the most effective to protect the public and uphold confidence in the profession. Please ensure that tribunals fully reflect on the appropriate conditions bank where it is determined that conditions remain the required sanction.

Review hearings where conditions have been breached

We remind you that, where conditions have been breached, tribunals conducting a review do not have the express power to determine misconduct or impairment in response to the breaches before considering sanction. When a review tribunal has made a decision under Rule 22(1)(f) as to whether the doctor is impaired and as to whether the doctor has breached conditions, the Rules then provide for the tribunal to consider sanction under Rule 22(1)(g), without considering either misconduct or impairment in relation to the breach.

I hope you find these points helpful.

Yours sincerely

Handwritten signature of Caroline Swift in black ink. The signature is written in a cursive style, with 'Caroline' on the left and 'Swift' on the right.

Dame Caroline Swift
MPTS Chair