

Guidance for MPTS Tribunals

Section two: IOT hearings

Interim orders tribunals decide if a doctor's practice should be restricted while an investigation takes place.

This guidance explains how decisions will be made by tribunals at an interim order tribunal hearing. It should be read alongside the Guidance introduction and Guidance on procedural matters.

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General introduction

1. The role of an interim orders tribunal (IOT) is to consider whether a doctor's registration should be restricted on an interim basis. This is usually done to protect the public or in the public interest while concerns or allegations about a doctor's fitness to practise are being considered. An IOT can also put an interim order in place where it is in the doctor's own interests.
2. An IOT can make an interim order for a period of up to 18 months. It may impose conditions on, or suspend, the doctor's registration.
3. When deciding if an interim order is needed the IOT will:
 - ▶ decide if one or more parts of the test for imposing an interim order is met, and where it is,
 - ▶ decide what is the proportionate interim order to make.
4. To decide if one or more parts of the test for imposing an interim order is met, the IOT will assess the risk arising from the information referred and decide if it is necessary to restrict the doctor's registration on an interim basis while the concern or allegation is being considered. Where the IOT concludes it is necessary to restrict the doctor's registration, they will need to decide what the proportionate response is. This includes deciding on the type of interim order and the length of time the order should be made for.
5. Further information about the approach taken to deciding if an interim order is needed can be found in Part A of this section of the guidance on [Considering interim orders](#).
6. Where an interim order has been imposed, it must be reviewed by an IOT at specific intervals. Further information about the approach taken to reviewing an interim order can be found in Part B of this section of the guidance on [Reviewing interim orders](#).
7. A medical practitioners tribunal (MPT) can impose an interim order during an MPT hearing. They can also revoke or vary any condition imposed under an interim order, replace an interim order with a different interim order, or simply revoke an existing interim order that has previously been imposed.¹
8. Hearings to consider an interim order are heard in private, although they may be heard in public in certain circumstances. During an MPT hearing, an interim order can be revoked in public.

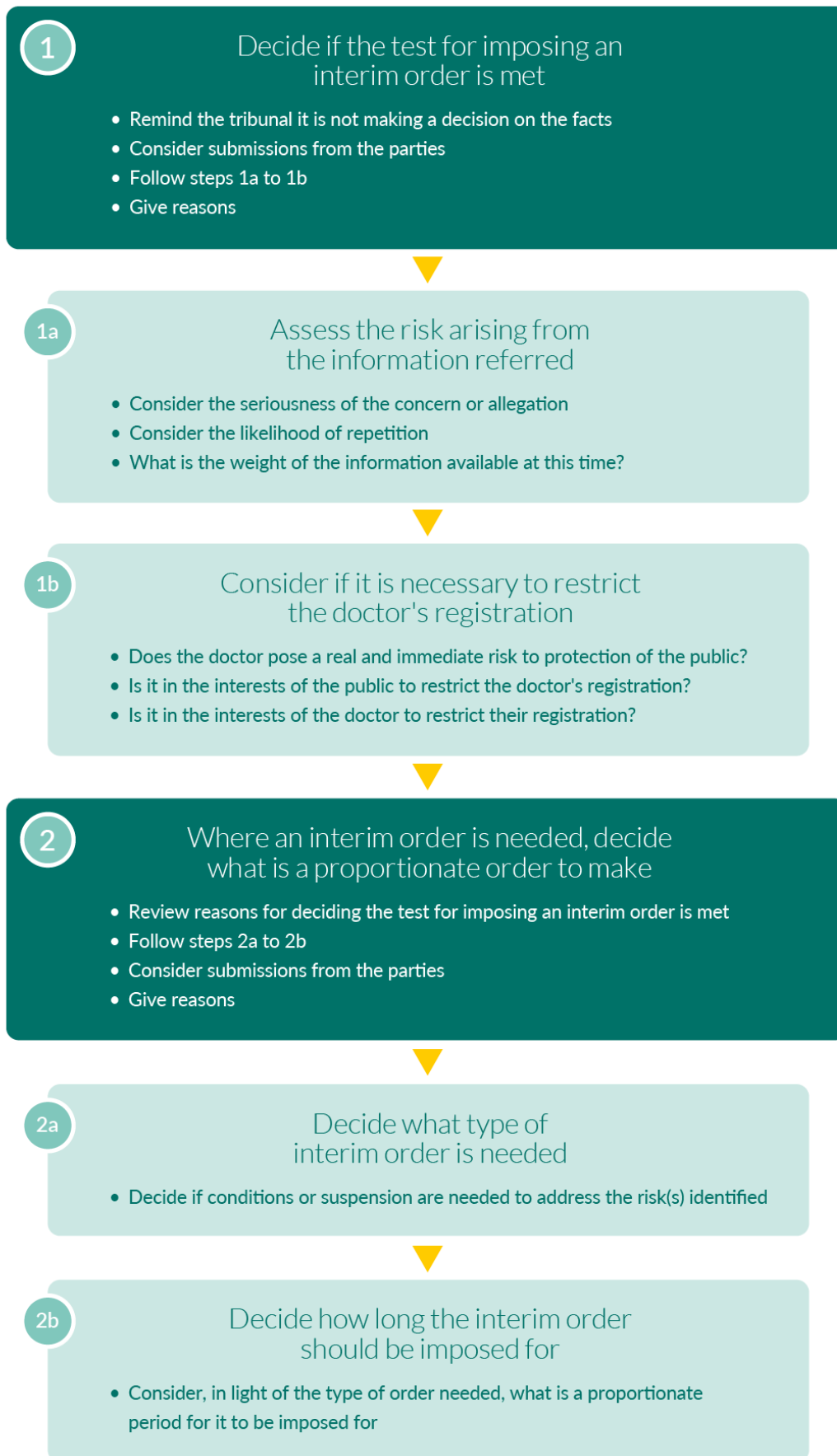
¹ Section 41A(3) of the Medical Act 1983 (as amended)

Part A: Considering interim orders

Introduction

1. The purpose of this Part of Section two: IOT hearings is to support fair and consistent decision making by tribunals in relation to whether an interim order is needed and where it is, what the proportionate order is. It applies to IOTs and also MPTs, where the MPT is considering imposing an interim order during a hearing that is being held to determine an allegation that a doctor's fitness to practise is impaired.
2. The process for considering an interim order that a tribunal should follow is illustrated in the diagram below.
3. Whilst the diagram represents each key consideration for the tribunal as a step, in practice the parties will submit evidence and make one set of submissions on whether it is necessary to make an interim order and if so, the type and length. Having then considered all relevant matters, the tribunal will provide one written decision.

Process of decision making for considering an interim order



Process of decision making for considering an interim order

1. Decide if the test for imposing an interim order is met
 - ▶ Remind the tribunal it is not making a decision on the facts
 - ▶ Consider submissions from the parties
 - ▶ Follow steps 1a to 1b
 - ▶ Give reasons
- 1a. Assess the risk arising from the information referred
 - ▶ Consider the seriousness-of the concern or allegation
 - ▶ Consider the likelihood of repetition
 - ▶ What is the weight of the information available at this time?
- 1b. Consider if it is necessary to restrict the doctor's registration
 - ▶ Does the doctor pose a real and immediate risk to protection of the public?
 - ▶ Is it in the interests of the public to restrict the doctor's registration?
 - ▶ Is it in the interests of the doctor to restrict their registration?
2. Where an interim order is needed, decide what is a proportionate order to make
 - ▶ Review reasons for deciding the test for imposing an interim order is met
 - ▶ Follow steps 2a to 2b
 - ▶ Consider submissions from the parties
 - ▶ Give reasons
- 2a. Decide what type of interim order is needed
 - ▶ Decide if conditions or suspension are needed to address the risk(s) identified
- 2b. Decide how long the interim order should be imposed for
 - ▶ Consider, in light of the type of order needed, what is a proportionate period for it to be imposed for

The test for imposing an interim order

4. The test for imposing an interim order is whether it is necessary for the protection of the public or is otherwise desirable in the interests of the public and/or in the interests of the doctor.²

The protection of the public

5. In the context of interim action, an order may be necessary for the protection of the public where the concern about the doctor's fitness to practise indicates there is a real and immediate risk to patient safety. Most often this will arise from concerns about a doctor's behaviour, performance, or the impact of a health condition on their ability to provide safe care.

In the interests of the public

6. The interests of the public incorporates three elements:
 - a. the protection of patients and the public generally from a doctor whose fitness to practise may be impaired
 - b. the maintenance and promotion of public confidence in the profession, and/or
 - c. the maintenance and promotion of proper professional standards and conduct for doctors.
7. There is some overlap between the protection of the public and (a) given the impact on patient safety. However, (b) and (c) are also likely to be relevant in cases involving serious clinical concerns, particularly if the act or omission is persistent or repeated, or the circumstances surrounding the concern have attracted widespread public concern. This is because public confidence in the profession and the maintenance of professional standards and conduct would be undermined if the doctor's registration was not restricted due to the serious nature of the risk to patients.
8. Where an interim order is needed for the protection of the public because there is a real and immediate risk to patient safety, then it is likely that imposing it will also be in the interests of the public.
9. In some instances, a doctor may not appear to pose a real and immediate risk to patient safety, but an interim order may still be needed on the basis that they pose a risk to public confidence. This is because public confidence in the profession may be seriously damaged if the doctor is allowed to continue in unrestricted practice while the matter is being considered. A risk to public confidence may arise from behaviour or poor performance in the doctor's working life but can also arise from something unrelated to the doctor's

² Section 41A(1) of the Medical Act 1983 (as amended)

practice, such as a criminal charge or other serious alleged misconduct in their private life.

In the interests of the doctor

10. An interim order may be needed where an assessment is made that it is not in the doctor's interests to hold unrestricted registration. This may be because the doctor lacks insight into the impact of a health condition and how it is affecting them.

Step 1: decide if the test for imposing an interim order is met

1

Decide if the test for imposing an interim order is met

- Remind the tribunal it is not making a decision on the facts
- Consider submissions from the parties
- Follow steps 1a to 1b
- Give reasons

- ▶ Remind the tribunal it is not making a decision on the facts
- ▶ Consider submissions from the parties
- ▶ Follow steps 1a to 1b
- ▶ Give reasons

Deciding if the test for imposing an interim order is met

11. At an IOT hearing, the IOT is not making findings of fact, resolving disputes of fact, or deciding whether the doctor's fitness to practise is impaired. The role of the IOT is to consider the information referred to it and assess whether there is a risk arising from that information that means it's necessary to take interim action on the doctor's registration.
12. However, during an MPT hearing, the MPT may have already heard evidence or made factual findings at the point they are considering whether the test for imposing an interim order is met. The need for an interim order should be assessed by considering all relevant information, including information arising from the specific stage of the hearing that the case has reached.
13. When considering whether the test for imposing an interim order is met, the tribunal should consider any submissions received from the parties on the question of whether, given the circumstances of the case, it is necessary for the tribunal to impose an order.

14. Whether an interim order is needed will depend on the individual circumstances of the case and is a matter for the tribunal's judgment. The tribunal should provide reasons for their decision, and in doing so explain how it relates to any submissions made by the parties.

Step 1a: assess the risk arising from the information referred

1a

Assess the risk arising from the information referred

- Consider the seriousness of the concern or allegation
- Consider the likelihood of repetition
- What is the weight of the information available at this time?

- ▶ Consider the seriousness-of the concern or allegation
- ▶ Consider the likelihood of repetition
- ▶ What is the weight of the information available at this time?

Assess the risk arising from the matter referred

15. To assess the risk arising from the matter referred the tribunal should consider:
- ▶ the seriousness of the concern or allegation
 - ▶ the likelihood of repetition, and
 - ▶ the weight of the information available.

The seriousness of the concern or allegation

16. When deciding if there is a risk arising from the information referred, the seriousness of the concern or allegation will need to be considered. This involves having regard to the nature of the concern or allegation, the extent of any departure from the professional standards and/or the impact of the doctor's health condition on their ability to practise safely. It also means looking at any specific factors that may increase seriousness.
17. Concerns or allegations about a doctor's fitness to practise can fall on a spectrum of seriousness. Certain types of behaviour or poor performance represent such a significant departure from the professional standards expected that they have a starting point of a high level of seriousness. This is usually because the departure from the professional standards amounts to an abuse of, or interference with an individual's dignity, and/or breaches the

fundamental tenets of the profession to act with honesty, integrity and uphold the law.

18. The following factors may be seen in any type of case and where present, will aggravate seriousness and increase where on the spectrum of seriousness the concern or allegation lies:
 - ▶ the behaviour or poor performance was persistent or repeated
 - ▶ relevant fitness to practise history
 - ▶ the behaviour was directed towards, or the poor performance involved interaction with, a person with impaired capacity or a person with a particular vulnerability
 - ▶ premeditated behaviour
 - ▶ predatory behaviour
 - ▶ abuse of professional position
 - ▶ a reckless disregard for patient safety or professional standards
 - ▶ undermining a system designed to protect the public
 - ▶ undermining collaborate working
 - ▶ putting their own interests before those of patients, and/or
 - ▶ an attempt to hide and/or avoid taking responsibility for behaviour or poor performance.
19. The guidance in the [Introduction](#) section should be referred to, to support the tribunal to reach a view on seriousness.
20. Once this has been done, the tribunal's view on seriousness should be used to inform their decision on whether one or more parts of the test for imposing an interim order is met. Concerns or allegations which fall at the higher end of the spectrum of seriousness will usually present one or more risks that require an interim order to be imposed.
21. A doctor's failure to comply with a direction to undergo an assessment of their performance, health or knowledge of the English language, or a significant delay in their compliance with an assessment without a reasonable explanation, is not in itself a factor to consider when reaching a view on the seriousness of the concern or allegation. However, a failure or delay can be relevant to the tribunal's decision on whether the concern or allegation presents a real and immediate risk to protection of the public, the public interest, or the interests of the doctor.

The likelihood of repetition

22. When deciding if there is a risk arising from the information referred, the likelihood of repetition will need to be considered.
23. The following may be relevant to the tribunal's assessment of the likelihood of repetition:

- ▶ the number of incidents or departures from the professional standards giving rise to the concern or allegation
- ▶ the nature of the doctor's health condition and whether any impact it is having on the doctor is being managed
- ▶ the recency of the circumstances giving rise to the concern or allegation,
- ▶ any relevant fitness to practise history, and/or
- ▶ the doctor's response to the concern or allegation and whether they have shown insight and taken steps to remediate.

The weight of the information available

24. The weight of the information available is relevant to the tribunal's assessment of risk. When assessing risk, an IOT must remember that it is not making findings of fact, resolving disputes of fact, or deciding whether the doctor's fitness to practise is impaired.
25. At an IOT hearing, in addition to the information referred by the GMC, the doctor can provide documentary evidence for consideration. The IOT may admit any evidence it considers fair and relevant to the issue of whether an interim order is necessary. However, oral evidence must not be given at an IOT hearing unless the IOT considers that oral evidence is necessary to enable it to reach a decision.
26. As a referral to an IOT hearing can be made by the GMC at any point after an investigation has been opened, the extent of the information available to the tribunal may vary considerably.
27. In all cases, the weight to attach to the information available is a matter for the tribunal's judgment. However, when assessing the risk associated with the concern or allegation, the tribunal may consider it is appropriate to give greater weight to objective evidence that's available, such as the outcome of an assessment of the doctor's performance, health or knowledge of English, or to an expert report.
28. When a doctor is going through criminal proceedings, the level of weight attached to the information available should reflect both the stage of the criminal process the matter is at and the seriousness of the underlying behaviour or performance. This means greater weight should usually be given to a certificate of conviction than to a charge, and similarly greater weight may be given to a charge than an arrest.
29. Tribunals should be mindful that there are differences between the charging system in England, Wales and Northern Ireland compared to Scotland. In England and Wales, the Crown Prosecution Service (CPS) authorise the police to charge the suspect, with the Public Prosecution Service (PPS) undertaking this role in Northern Ireland. However, in Scotland, the police can charge an individual and then send their report to the Crown Office and Procurator Fiscal

Service (COPFS) who will then decide whether to prosecute or ask the police to obtain more evidence.

30. This means a charge in Scotland potentially carries less weight than a charge in England, Wales and Northern Ireland because the decision on whether to prosecute takes place after the individual is charged. In these cases, the tribunal should enquire as to the present status of the charge; whether it has been approved by the COPFS or remains with the police.
31. However, the considerations as to whether an interim order is necessary is the same in all criminal cases and the tribunal must consider the individual features of the case and the particular facts and seriousness of the criminal charges.
32. Where there is evidence of insight, the nature, quality and timing will be relevant to how much weight the tribunal attaches to it. And remedial steps that have been completed will usually carry greater weight than actions started by a doctor that have not yet concluded. However, evidence of insight and remediation will usually have a greater impact in cases where the concern or allegation falls at the lower end or mid-range of the spectrum of seriousness.

Assessing risk where it is alleged a doctor has breached conditional registration imposed by an MPT

33. Where a referral has been made to an IOT on the basis the GMC considers there is evidence to suggest a doctor has breached conditions currently imposed on their registration following an MPT hearing, the tribunal will first need to decide whether they are satisfied, on the balance of probabilities, that a breach has in fact occurred.
34. Some, or all, of the following factors are relevant to assessing the seriousness of a breach of conditional registration and any associated risk:
 - ▶ if the breach is a one-off or a repeated occurrence
 - ▶ whether patient safety has been compromised, and it places patients at risk of harm
 - ▶ if there appears to have been a wilful disregard of the conditions imposed on the doctor's registration, and/or
 - ▶ whether the doctor accepts a breach has occurred, the reasons for it and the level of insight shown about the impact and likely consequences.

Step 1b: consider if it is necessary to restrict the doctors registration

1b

Consider if it is necessary to restrict the doctor's registration

- Does the doctor pose a real and immediate risk to protection of the public?
- Is it in the interests of the public to restrict the doctor's registration?
- Is it in the interests of the doctor to restrict their registration?

- ▶ Does the doctor pose a real and immediate risk to protection of the public?
- ▶ Is it in the interests of the public to restrict the doctor's registration?
- ▶ Is it in the interests of the doctor to restrict their registration?

Is it necessary to restrict the doctor's registration?

35. To decide whether it is necessary to restrict the doctor's registration, the tribunal should consider whether one or more parts of the test for imposing an interim order are met. The test for imposing an interim order is whether it is necessary for the protection of the public or is otherwise desirable in the interests of the public and/or in the interests of the doctor.³
36. The tribunal should be mindful that where the risk identified relates to the protection of the public, the doctor's registration can only be suspended where it is 'necessary'. However, there is no such qualification on suspension where it is desirable in the public interest to maintain public confidence.
37. To be proportionate when considering the need for an interim order, the tribunal will need to consider any risk(s) to the protection of the public, the public interest and/or the interests of the doctor themselves and weigh and balance these against the adverse consequences that interim action has on the doctor.
38. When considering whether it is necessary to make an interim order, the tribunal cannot accept any undertakings given by the doctor as it has no power to accept them and they are, in any event, unenforceable.

³ Section 41A(1) of the Medical Act 1983 (as amended)

Does the doctor pose a real and immediate risk to the protection of the public?

39. In the context of interim action, an order may be necessary for the protection of the public where the concern or allegation about the doctor's fitness to practise indicates there is a real and immediate risk to patient safety. Most often this will arise from concerns about a doctor's behaviour, performance, or the impact of a health condition on their ability to provide safe care.
40. The seriousness of the concern, allegation or breach of conditional registration imposed by an MPT, will inform the tribunal's view on whether there is any real and immediate risk to patient safety if the doctor were to continue to hold unrestricted registration while the concern is investigated, or the allegation is decided.
41. When considering whether there is any real and immediate risk to patient safety, the likelihood of the behaviour or poor performance giving rise to the concern or allegation being repeated will be relevant. The nature of a health condition and whether any impact it is having on the doctor is being effectively managed, is also a relevant consideration.
42. To decide if the doctor poses a real and immediate risk to patient safety, the tribunal should also refer to the guidance in the [specific case types section](#).

Is it in the interests of the public to restrict the doctor's registration?

43. The interest of the public incorporates three elements:
 - a. the protection of patients and the public generally from a doctor whose fitness to practise may be impaired
 - b. the maintenance and promotion of public confidence in the profession, and/or
 - c. the maintenance and promotion of proper professional standards and conduct for doctors.
44. There is some overlap between the protection of the public and (a) given the impact on patient safety. However, (b) and (c) are also likely to be relevant in cases involving serious clinical concerns, particularly if the act or omission is persistent or repeated, or the circumstances surrounding the concern have attracted widespread public concern. This is because public confidence in the profession and the maintenance of professional standards and conduct would be undermined if the doctor's registration was not restricted due to the serious nature of the risk to patients.
45. Where an interim order is needed for the protection of the public because there is a real and immediate risk to patient safety, then it is likely that

imposing it will also be in the interests of the public.

46. In some instances, a doctor may not appear to pose a real and immediate risk to patient safety, but an interim order may still be needed on the basis that they pose a risk to public confidence. This is because public confidence in the profession may be seriously damaged if the doctor is allowed to continue in unrestricted practice while the matter is being considered. A risk to public confidence may arise from behaviour or poor performance in the doctor's working life but can also arise from something unrelated to the doctor's practice, such as a criminal charge or other serious alleged misconduct in their private life.
47. When considering whether an interim order is needed in the interests of the public, the tribunal should ask themselves whether trust in the profession is likely to be seriously damaged if the doctor continues to hold unrestricted registration while the concern is being investigated or pending the allegation or outcome of a breach of conditional registration being determined.
48. A doctor practising in breach of a sanction put in place to protect the public will usually have the effect of undermining the public's trust in the profession and therefore, pose a risk to the public interest.
49. To decide if it is in the interests of the public to restrict the doctor's registration, the tribunal should also refer to the guidance in the [specific case types section](#).

Is it in the interests of the doctor to restrict their registration?

50. When considering whether an interim order is needed in the interests of the doctor, the tribunal will need to consider if it is in the doctor's own interests to hold unrestricted registration. When deciding this, the doctor's insight into the concern or allegation will be relevant, particularly where it relates to the impact of a health condition.
51. To decide if it is in the interests of the doctor to restrict their registration, the tribunal should also refer to the guidance in the [specific case types section](#).

The relevance of whether a doctor holds a licence to practise

52. Interim orders attach to a doctor's registration and not their licence.
53. Although doctors require a licence to undertake activities involving contact with patients, the fact that a doctor does not currently have a licence does not replace the role of the tribunal in ensuring patient safety.

54. Submissions may be made suggesting that as the doctor is currently unlicensed, there are no patient safety issues, and that interim action is therefore not required. However, it is important to remember that:
- ▶ all registered doctors are expected to comply with [Good medical practice](#), regardless of whether they hold a licence
 - ▶ a registered doctor is entitled to a licence to practise unless their registration is currently suspended, and therefore the absence of a licence does not provide protection for patients, and
 - ▶ taking action on a doctor's registration in circumstances where there may be impairment of the doctor's fitness to practise which poses a real risk to members of the public or may adversely affect the interests of the public or interests of the doctor will be important in maintaining public confidence and the integrity of the medical register.
55. If a doctor's registration is suspended by a tribunal the doctor's licence will automatically be withdrawn. If conditions are imposed, the doctor will continue to be entitled to hold a licence to practise but will be expected to comply with any conditions.
56. When considering whether to impose an interim order the tribunal should bear in mind that if it does not impose an interim order on a doctor that does not currently have a licence to practise, that doctor may later successfully apply for a licence and if granted, they would not be subject to any restrictions that would otherwise be needed to protect patients, or the wider public interest.

The tribunal's decision on whether an interim order is needed

57. The tribunal should give clear and adequate reasons for its conclusion on whether an interim order is needed to enable the doctor to understand their decision. In doing so, the tribunal must provide a clear explanation about their assessment of risk based on the information available at the time, and state which parts of the test for imposing an interim order have been met.
58. The tribunal should also explain how their decision relates to any submissions received from the parties.

Step 2: where an interim order is needed decide what is a proportionate order

2

Where an interim order is needed, decide what is a proportionate order to make

- Review reasons for deciding the test for imposing an interim order is met
- Follow steps 2a to 2b
- Consider submissions from the parties
- Give reasons

- ▶ Review reasons for deciding the test for imposing an interim order is met
- ▶ Follow steps 2a to 2b
- ▶ Consider submissions from the parties
- ▶ Give reasons

Deciding what is a proportionate order to make

59. Where a tribunal concludes that an interim order is needed, they will need to decide what the proportionate response is. This includes deciding on the type of interim order and the length of time the order should be made for.
60. The tribunal should review their reasons for deciding that the test for imposing an interim order is met and consider any submissions that have been made by the parties on the appropriate outcome.
61. In making its decision, the tribunal must carefully consider the proportionality of its response in dealing with the risk(s) identified and the adverse consequences of any action taken on the doctor's own interests to decide what is required but not more than necessary. This will include considering if conditions are sufficient to mitigate the risk(s) identified, rather than suspension.
62. The type of interim order needed will depend on the individual circumstances of the case and is a matter for the tribunal's judgment. The tribunal should provide reasons for their decision, and in doing so explain how it relates to any submissions made by the parties.

Step 2a: decide what type of interim order is needed

- ▶ Decide if conditions or suspension are needed to address the risk(s) identified

2a

Decide what type of interim order is needed

- Decide if conditions or suspension are needed to address the risk(s) identified

Types of interim orders

63. A tribunal can impose an interim order of conditions or suspension on a doctor's registration.

Interim conditions

64. Conditions restrict a doctor's ability to practise or require them to do something.
65. Conditions must be appropriate, workable and measurable:
- ▶ to be **appropriate**, interim conditions must address the risk(s) identified to the protection of the public, the interests of the public and/or the doctor themselves
 - ▶ to be **workable**, they must be capable of producing the desired result of addressing the risk(s) identified and the tribunal must be satisfied the doctor can reasonably be expected to, and will, comply with them, and
 - ▶ to be **measurable**, individual conditions must be described in specific terms. This is important to ensure the doctor knows what is required of them and so their compliance with the interim conditions can be monitored.
66. The following may be relevant to the tribunal deciding if they are satisfied that a doctor will comply with interim conditions:
- ▶ whether the doctor has complied with any undertaking(s) given to the GMC or any conditions previously imposed on their registration, and
 - ▶ the doctor's fitness to practise history, if any.
67. Interim conditions should be drawn from the suite of conditions detailed in the [interim conditions bank](#). The wording of interim conditions in the bank should be applied unless, unusually, it is necessary to amend or add to them,

considering the individual circumstances of the case.

68. Interim conditions should:
- a. be adequately defined to minimise opportunities for misinterpretation
 - b. be directed at the doctor and not at other parties
 - c. be capable of being complied with by the doctor, and
 - d. enable breaches to be readily identified.
69. Sometimes evidence is provided that a doctor's responsible officer (RO), employer, or another relevant body, will not support certain interim conditions if they were to be put in place. However, 'workable' should not be considered as being whether the doctor's place of work is able to support the condition(s), but simply that the condition(s) are workable to address the risk identified. Any interim conditions imposed on the doctor's registration should therefore be based on the tribunal's assessment of what restrictions are required to address the risk(s) identified as opposed to what is required for, or by, a specific place of work.
70. Nevertheless, where alternative interim conditions can be identified that still adequately address the risk(s), consideration can be given to putting those in place instead. However, where they can't be, the tribunal should impose the interim conditions they considered to be necessary to address the risk(s). This is provided they are still considered to be generally workable, despite the fact they may not be supported by the doctor's RO, current employer or relevant body, as it is possible the doctor may be able to work elsewhere.
71. A lesser action than that which is considered necessary to address the immediate risk(s) should not be imposed simply because certain interim conditions may not be supported by a specific body.
72. Interim conditions may be proportionate in cases where there are failings in identifiable areas of the doctor's practice that require temporary restrictions to be imposed, or require the doctor to take specific action, and where the doctor would not put patients or themselves at harm, either directly or indirectly, by having conditional registration.
73. In very rare cases, the tribunal may consider it necessary to impose interim conditions which would restrict the doctor's right to freedom of expression.⁴ Where this is the case, to decide whether an interim order of conditions is proportionate in a freedom of expression case and in other specific case types, the tribunal should refer to the guidance in the [specific case types section](#).

⁴ Under Article 10 of the ECHR

74. The tribunal should be mindful that they can impose conditions on an unlicensed doctor in the same way as for a licensed doctor. Practice-related conditions may still be appropriate even though a doctor does not currently hold a licence to practise.
75. If a tribunal imposes practice-related conditions on a doctor who does not currently hold a licence to practise, such as a requirement to work under medical supervision or to undertake a course of training, under the terms of the interim order the conditions will continue to attach to the doctor's registration during any period which they are unlicensed for.
76. Should an unlicensed doctor successfully apply for a licence later, they will need to comply with any interim conditions imposed on their registration when taking up employment.

Interim suspension

77. Suspension restricts a doctor's registration and prevents them from practising during the period it is in effect. The purpose of suspending a doctor's registration on an interim basis is to remove them from practice to manage the immediate risk(s) presented to the protection of the public, the interests of the public and/or the doctor themselves.
78. Interim suspension may be proportionate in cases where some, or all, of the following factors are present:
 - ▶ interim conditions that are appropriate, workable and/or measurable cannot be identified
 - ▶ the risk(s) identified cannot be safely managed with interim conditions and interim suspension is necessary to stop the doctor from working and putting patients, others and/or themselves at risk, and/or
 - ▶ the risk(s) identified are such that although patient safety is not an issue, interim suspension is necessary in the public interest to maintain public confidence in the profession.
79. When deciding whether an interim order of suspension is proportionate, the tribunal should also refer to the guidance in the [specific case types section](#).

Step 2b: decide how long the interim order should be imposed for

2b

Decide how long the interim order should be imposed for

- Consider, in light of the type of order needed, what is a proportionate period for it to be imposed for

- ▶ Consider, in light of the type of order needed, what is a proportionate period for it to be imposed for

The length of an interim order

80. When first imposing an interim order, the tribunal must specify the length of time for which it is to remain in force. A tribunal may impose an interim order for up to 18 months.⁵
81. When considering the length of time an interim order should be imposed for, the time needed to complete the whole fitness to practise process is a relevant consideration. This will include the time needed by the GMC to gather evidence to fully assess the concern and the time needed for an allegation to potentially be listed and concluded before an MPT. For interim orders imposed during an MPT hearing or MPT review hearing process, it will include the time needed to complete that process.
82. To be proportionate when deciding the length of an interim order, the tribunal must consider the impact of the specific type of order to be imposed on the doctor, whilst still being mindful of the time needed to complete the fitness to practise process. As conditions do not prevent the doctor from working, a longer period may be justified compared to suspension. This is because suspension has a greater impact on the doctor's ability to work and demonstrate they can practise safely and effectively, including showing they have kept their knowledge and skills up to date.

The tribunal's decision on what interim order to impose

83. To enable the doctor to understand the outcome, the tribunal should give clear and adequate reasons for its decision on which type of interim order is proportionate and necessary to impose, and the length. In doing so, the tribunal should explain how their decision relates to any submissions received from the parties.

⁵ Section 41A(1) of the Medical Act 1983 (as amended)

Considering interim orders in specific case types

84. When deciding if an interim order is needed, and where it is, what type of order is a proportionate response, the tribunal should consider any specific case type guidance available, as well as the general principles that apply to all cases.
85. Specific guidance is provided for the following case types:
- ▶ Sexual misconduct
 - ▶ Dishonesty
 - ▶ Violent or abusive behaviour
 - ▶ Discrimination
 - ▶ Clinical concerns
 - ▶ Impact of a health condition
 - ▶ Insufficient knowledge of English
 - ▶ Criminal charges, convictions, cautions, court sanctions and determinations by another body responsible for the regulation of a health or social care profession, and
 - ▶ Freedom of expression.

Sexual misconduct

86. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

87. Where the concern involves sexually inappropriate behaviour towards patients or colleagues, or the doctor is under police investigation for a sexual criminal offence, particular consideration should be given to the public interest and the impact on public confidence if the doctor were to continue working unrestricted in the meantime.
- a. The following factors are likely to indicate that a case would raise significant public confidence issues if no interim action is taken:
 - information that a doctor is under investigation by police in connection to serious criminal offences such as rape or attempted rape, sexual assault or attempted sexual assault or sexual abuse of children, including accessing images of child sexual abuse
 - b. concerns that a doctor exhibited predatory behaviour in seeking or establishing a sexual or improper emotional relationship with a patient or a former patient where, at the time of the professional relationship, the patient was particularly vulnerable
 - c. concerns about a doctor's sexualised behaviour towards a patient or a colleague that fall on the higher end of the spectrum of seriousness of sexual misconduct, including those arising in a single episode, or
 - d. concerns about a pattern of sexually motivated behaviour towards patients, their relatives or colleagues.

88. There are also circumstances in which a departure from the more detailed guidance on [Intimate examinations and chaperones](#) may suggest that an interim order is needed. This includes where there is a concern that the doctor did one of the following and there is evidence the conduct was sexually motivated or had no clinical justification:
89. There are also circumstances in which a departure from the more detailed guidance on [Intimate examinations and chaperones](#) may suggest that an interim order is needed. This includes where there is a concern that the doctor did one of the following and there is evidence the conduct was sexually motivated or had no clinical justification:
- ▶ performed an examination
 - ▶ failed to obtain informed consent before undertaking an examination or procedure
 - ▶ failed to offer or arrange a chaperone for an examination in accordance with the detailed guidance
 - ▶ failed to maintain professional boundaries when treating a patient, such as by making a remark of a sexual or inappropriate personal nature, or failed to respect a patient's privacy, such as when the patient was undressing for an examination.
90. A single failure to offer a chaperone is, in and of itself, unlikely to require interim action in the absence of any information to suggest the examination was sexually motivated or inappropriate. However, persistent and repeated failures to follow the more detailed guidance on chaperones may support the need for an interim order to be imposed.
91. An interim order may also be necessary where the concern or allegation relates to the doctor having departed from the more detailed guidance on [Maintaining personal and professional boundaries](#). This will usually be the case where there is evidence to suggest a doctor has engaged in predatory behaviour towards a patient or a colleague.
92. An interim order is likely to be needed if there is information to suggest a doctor has:
- a. displayed sexual behaviour towards a patient or colleague, including any acts, words or behaviour designed to arouse or gratify sexual impulses and desires, or with the effect or purpose of causing offence, embarrassment, humiliation, distress or to exert power
 - b. pursued or engaged in a sexual relationship with a patient
 - c. pursued or engaged in an improper emotional or financial relationship with a patient, or
 - d. pursued or engaged in a sexual or improper emotional or financial relationship with a former patient where at the time of the professional relationship the patient was particularly vulnerable.

Type of interim order

93. The proportionate interim order for a tribunal to put in place in response to a sexual misconduct concern or allegation will depend on the extent of the doctor's behaviour and the impact it's assessed as having on the protection of the public, the interests of the public and/or the interests of the doctor themselves.
94. Whilst a range of behaviour can amount to sexual misconduct, the nature of the departure from the professional standards usually indicates a starting point of a high level of seriousness. Given the impact these cases will usually have on public confidence, the risk to the public interest may require consideration to be given to an interim order of suspension. This is particularly the case where the doctor has been charged by the police in connection with a serious criminal offence.
95. In cases where the behaviour is isolated or limited in nature and the risk to the protection of the public or the interests of the public is assessed as the IOT to be lower, conditions may be proportionate. In those cases, careful consideration will need to be given to the workability and effectiveness of conditions before they are imposed.
96. Sometimes, a condition requiring the doctor to only see patients in the presence of a chaperone may be appropriate. This may include where the circumstances giving rise to the concern appear to be an isolated incident in respect of a single patient that fall at the lower end of the spectrum of seriousness.
97. However, one or more of the following factors are a strong indicator that conditions requiring the use of a chaperone may not be workable or effective:
- a. any concerns that the doctor has not complied with existing chaperoning arrangements at their place of work
 - b. concerns that a doctor asked a chaperone to leave the room during an intimate examination
 - c. concerns that a doctor exhibited sexually motivated behaviour towards patients in the presence of a chaperone, or
 - d. concerns that indicate a possible pattern of behaviour of a doctor engaging or seeking to engage in a sexual or an improper emotional relationship with more than one patient. Chaperone conditions may not be fully effective in protecting patients from this type of behaviour since most contact of this nature is likely to occur in unchaperoned time, outside a consultation.
98. When considering the use of age specific chaperone conditions, the tribunal should reflect on the nature of the sexual misconduct concern or allegation. It should consider whether such conditions would adequately protect patients from predatory and opportunistic behaviour which may lead to alleged

perpetrators offending against a wide age range of patients.⁶

99. When imposing chaperone conditions, the tribunal should ensure that any such conditions make it clear whether the requirement for a chaperone applies to all consultations, including video and telephone consultations, or only those where the patient is physically present.
100. Chaperoning conditions may be less effective where the sexual misconduct concern or allegation relates to colleagues or where the concern took place outside of the clinical setting.
101. Where a doctor carries out consultations remotely, the tribunal should consider the proportionality of a chaperone condition and whether this would unduly restrict a doctor's practice. In doing so, they should carefully consider the individual circumstances of the concern or allegation to assess whether the doctor may still pose a risk to patients if the consultation is by video or telephone.
102. Whilst recordings of remote consultations can be made for teaching, training or assessment purposes, it will not usually be workable for a tribunal to impose a condition stipulating that telephone or video consultations with patients should be recorded. This is because it would require each patient to be fully informed of the reason for the recording (to comply with conditions arising from fitness to practise proceedings) and to provide clear consent which is unlikely to be feasible from a practical perspective for every consultation.

⁶ The report by the Professional Standards Authority - Sexual Misconduct In Health And Social Care: Understanding Types of Abuse and Perpetrators' Moral Mindsets found that some perpetrators limit their abuse to a small number of victims, while others take advantages of opportunities and pursue targets more widely. The latter group is separated into those who are unrelenting in their harassment of a few victims and those with a more inconsistent pattern to their behaviour, operating as the context allows.

Dishonesty

103. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

104. Where the concern or allegation involves dishonesty in the workplace or otherwise arising from the doctor's professional practice, or the doctor is under police investigation for a dishonesty offence, particular consideration should be given to the public interest and impact on public confidence if the doctor were to continue working unrestricted in the meantime.

Type of interim order

105. The proportionate interim order in response to a dishonesty concern will depend on the extent of the doctor's behaviour and the impact it's assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.

106. Whilst a range of behaviour can amount to dishonesty, the nature of the departure from the professional standards usually indicates a high level of seriousness as a starting point. Given the impact these cases will usually have on public confidence, where an interim order is necessary, the risk to the public interest is likely to require consideration to be given to an interim order of suspension. This is particularly the case where the doctor has been charged by the police in connection with a serious criminal offence.

107. However, there may be cases of dishonesty arising outside of a doctor's professional practice that fall at the lower end of the spectrum of seriousness where the level of risk is lower and so suspension may be disproportionate.

Violent or abusive behaviour

108. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

109. Where the concern or allegation involves violent or abusive behaviour towards patients or colleagues, or the doctor is under police investigation for a violent offence, particular consideration should be given to the public interest and the impact on public confidence if the doctor were to continue working unrestricted in the meantime.

Type of interim order

110. The proportionate interim order in response to a concern or allegation about violent or abusive behaviour will depend on the extent of the doctor's behaviour and the impact it's assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.
111. Whilst a range of behaviour can amount to violent or abusive behaviour, the nature of the departure from the professional standards usually indicates a high level of seriousness as a starting point. Given the impact these cases will usually have on public confidence, where an interim order is necessary, the risk to the public interest is likely to require consideration to be given to an interim order of suspension. This is particularly the case where the doctor has been charged by the police in connection with a serious criminal offence.
112. However, in cases where the doctor's behaviour is connected to the impact of a health condition or falls at the lower end of the spectrum of seriousness because it is isolated or limited in nature, and so the resulting risk to the protection of the public or the interests of the public is lower, conditions may be appropriate.

Discrimination

113. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

114. Where the concern or allegation involves discrimination towards patients or colleagues, particular consideration should be given to the public interest which will include the impact on the safe delivery of healthcare services as well as the impact on public confidence if the doctor were to continue working unrestricted in the meantime.

Type of interim order

115. The proportionate interim order in response to a discrimination concern or allegation will depend on the extent of the doctor's behaviour and the impact it's assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.
116. Whilst a range of behaviour can amount to discrimination, the nature of the departure from the professional standards where the concern or allegation relates to unlawful discrimination under the Equality Act will usually indicate a high level of seriousness as a starting point. Where discrimination is unlawful, the seriousness of the behaviour is likely to require consideration of interim

suspension in the public interest given the impact it will usually have on public confidence. In other cases, interim conditions may be appropriate.

Clinical concerns

117. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

118. Where the concern or allegation involves a series of failures to provide a proper standard of care amounting to a departure from the professional standards, or one particularly serious departure, the IOT should carefully consider the impact on patient safety if the doctor were to continue working unrestricted pending resolution of the fitness to practise process.

Type of interim order

119. A wide range of behaviour and/or poor performance can be seen in clinical concerns cases. Where an interim order is necessary, the proportionate interim order will depend on the impact that the doctor's behaviour and/or poor performance is assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.

120. Interim conditions will often be a proportionate response to clinical concerns. Interim suspension is only likely to be needed where the concern or allegation falls at the higher end of the spectrum of seriousness.

121. In a very small number of cases, a clinical failing by a doctor will be so serious that, even if it is unlikely to recur, an interim order is needed in the public interest given the impact on public confidence in the profession. In these cases, consideration should be given to interim suspension.

Impact of a health condition

122. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

123. Where there are concerns about the impact of a doctor's health condition on their ability to practise safely and effectively, the tribunal's primary duty is to protect the public and the wider public interest, and not to assume responsibility for, or give priority to, the treatment or rehabilitation of the doctor.

124. Most concerns about the impact of a doctor's health condition can be adequately managed at a local level. Interim action will not usually be needed where the doctor has insight into the extent of their health condition and is seeking and/or following treatment and advice. This includes following the advice of their treating healthcare professionals and/or occupational health departments in relation to their work and restricting their practice appropriately.
125. However, there will be cases where the impact of a doctor's health condition poses a significant risk to patients or the doctor themselves. Where that risk is not being appropriately managed, a tribunal may need to impose an interim order.
126. An interim order is likely to be needed if the particular concern or allegation about the impact of the doctor's health condition poses a serious and immediate risk to patient safety and:
- ▶ there are also concerns or allegations about the doctor's behaviour or performance that puts patients or public confidence in the profession at risk and the doctor's health condition may be a contributory factor,
 - ▶ the doctor is working or likely to work and:
 - i. there are, or have been, serious concerns about the clinical care the doctor has provided, and the health condition may have been a contributory factor
 - ii. the nature of the condition may affect the doctor's behaviour or the clinical care they provide and they are not seeking and/or following treatment and advice, and/or are not engaging with local support and steps put in place to manage any risks to patients - this suggests the doctor may lack insight into any risk, or potential risks, their health condition poses, and/or
 - iii. the health condition has only recently been diagnosed, is not well controlled and it is too soon to know if risks to patients can be appropriately managed by the doctor seeking and following treatment and advice and/or engaging with local support and steps to manage risk.
 - ▶ a GMC health assessor has concluded the doctor is not fit to practise without restrictions.

Type of interim order

127. The decision on the proportionate interim order will depend on the nature of the doctor's health condition and the impact it's assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.
128. Where an interim order is necessary, interim conditions will often be a proportionate response. Interim conditions can help the doctor to manage their health condition and/or any related impact on their practice, while

addressing the risk(s) identified.

129. Interim suspension is only likely to be needed in a health case where:

- ▶ the doctor's judgment may be diminished due to the nature of the health condition and there is a risk to patients or themselves if they continue to practise, even with conditions, and/or
- ▶ the doctor is considered to lack insight into the impact of their health condition and will put patients or themselves at harm, either directly or indirectly, which means they are not currently safe to practise with conditions, and/or
- ▶ the doctor has not complied with previous restrictions or requirements put in place to manage the impact of their health condition.

Insufficient knowledge of English

130. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

131. The test for imposing an interim order may be met where there is information that a doctor's knowledge of the English language is, or is likely to be, deficient such that they pose a real and immediate risk to patients if they were to continue working without restriction. This may include where:

- ▶ the extent of the language deficiency is so severe that the doctor is unable to understand instructions from colleagues or obtain the necessary information from patients about their symptoms
- ▶ the language concerns are accompanied by other concerns about a doctor's behaviour and/or performance, or
- ▶ the doctor has not achieved a satisfactory level of attainment as set by the GMC in an English language assessment.

Type of interim order

132. Where an interim order is necessary, the proportionate interim order in response to a concern or allegation about insufficient knowledge of the English language will depend on the impact it's assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.

133. Interim conditions may be the proportionate response depending on the areas in which the doctor is deficient - speaking, listening, reading and/or writing - and the breadth of their deficiency. Interim conditions may need to include a requirement that the doctor works under increased supervision.

134. An interim order of suspension may be needed in a case relating to the doctor's insufficient knowledge of English where:

- ▶ the doctor lacks insight into their language deficiency, and/or
- ▶ the doctor has not complied with previous restrictions or requirements imposed in respect of their knowledge of the English language.

Criminal charges, convictions, cautions, court sanctions and determinations by another body responsible for the regulation of a health or social care profession

135. In addition to the guidance given on interim orders in the [Introduction](#), the tribunal should consider the following.

Is an interim order needed?

136. The considerations as to whether an interim order is necessary is the same in all criminal cases and the tribunal must consider the individual features of the case and the particular facts and seriousness of the criminal charges.

137. Where the concern or allegation relates to criminal behaviour in the workplace or otherwise arising from the doctor's professional practice, or the doctor is under police investigation, the tribunal should carefully consider the public interest, and the impact on public confidence if the doctor were to continue working unrestricted pending resolution of the fitness to practise process.

138. In evaluating whether an interim order is necessary, the tribunal should have regard to the stage of the criminal process the matter is at, the seriousness of the underlying behaviour or performance and keep in mind the ultimate possibilities of both the doctor's acquittal and their conviction of the particular criminal charges.

139. The threshold for making an interim order in the interests of the public alone is likely to be high if an order of suspension is the only outcome that will adequately address the risk posed. It is however likely to be met in police investigations or convictions (or very rarely cautions) for serious offences such as murder, manslaughter, rape and sexual assault as well as offences involving serious violence, or harm to children or adults with care and support needs.

Type of interim order

140. Where an interim order is necessary, the proportionate interim order will depend on the seriousness of the doctor's behaviour resulting in the charge, conviction, caution, court sanction or determination and the impact it's assessed to have on protection of the public, the interest of the public and/or the interests of the doctor themselves.

141. Whilst a range of behaviour can be seen, the nature of the departure from the standards expected usually indicates a starting point of a high level of seriousness. Where it does, given the public interest and impact these cases will usually have on public confidence, they are likely to require consideration to be given to an interim order of suspension. This is particularly the case where the doctor has already been convicted of an offence that has resulted in, or is likely to result in, a custodial sentence (immediate or suspended) or has been suspended or erased/removed from the register of another healthcare regulator.

Freedom of expression

142. Specific considerations can arise relating to a doctor's freedom of expression.

Is an interim order needed?

143. Concerns may sometimes be raised about opinions that a doctor has expressed on social media or in other forums. This may include a concern or allegation that a doctor is promoting and/or spreading misinformation which has the potential to harm public health or seriously damage public confidence in the profession. Where this is the case, an interim order may be needed in the public interest.

Type of interim order

144. Where an interim order is necessary, the proportionate interim order in response to a concern or allegation that engages the doctor's freedom of expression will depend on the impact it's assessed to have on the protection of the public, the interests of the public and/or the interests of the doctor themselves.

145. In these cases, conditions will often be the proportionate response. When considering what conditions are needed in response to the risk(s) identified, in very rare cases, the tribunal may consider it necessary to impose interim conditions which would restrict the doctor's right to freedom of expression under Article 10 of the European Convention of Human Rights (Article 10).

146. Tribunals should not attempt to impose blanket restrictions on a doctor's freedom of expression in relation to a particular topic. Where the tribunal is considering imposing a specific condition which would restrict the doctor's freedom of expression, it should bear in mind that its duty to protect the public and the wider public interest must be carefully balanced with the doctor's right to freedom of expression.

147. If a specific condition will have the effect of restricting the doctor's freedom of expression, Article 10 will be engaged. Article 10 is more likely to be engaged where a doctor expresses their opinion on a public platform, rather than privately.
148. The right to freedom of expression protects an individual's right to hold their own opinions and express them freely without interference. However, this right can be restricted by a public authority if it is necessary and proportionate to do so. For example, in the interests of public safety, to protect health or to prevent disorder or crime.
149. Any of the following may justify interference with a doctor's right to freedom of expression, particularly where they have identified themselves as being a doctor:
- ▶ information that a doctor is encouraging members of the public to commit an offence
 - ▶ a concern or allegation that a doctor is promoting and/or spreading misinformation which has the potential to harm public health or undermine public confidence in the profession
 - ▶ information that a doctor is encouraging members of the public to engage in specified behaviours which expose them to a risk of harm
 - ▶ information that a doctor is encouraging treatments which are unproven or known to be ineffective
 - ▶ information that a doctor is discouraging treatments which are known to be effective, or
 - ▶ a concern or allegation that a doctor's behaviour amounts to bullying or harassment.
150. The tribunal must ensure that any condition(s) restricting freedom of expression are workable, enforceable and will protect the public, or are otherwise in the interests of the public or the doctor themselves. They must also be a proportionate response to the concern.
151. Before imposing interim conditions that restrict freedom of expression, the tribunal should apply the additional test under section 12(3) of the Human Rights Act 1998 (the Human Rights Act). The test means the tribunal must be satisfied that it is more likely than not that the case will be referred to an MPT and that the MPT will go on to make a finding which justifies the interim order being made in the particular circumstances of the case.
152. In applying the additional test under the Human Rights Act, the tribunal may need more cogent evidence to support the concern than would usually be the case. This may sometimes require considering expert evidence, if this has been obtained by one of the parties at the time of the IOT hearing, on whether the doctor's views have any credible basis or are likely to create a risk of harm to the public. The tribunal will not however need to make any findings of fact or make any determination on impairment.

153. Where the tribunal considers an interim order of suspension to be the most proportionate response, this will not usually interfere with the doctor's right to freedom of expression. However, the tribunal should consider any information provided about the impact of any suspension and, if satisfied that suspension would interfere with the doctor's Article 10 rights, they should apply the additional test under the Human Rights Act. However, it will not be necessary to apply the additional test if the tribunal does not consider that the interim order will have the effect of restricting the doctor's freedom of expression, as Article 10 will not be engaged.

Part B: Reviewing interim orders

Introduction

1. The purpose of this Part of Section two: IOT hearings is to support fair and consistent decision making by tribunals when they are reviewing if an interim order remains necessary and if so, what the proportionate response is. It applies to IOTs and MPTs where the MPT is reviewing an existing interim order during a hearing that is being held to determine an allegation that a doctor's fitness to practise is impaired.
2. Any interim order imposed by a tribunal must be reviewed within six months of the order being made, and thereafter every six months. However, following any review of an order, the doctor may request an early review. If three months have elapsed since the date of the immediately preceding review, then the order must be reviewed as soon as practicable after receipt of the doctor's request.
3. An interim order may be reviewed at any time when new evidence relevant to the order becomes available, which may affect the order in place.⁷
4. If the GMC wishes to extend an order beyond the period initially set, then it must apply to the relevant Court⁸ to extend the order. Each extension will be for up to a maximum period of 12 months. There is no limit on the number of extensions which may be sought and granted.
5. There are three instances where a review must take place within three months of any preceding review of the order having taken place. This is where:
 - a. an interim order of conditions has been replaced with an interim order of suspension
 - b. an interim order of suspension has been replaced with an interim order of conditions, and
 - c. the High Court has extended an order beyond the period initially set.
6. On review, the tribunal has the power to maintain, vary, replace or revoke an interim order.
7. Cases can be reviewed on the papers as an alternative to holding a hearing.⁹ This means the review will be conducted by a tribunal or tribunal chair without the attendance of the parties.

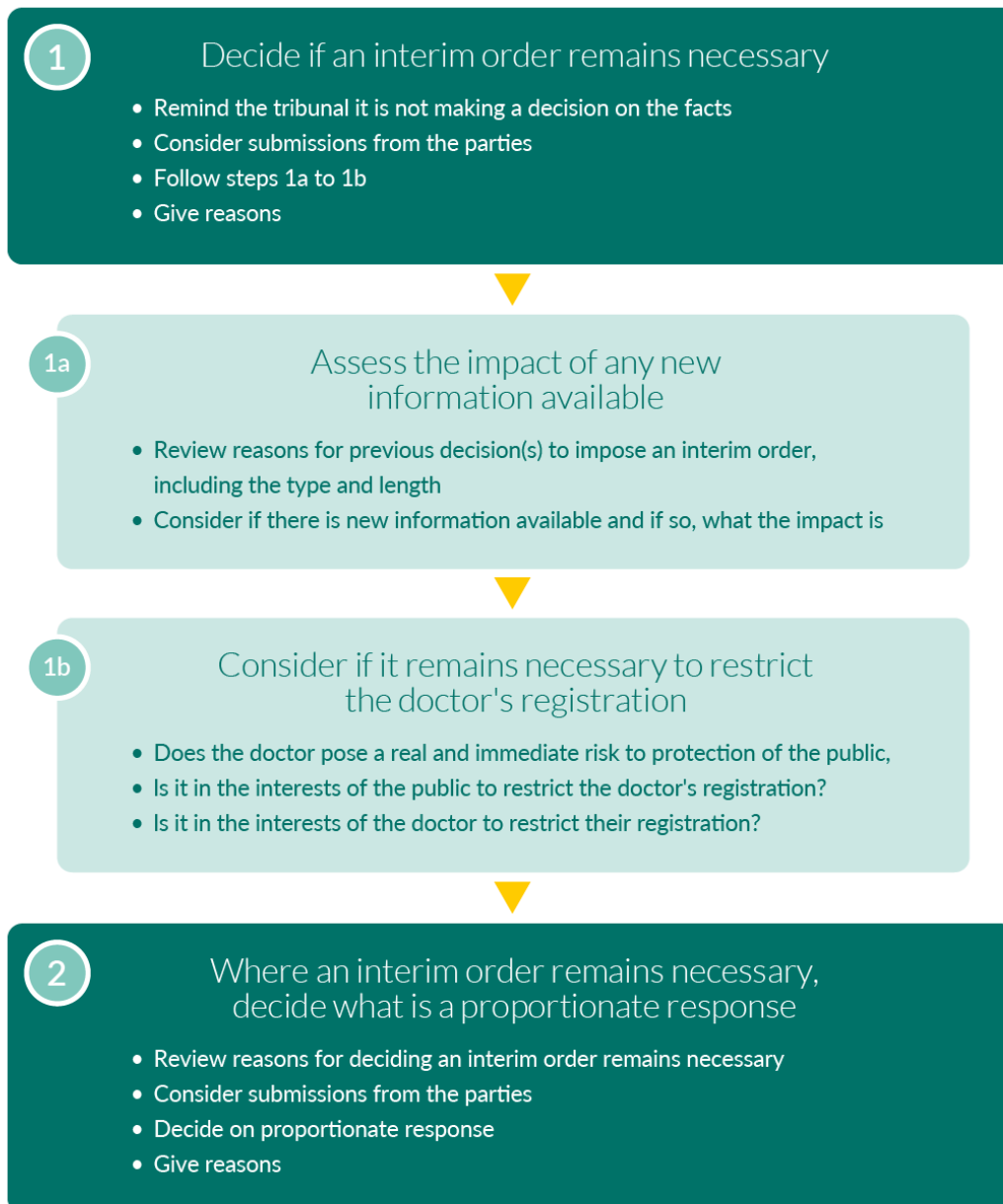
⁷ Section 41(2) of the Medical Act 1983 (as amended)

⁸ The relevant Court means the Court of Session where a doctor's registered address is in Scotland, the High Court in Northern Ireland where a doctor's registered address is in Northern Ireland and the High Court of England and Wales for all others. Where reference is made to the High Court in this document it includes the Court of Session and the High Court in Northern Ireland.

⁹ Rule 26A of the FtP Rules 2004

8. Reviews on the papers take place when the GMC and doctor ('the parties') agree on the proposed outcome. The tribunal or tribunal chair has the power to maintain, vary, replace or revoke an interim order in line with the terms of an order that has been agreed and submitted to the MPTS by the parties. Alternatively, they can decide that a hearing should take place to consider the case.
9. Supplementary operational guidance for tribunals or tribunal chairs reviewing cases on the papers is available in [JOT reviews on the papers](#).
10. The process for reviewing an interim order that a tribunal should follow is illustrated in the diagram below.
11. Whilst the diagram represents each key consideration for the tribunal as a step, in practice when the interim order is being reviewed at a hearing, the parties will submit evidence and make one set of submissions on whether an interim order remains necessary and if so, the type. Having then considered all relevant matters, the tribunal will provide one written decision.

Process for decision making for reviewing an interim order



Process for decision making for reviewing an interim order

1. Decide if an interim order remains necessary

- ▶ Remind the tribunal it is not making a decision on the facts
- ▶ Consider submissions from the parties
- ▶ Follow steps 1a to 1b

1a. Assess the impact of any new information available

- ▶ Review reasons for previous decision(s) to impose an interim order, including the type and length
- ▶ Consider if there is new information available and if so, what the impact is

1b. Consider if it remains necessary to restrict the doctor's registration

- ▶ Does the doctor pose a real and immediate risk to protection of the public?
- ▶ Is it in the interests of the public to restrict the doctor's registration?
- ▶ Is it in the interests of the doctor to restrict their registration?

2. Where an interim order remains, decide what is a proportionate response

- ▶ Review reasons for deciding an interim order remains necessary
- ▶ Consider submissions from the parties
- ▶ Decide on proportionate response
- ▶ Give reasons

Step 1: decide if an interim order remains necessary

1

Decide if an interim order remains necessary

- Remind the tribunal it is not making a decision on the facts
- Consider submissions from the parties
- Follow steps 1a to 1b
- Give reasons

- ▶ Remind the tribunal it is not making a decision on the facts
- ▶ Consider submissions from the parties
- ▶ Follow steps 1a to 1b

Does an interim order remain necessary?

12. When reviewing an interim order, the IOT is not making findings of fact, resolving disputes of fact, or deciding whether the doctor's fitness to practise is impaired. The role of the IOT is to consider the information available and decide whether an interim order remains necessary.
13. However, during an MPT hearing, the MPT may have already heard evidence or made factual findings at the point they are considering whether an interim order remains necessary. The need for an interim order should be assessed by considering all relevant information, including information arising from the specific stage of the hearing that the case is at.
14. The role of a tribunal when reviewing an interim order is not to reconsider the decision made by the tribunal that made the initial, or previous, order. Where there has been no change in circumstances or new information submitted by the parties, the reviewing tribunal will maintain the existing order.
15. Whether an interim order remains necessary will depend on the individual circumstances of the case and is a matter for the tribunal's judgment. The tribunal should provide reasons for their decision, and in doing so explain how it relates to any submissions made by the parties.
16. Where a tribunal or tribunal chair is reviewing an interim order on the papers, the parties will agree about whether an interim order remains necessary. The tribunal or tribunal chair will need to satisfy themselves of the parties' assessment that an interim order remains necessary or that the existing order should be revoked. If they are not satisfied, or insufficient information has been provided, the tribunal or tribunal chair must direct that

a hearing should be held.

Step 1a: assess the impact of any new information

1a

Assess the impact of any new information available

- Review reasons for previous decision(s) to impose an interim order, including the type and length
- Consider if there is new information available and if so, what the impact is

- ▶ Review reasons for previous decision(s) to impose an interim order, including the type and length
- ▶ Consider if there is new information available and if so, what the impact is

Assessing the impact of any new information available

17. The tribunal should start by reviewing the reasons for the previous decision(s) to impose an interim order on the doctor's registration, including why the type of interim order was imposed and for how long. This does not amount to a reconsideration of the previous decision(s), but it is necessary so that the tribunal can fully consider all the circumstances of the case and assess the impact of any new information that's available.
18. Where an interim order was imposed on the doctor's registration during the early stages of the GMC's investigation, evidence collection activities will have progressed, and new information is likely to be available. New information will be relevant to the tribunal's decision where it can impact on their view of the seriousness of the concern or allegation and the likelihood of repetition. Where relevant, the tribunal should consider the weight of the new information available and decide what this means in terms of their assessment of the risk(s) associated with the concern or allegation.
19. The GMC may have directed an early review on the basis they consider there is evidence to suggest the doctor has breached the interim order currently imposed on their registration. Where this is the case, to be able to assess the impact, the tribunal will first need to decide whether they are satisfied, on the balance of probabilities, that a breach has in fact occurred.
20. If the tribunal considers that a breach of the interim order has occurred, they should consider what risk, if any, this poses to the protection of the public,

the interests of the public and/or interests of the doctor. This assessment should be made having regard to the seriousness of the breach and the reasons why an interim order was previously put in place.

21. Some, or all, of the following factors are likely to be relevant to assessing the seriousness of a breach of an interim order and any associated risk:
- ▶ if the circumstances of the breach are a one-off or a repeated occurrence
 - ▶ whether patient safety has been compromised
 - ▶ if there appears to have been a wilful disregard of an interim order of conditions imposed on the doctor's registration, and/or
 - ▶ whether the doctor accepts a breach has occurred, the reasons for it and level of insight shown about the impact and likely consequences.

Step 1b: consider if it remains necessary to restrict the doctor's registration

1b

Consider if it remains necessary to restrict the doctor's registration

- Does the doctor pose a real and immediate risk to protection of the public,
- Is it in the interests of the public to restrict the doctor's registration?
- Is it in the interests of the doctor to restrict their registration?

- ▶ Does the doctor pose a real and immediate risk to protection of the public?
- ▶ Is it in the interests of the public to restrict the doctor's registration?
- ▶ Is it in the interests of the doctor to restrict their registration?

Does it remain necessary to restrict the doctor's registration?

22. To decide whether it remains necessary to restrict the doctor's registration, the tribunal should consider whether one or more parts of the test for imposing an interim order are met. The test for imposing an interim order is whether it is necessary for the protection of the public or is otherwise necessary in the interests of the public and/or in the interest of the doctor.¹⁰
23. When making their decision, the tribunal should have regard to the general principles in the following sub-sections of Part A of Section two: IOT hearings:
- ▶ [Does the doctor pose a real and immediate risk to protection of the public?](#)
 - ▶ [Is it in the interests of the public to restrict the doctor's registration?](#)

¹⁰ Section 41A(1) of the Medical Act 1983 (as amended)

- ▶ [Is it in the interests of the doctor to restrict their registration?](#)

24. The tribunal should also refer to the guidance in the [specific case types section](#) in Part A.

The tribunal's decision on whether an interim order remains necessary

25. The tribunal should give clear and adequate reasons for its conclusion on whether an interim order remains necessary to enable the doctor to understand their decision. In doing so, the tribunal must provide a clear explanation about their assessment of risk based on the full circumstances of the case which include the previous decision(s) and any new information available.
26. Where the tribunal concludes that an interim order remains necessary, they should state which parts of the test for imposing an interim order have been met.
27. Where the tribunal concludes that an interim order no longer remains necessary, they should revoke the interim order of conditions or suspension that is currently in place on the doctor's registration.
28. In all cases, the tribunal should explain how their decision relates to any submissions received from the parties. In a review on the papers, the tribunal or tribunal chair should confirm if they are satisfied with the basis of the agreement provided by the parties.

Step 2: where an interim order remains, decide what is a proportionate response

2

Where an interim order remains necessary, decide what is a proportionate response

- Review reasons for deciding an interim order remains necessary
- Consider submissions from the parties
- Decide on proportionate response
- Give reasons

- ▶ Review reasons for deciding an interim order remains necessary
- ▶ Consider submissions from the parties
- ▶ Decide on proportionate response
- ▶ Give reasons

Deciding what is a proportionate response

29. Where a tribunal concludes that an interim order remains necessary, they will need to decide what the proportionate response is. To do this, the tribunal should review their reasons for deciding that an interim order remains necessary and, consider any submissions received from the parties on the appropriate outcome.
30. In making its decision, the tribunal must carefully consider the proportionality of its response in dealing with the risk(s) identified and the adverse consequences of any action taken on the doctor's own interests.
31. What action is needed will depend on the individual circumstances of the case and is a matter for the tribunal's judgment. The tribunal should provide reasons for their decision, and in doing so explain how it relates to any submissions made by the parties.
32. Where a tribunal or tribunal chair is reviewing an interim order on the papers, they should consider if the order agreed by the parties is sufficient. If they are not satisfied the order is sufficient, if insufficient information has been provided, or there is doubt over the doctor's capacity to agree to the proposed outcome, the tribunal or tribunal chair must direct that a hearing should be held.

Actions where an interim order remains necessary

Maintain the current interim order

33. It will usually be proportionate to allow an existing interim order of conditions to continue where the tribunal's assessment of the risk to the protection of the public, the interests of the public or the interests of the doctor themselves has not changed or has not significantly increased.
34. It will usually be proportionate to allow an existing interim order of suspension to continue where the tribunal's assessment of the risk to the protection of the public, the interests of the public or the interests of the doctor themselves remains the same or has increased.

Vary the current interim order

35. It may be proportionate to vary an existing interim order of conditions where:
 - a. the assessment of the immediate risk to the protection of the public, the interests of the public or the interests of the doctor themselves has not changed or has not significantly increased, and
 - b. the tribunal considers that one or more interim conditions are no longer needed, or that alternative or additional interim conditions are needed, to address the risk(s) identified.

Replace the current interim order

36. It may be proportionate to replace the current interim order with a different interim order where:
 - a. the assessment of the immediate risk(s) to the protection of the public, the interests of the public or the interests of the doctor themselves has increased or decreased, and
 - b. the tribunal considers that an alternative order is a more proportionate response.
37. A doctor practising in breach of an interim order of conditions put in place to protect the public or put in place in the public interest will usually put patient safety at risk and/or have the effect of undermining public confidence in the profession. It may also put the doctor themselves at risk. Where this is the case, it will often be proportionate to replace an interim order of conditions with an interim order of suspension.
38. Where an interim order of suspension is in effect, and at the review hearing the tribunal's assessment is that the risk(s) to the protection of the public, the interests of the public or the doctor themselves has reduced since the last hearing, consideration should be given to whether an interim order of

conditions would now adequately address the nature of the risk(s) identified. Where it would, the tribunal should follow the guidance in the sub-section [Interim conditions](#) in Part A of Section two: IOT hearings.

39. Where the tribunal decides to replace an interim order with another type of interim order, it can only stay in effect up until the expiry of the period for which the interim order was imposed.

The tribunal's decision on what action to take where an interim order remains necessary

40. To enable the doctor to understand the outcome, the tribunal should give clear and adequate reasons for its decision on what action to take when an interim order remains necessary. In doing so, the tribunal should explain how their decision relates to any submissions received from the parties.
41. Where a matter has been reviewed on the papers, the tribunal or tribunal chair should confirm whether they are satisfied that the order the parties have agreed on is sufficient.