

Report to Parliament

2017

mpts

medical practitioners tribunal service

Contents

| | |
|-----------------------|----|
| Foreword | 2 |
| Who we are | 3 |
| How our hearings work | 6 |
| Transparency | 10 |
| Decision making | 14 |
| Cases referred to us | 18 |
| Hearing outcomes | 21 |

Foreword

2

As Chair of the Medical Practitioners Tribunal Service (MPTS), I am pleased to introduce our second Annual Report to Parliament.

The MPTS was created in 2012 and became the first tribunal service of its kind in health regulation. We provide an adjudication service for doctors which is operationally separate from the rest of the General Medical Council (GMC), including its investigatory arm.

Our tribunals make independent decisions about doctors' fitness to practise based on our statutory over-arching objective to protect the public. Each of our hearings is conducted by three individuals, taken from a pool of more than 300 tribunal members, all of whom are appointed, trained and appraised by the MPTS.

The MPTS is always striving to improve the efficiency and effectiveness of its tribunal hearings. Since January 2017, when I took up my role as Chair, it has been my responsibility to lead our work on this. During that time, we have pursued a number of initiatives aimed at avoiding unnecessary delays which can be stressful for doctors, patients and others involved in our hearings. We have met with some success: during 2017, many hearings were completed in less than the time allocated to them, resulting in a 'saving' of more than 100 days. However, there is still much to do; we shall continue our efforts.

Another key priority is to ensure that the decisions given by our tribunals are of a consistently high quality. During 2017, we delivered induction training for our newly appointed legally qualified tribunal chairs, together with the annual training sessions for existing tribunal members. We also provided frequent updates on recent developments in the regulatory field. These updates included learning points from recent decisions in High Court appeals brought by doctors, the GMC and the Professional Standards Board. Such learning points provide very helpful training material.

We recognise that we have a role in supporting the wellbeing of doctors referred to us for a hearing, particularly those who have no legal representation. We have therefore increased the support which we give to such doctors. We are currently considering how we might improve the facilities at our hearing centre to make attendance less stressful for witnesses, especially vulnerable witnesses.

We could not do this work without the hard work and support of MPTS staff, tribunal members and other associates, for which I thank them all very much.

Dame Caroline Swift

MPTS Chair

July 2017

Who we are

The MPTS runs hearings for doctors whose fitness to practise is called into question.

We are independent in our decision making, and operate separately from the investigatory role of the GMC.

As a statutory committee of the GMC, we are accountable to the GMC Council and the UK Parliament.

Our governance

Our Chair, Dame Caroline Swift, provides jurisdictional leadership and management for the organisation.

She chairs the MPTS Committee, which is required to report on its activities twice yearly to the GMC and annually to Parliament. In 2017 the MPTS Committee was composed of:

- Dame Caroline Swift, Chair
- Richard Davies, lay tribunal member
- Professor Jacky Hayden, medical member
- Dr Patricia Moultrie, medical tribunal member
- Judith Worthington, lay member

Richard Davies' term as a Committee member ended in November 2017. Joy Hamilton was appointed as a lay tribunal member of the Committee in January 2018.

Our leadership

The MPTS is managed by the Executive Manager, Gavin Brown, and his senior management team.

The Executive Manager takes day to day direction from the Chair of the MPTS in the operational management of the MPTS, and is also accountable to the Chief Operating Officer of the GMC for the efficient and effective use of resources.

Our vision

The MPTS Committee sets the strategic vision for the MPTS.

Our vision is to provide a tribunal service that is effective, fair and impartial. A service that:

- Makes high quality, well-reasoned, independent decisions to protect the public.
- Runs hearings efficiently and effectively, using resources appropriately.
- Treats all tribunal service users with respect and fairness.
- Has a distinct voice, clearly articulating our role.

Improving what we do

Throughout 2017 we have taken various steps towards realising this vision.

Clearer decisions

Our over-arching objective is the protection of the public, and it is important that our decisions about a doctor's fitness to practise in the UK can be easily understood by all.

We have improved how our written decisions are presented, making them more structured and readily comprehensible to doctors and the wider public.

Our published decisions now give less prominence to preliminary legal arguments, and focus more clearly on the facts of the case, any finding of impaired fitness to practise and any sanction imposed.

Running hearings effectively

It is important for all concerned that we conduct tribunal hearings efficiently and expeditiously. Delays in resolving cases can have a huge impact on doctors, witnesses and others involved with hearings.

In order to increase our tribunals' efficiency, we have taken a number of steps.

In 2017 we began using legally qualified chairs in the majority of our hearings. We appointed 72 new legally qualified individuals, who are able to sit as both legally qualified chairs and legal assessors.

We have also extended our use of robust case management and changed our procedures so that tribunals can read evidence and documents in advance of hearing. This removes the need for reading time on the first day, and will help reduce the length of hearings.

Too many of our hearings do not conclude within their estimated timeframe and have to be adjourned. We closely monitor the reasons for every adjournment and share what we learn with all concerned: our own tribunal members, the GMC's case presentation team and doctors' representatives. By doing this we hope that we can reduce the number of cases that have to be adjourned. It is in everyone's interests that hearings start and conclude on time.

Treating all tribunal service users with respect and fairness

Everyone using our tribunal service can expect to be treated with fairness and respect - doctors, complainants, witnesses and legal professionals.

A priority for us has been trying to lessen the isolation and stress that we recognise many doctors feel when appearing before a tribunal.

Various types of support are available to doctors and witnesses appearing before the MPTS. As well as the services offered by the MPTS, we will point people towards appropriate sources of support that are available from other organisations.

Our Doctor Contact Service, which is available to all doctors on the day of their hearing, is now being extended to cover the pre-hearing stage.

To better support doctors who are unwell, we have improved the guidance we offer our own staff who interact with doctors, to help signpost available support.

We are also extending the support we already offer to the 13% of doctors who appear at hearings without legal representation by working to make our resources more interactive and user-focused.

How our hearings work

We hear the vast majority of cases in our dedicated hearing centre in Manchester.



We can run a maximum of **16 hearings at one time.**

We hear the vast majority of cases in our dedicated hearing centre in Manchester. We can run a maximum of 16 hearings at one time.

As of 31 December 2017, we employed 81 full-time and part-time members of staff to directly support hearings as tribunal clerks and assistants, to list cases, to empanel tribunals, and to appoint, train and develop tribunal members.

Three tribunal members sit on each MPTS tribunal hearing. At least one tribunal

member must be medically qualified and at least one must be a lay person who has never held a medical qualification.

In most cases, the tribunal has a legally qualified chair, who will provide legal advice. In some circumstances, a legal assessor will provide the tribunal with legal advice.

It is the chair's responsibility to manage the conduct of the case both inside the hearing room and during the private deliberations amongst tribunal members.

When making decisions on facts, our tribunals apply the civil standard of proof.

Doctors, the GMC and the Professional Standards Authority can all appeal our decisions to the High Court of Justice in England and Wales, Court of Session in Scotland or the High Court of Justice of Northern Ireland.

Types of hearings

We run two main types of tribunal hearing – **interim orders tribunal hearings** and **medical practitioners tribunal hearings**.

As well as dealing with fitness to practise cases, medical practitioners tribunals also hear non-compliance cases and requests for restoration to the medical register.

Interim orders tribunal hearings – new cases

The GMC has the power to ask an interim orders tribunal to impose an interim restriction on a doctor's registration while allegations about their conduct or performance are being investigated.

Interim orders tribunals do not make findings of fact, but can make orders suspending a doctor's registration or imposing conditions for up to 18 months.

Interim orders can be imposed to protect patients, to protect public confidence or (usually in a case involving the doctor's health) in the interests of the doctor concerned.

Interim orders tribunal hearings – reviews

Interim orders must be reviewed at least every six months, and can be extended beyond the initial order length only by the High Court. If an order is varied at review, a further review must be held within three months.

Review hearings can be held on the papers when both sides agree on the proposed outcome, thus avoiding the need for a full hearing.

This is appropriate when both parties agree that an order should remain in place (because an investigation is ongoing) or should be revoked (because an investigation has concluded).

In 2017, 40% of our interim orders reviews were held in this way.

This is an efficient use of our resources and less stressful for those involved in the hearing process.

Medical practitioners tribunal hearings – new cases

If the GMC considers that a doctor's fitness to practise may be impaired, it can refer the doctor's case to us for a medical practitioners tribunal hearing.

A medical practitioners tribunal hearing follows three stages:

- **Facts** – are each of the alleged facts proved?
- **Impairment** – do the facts found proved amount to impairment of the doctor's fitness to practise?
- **Sanction** – if impairment is found, what sanction is necessary to protect the public?

Both the GMC and the doctor may present written evidence and call witnesses to give oral evidence at the hearing.

Medical practitioners tribunals hear the evidence in the case, determine the facts and then decide, on the basis of the facts found proved, whether the doctor's fitness to practise is impaired.

If a tribunal concludes that a doctor's fitness to practise is impaired, it must consider the following options, taking into account the Sanctions guidance:

- take no action
- accept undertakings (voluntary conditions agreed between the GMC and the doctor)
- place conditions on the doctor's registration (for up to three years)
- suspend the doctor's registration (for up to one year)
- erase the doctor's name from the register.

A doctor's name cannot be erased from the register in cases relating solely to the doctor's health, non-compliance or English language.

Where a tribunal finds a doctor's fitness to practise is not impaired, it may issue a warning to the doctor if there has been a significant departure from the standards set out in the GMC's professional guidance, *Good medical practice*.

Medical practitioners tribunal hearings – reviews

A tribunal can order that a review hearing be held before a period of conditions or suspension expires. The GMC can also refer a matter to the MPTS to arrange a review hearing.

At a review hearing, a fresh tribunal will determine whether a doctor's fitness to practise remains impaired. If impairment is found, the full range of sanctions is available.

Review hearings can be held on the papers when both sides agree on the proposed outcome, avoiding the need for a full hearing.

Medical practitioners tribunal hearings – non-compliance

As part of an investigation, the GMC may direct that a doctor has an assessment of their health, performance, or knowledge of English Language, or that a doctor must provide certain specific information.

If the GMC believes a doctor is consistently or explicitly refusing to comply with such a direction, it may refer them to the MPTS for a medical practitioners tribunal non-compliance hearing.

The tribunal will consider submissions from the GMC and the doctor, and make a finding on the issue of non-compliance.

If non-compliance is found, the tribunal can impose a sanction of conditions or suspension.

Issues relating to non-compliance might also arise during a medical practitioners tribunal hearing.

Medical practitioners tribunal hearings – restoration

A doctor whose name has been erased from the medical register by a medical practitioners tribunal can apply for restoration of their registration after five years.

There is no automatic right to restoration. Rather, the onus is on the doctor to demonstrate to a fresh tribunal that he or she:

- has insight and has dealt with all the issues that led to erasure
- has up to date medical knowledge and skills, and
- can safely return to unrestricted practice.

The tribunal hears submissions from the GMC and the doctor and makes a decision on whether to accept or refuse the doctor's application.

Transparency

Public hearings

Medical practitioners tribunals sit in public, unless they are considering confidential information about a doctor's health, or there are exceptional circumstances.

We advertise upcoming public hearings on our website, with a short summary of the allegation that will be made against the doctor.

Anyone can attend a public hearing at the MPTS. We encourage those with an interest in our work to attend and observe, and are regularly visited by groups of medical and law students.

To assist public understanding of our decisions, we have facilities for journalists attending our hearings. All public decisions announced by tribunals are made available to journalists, on request.

The legislation states that interim orders tribunal hearings should be held in private, unless the doctor specifically requests a public hearing.

Publishing decisions

Decisions in all public medical practitioners tribunal hearings where there is a finding of fact are published on our website for 12 months.

If there has been a finding of impairment, or a warning issued, the same record will appear on a doctor's entry on the GMC's List of Registered Medical Practitioners (the medical register).

Details of interim orders to suspend or impose conditions on a doctor's registration pending the outcome of an investigation are published on our website for six weeks. They are also published on the medical register while the order remains in place.

Detailed decisions of interim orders tribunal hearings are not published, unless a doctor has requested their hearing be held publicly.

Register of interests – MPTS Committee

We publish a register of interests for the five members of the MPTS Committee, to support transparency, probity and confidence in our processes.

As a statutory committee of the GMC Council, our Committee members follow the guidance issued to GMC Council members on declarations of interest.

- You can find full details of MPTS Committee members' declared interests at www.mpts-uk.org/CommitteeRegister

Register of interests – Tribunal members

We publish a register of interests for all tribunal members.

This supports transparency, probity and confidence in our processes.

It also helps avoid any conflict of interests that might require a tribunal member to recuse themselves from a hearing.

- You can find full details of tribunal members' registered interests at www.mpts-uk.org/TribunalMembersRegister

Equality and diversity

Equality and diversity are integral to our work, as an adjudicator and an employer. We apply the equality and diversity strategy and policies of the GMC.

We aim to be fair and objective in delivering our procedures, and to make sure our processes are free from unlawful discrimination and transparent to all of our interest groups.

We train our staff and tribunal members to understand how to treat people fairly in our work.

We will make reasonable adjustments for those attending hearings to make sure they can play a full part in the proceedings.

We believe it is important that tribunal members bring a range of diverse perspectives to the role. When appointing new tribunal members we take active steps to encourage applications from a wide range of backgrounds, by targeting advertising and utilising networks with diverse groups.

Liaison with users of the MPTS

An MPTS User Group was established in 2012 to engage directly with all parties involved in our hearings. Meetings are held twice a year, at which users can raise operational matters of concern with our Chair and Executive Manager.

The meetings are attended by medical defence organisations, the legal firms they instruct, and staff from the GMC's Fitness to Practise directorate who investigate and prepare cases.

Among the issues discussed at the meetings in 2017 were the provision of evidence bundles in advance of hearings, hearings adjourning part-heard, and the piloting of paperless hearings.

We engage directly with medical defence organisations over matters of mutual concern, such as case management.

Support for doctors and witnesses

We recognise that hearings can be stressful for anyone attending, whether as a doctor or as a witness.

To help people familiarise themselves with our hearing centre and processes, information is available in print and online to anyone attending a hearing.

A support service is available to witnesses who wish to talk to someone before, during or after a hearing.

In 2017, 13% of doctors appearing before medical practitioners tribunals in new cases did so without legal representation. This can be challenging for both tribunals and the doctors concerned.

To help doctors representing themselves, and reduce the risk of hearings adjourning part-heard, we offer a range of material to help those doctors better prepare for their hearing, including:

- a range of information booklets, factsheets and posters, explaining each stage of a hearing
- a telephone information service run by law students, offering information on hearings procedure (but not legal advice).

Our Doctor Contact Service is available to all doctors on the day of a hearing, and is particularly aimed at those attending alone or without legal representation. A member of our staff unconnected to the doctor's case can be available to talk at any time. The aim of this service is to:

- help lessen the isolation and stress doctors might encounter
- signpost useful support material and services
- provide information about the hearing process.

The MPTS is expanding this service, so we can offer support at the pre-hearing stage.

In 2017,



of doctors appearing before
medical practitioners tribunals in
new cases did so without legal
representation.

See www.mpts-uk.org/DoctorContactService

Decision making

14

Tribunal members

As of 31 December 2017, we had 310 tribunal members. 47% were medical members and 53% lay members.

We appoint all tribunal members by means of open competition and select them for their decision-making abilities against agreed competencies.

Some medical and lay members, including legally qualified members, have been specially trained and appointed to act as tribunal chairs.

In 2017, we carried out an appointment campaign for legally qualified individuals to act as legally qualified chairs and legal assessors. We appointed 72 individuals, 30 of whom came from our existing pool of tribunal members.

In 2017, we changed our procedures so the majority of tribunals now have a legally qualified chair. Now, a legal assessor is only appointed to advise a tribunal if a case manager identifies exceptional circumstances that make it necessary, or if a hearing is listed for more than 20 days.

Diversity of tribunal members

As of 31 December 2017, we had 310 tribunal members, of whom 46% were female and 20% identified as coming from black and minority ethnic (BME) backgrounds.

This compares favourably with the most recently published figures for courts in England and Wales (28% female and 7% BME) and tribunals in England and Wales (46% female and 14% BME).^{*} It also compares well with the UK population (51% female and 13% BME).[†]

(As of 31 December 2017), we had
310 tribunal members, of whom



46%

were female and
20% identified as

coming from black and minority
ethnic (BME) backgrounds.

We believe our tribunal members bring a wide range of perspectives to the role. We encourage applications from a diverse range of backgrounds, by targeted advertising and utilisation of networks used by different groups.

In 2017, our tribunals had both ethnicity and gender diversity on 46% of hearing days. On 47% of hearing days our tribunals had gender diversity only, while on 2% of hearing days our tribunals had ethnicity diversity only. A non-BME, single gender tribunal only sat on 5% of hearing days.

^{*} See www.judiciary.gov.uk/publications/judicial-statistics-2017

[†] See www.ons.gov.uk/census/2011/census

The MPTS is conscious of concerns expressed, particularly within the medical profession, that BME doctors are disproportionately represented in complaints to the GMC, and therefore in GMC investigations and among the doctors referred by the GMC to the MPTS for hearings.

We welcome the GMC's decision to commission research to better understand why this is.

Training of tribunal members

All new tribunal members have a full week of induction training. Our training emphasises the legislation and rules that govern the process for our hearings, the key skills required for the role and practical application of these through a blended training programme.

Tribunal members must keep their skills and knowledge up to date via the regular circulars and updates to guidance that we send them. We also provide e-learning modules for those attending induction training.

All MPTS tribunal members and legal assessors must attend an annual training day, which is tailored to their role. Tribunal chairs and legally qualified chairs must attend additional annual training where they receive additional training specific to their chairing role.

In 2017, our training included equality and diversity refreshers, the role and treatment of expert witnesses within hearings and in written determinations and updates on changes in case law and guidance.

Appraisal

So that standards are maintained, tribunal members are also subject to regular appraisal. This includes 360 degree feedback from other tribunal members with whom they have sat in hearings, and observations of their performance during hearings carried out by appropriately trained members of our staff.

Quality assurance of tribunal decision making

The Quality Assurance Group is chaired by our Chair and meets monthly to review a proportion of written tribunal determinations.

The purpose of these reviews is to identify learning points that can assist us to ensure determinations are clear, well-reasoned and compliant with the relevant case law and guidance and to identify any issues which could usefully be incorporated into future tribunal training sessions.

In 2017, the Quality Assurance Group reviewed 527 tribunal decisions and 48 pre-hearing postponement decisions. The most common issues identified were the need to ensure the correct legal tests and case law were applied and to provide more detailed reasons for a decision. The Quality Assurance Group also reviews tribunal decisions which have been the subject of appeals, including appeals by, or of learning points raised by, the Professional Standards Authority. During 2017, the Professional Standards Authority raised learning points in 16 cases.

Learning points issued by Quality Assurance Group

In 2017, the Quality Assurance Group issued learning points to tribunal members on a variety of topics. These included:

- Giving adequate reasons for not revoking an existing direction, following a finding of no impairment at a review hearing.
- Taking account of the appeal period in any sanction extension when making arrangements to adjourn a hearing.
- Types of cases in which an indefinite suspension can be directed.
- The appropriate test for dishonesty.
- Reminder of the costs powers available to tribunals.
- When undertakings cease to become effective.

- Consideration of past engagement with an investigation when considering a sanction of conditions.
- Impact of the revised conditions bank on review hearings.
- Giving clear and concise reasons for hearing part of a public hearing in private session.
- Using the term 'child sex abuse material' rather than referring to 'child pornography'.
- Summarising the submissions made by parties in determinations, to ensure tribunal decisions can be understood by the public.

You can view all learning points issued to tribunal members at www.mpts-uk.org/learning_points.

Updates to tribunal guidance

In May 2017 in collaboration with the GMC, we updated the *Sanctions guidance*, which is used by both MPTS tribunals and decision makers in the GMC's fitness to practise investigations.

The changes were:

- Testimonials being classed as verified when legal representatives provide assurances that appropriate verification has been carried out.
- Further information about the material which could be relevant for a Responsible Officer's statement.
- Updated forewords.

In November 2017 the *Warnings guidance* used by both MPTS tribunals and decision makers in the GMC's fitness to practise investigations was updated to ensure consistency with other guidance documents.

The changes were:

- Assault in a non-professional context was removed as an example of a type of case that it is normally appropriate to conclude with a warning
- Disorderly behaviour (without violence) and minor criminal damage (as opposed to criminal damage more generally) were clarified as examples of cautions or convictions that may result in a warning.

Cases referred to us

18

Number of cases referred to a medical practitioners tribunal

Following an investigation, the GMC can refer a doctor to us for a medical practitioners tribunal hearing.

| | 2015 | 2016 | 2017 |
|---|------|------|------|
| Decisions to refer a doctor to MPT hearing | 336 | 232 | 250* |
| Decisions to refer a doctor to a non-compliance hearing | - | 16 | 19 |

Some GMC referrals are cancelled before a hearing commences.

Sometimes a doctor is referred more than once, if the GMC receives additional information before a hearing is listed.

Types of cases referred to the MPTS

When referring cases to us, the GMC may allege that a doctor's fitness to practise is impaired by reason of one of more of the following:

- misconduct
- deficient professional performance
- a conviction, or caution, for a criminal offence
- adverse physical or mental health
- not having the necessary knowledge of English
- a determination made by another regulatory body.

The allegation being made against the doctor by the GMC may cover more than one category of impairment. For example, a criminal conviction might be accompanied by further allegations of misconduct or adverse health.

* This figure differs from the 240 listed in the GMC's 2017 Annual Report, as it includes ten referrals that resulted from a doctor's decision not to agree undertakings.

| Type of alleged impairment in MPT hearings | 2015 | 2016 | 2017 |
|--|------------|------------|------------|
| Misconduct | 130 | 150 | 121 |
| Conviction | 33 | 20 | 35 |
| Performance | 4 | 5 | 4 |
| Health | 14 | 8 | 1 |
| Determination by another regulator | 2 | 0 | 2 |
| Language | 2 | 2 | 0 |
| Misconduct and performance | 22 | 13 | 3 |
| Misconduct and conviction | 7 | 5 | 9 |
| Misconduct and health | 11 | 6 | 4 |
| Conviction and health | 7 | 5 | 8 |
| Other combinations of the above | 6 | 15 | 8 |
| Total | 238 | 229 | 195 |

Case management

The MPTS has powers to issue binding pre-hearing case management directions. We believe this is essential to make sure hearings are case-ready on the first day.

In 2017, we took steps to increase our in-house case management support. Our two case managers are supported by a small team of experienced staff. Cases are subject to robust, active pre-hearing case management.

We held 198 pre-hearing meetings in 2017 (some of which were for the same case).

Our tribunals have powers to award costs if either party (the doctor or the GMC) fails to comply with a direction and behaves unreasonably in the conduct of proceedings. (Tribunals awarded no costs in 2017).

In 2017, we successfully piloted the provision of evidence bundles to tribunals in advance of a hearing.

Providing bundles in advance improves the ability of parties to timetable witness evidence, by removing the uncertainty around the amount of reading time a tribunal will require.

By early 2018 we required that evidence bundles be provided in advance to tribunals in all MPT hearings, unless there are exceptional circumstances. We also issued published guidance to support this change.

Hearing days and service targets

The number of hearing days is an important figure for our budgeting and workforce planning. We look at this alongside the number of cases referred by the GMC to plan the best use of our resources for the future.

We have service targets to:

- begin 90% of medical practitioners tribunal hearings within nine months of a referral
- begin 100% of interim orders tribunal hearings within three weeks of a referral.

We met both targets consistently throughout 2017.

53% of medical practitioners tribunal hearings were held within six month of the GMC's referral, exceeding our service target.

| Hearing days | 2015 | 2016 | 2017 |
|--------------|--------------|--------------|--------------|
| Misconduct | 2,202 | 2,431 | 2,007 |
| Conviction | 507 | 254 | 266 |
| Total | 2,709 | 2,785 | 2,273 |

Hearing outcomes

Medical practitioners tribunal hearings – new cases

Medical practitioners tribunals made decisions in new cases involving 195 doctors in 2017, a smaller number than in previous years.

To put that figure in context, there are approximately 280,000 doctors on the UK medical register, and the GMC considers around 8,000 concerns about doctors each year.

In 2017, over three quarters of new cases brought before medical practitioners tribunals resulted in a sanction being imposed (of conditions, suspension or erasure), a similar proportion to previous years.

Our tribunals found doctors' fitness to practise not to be impaired in 20% of new cases. In some of those cases, the tribunal felt it necessary to issue a warning on the doctor's registration.

No cases concluded last year with the tribunal accepting an application from the doctor for voluntary erasure from the medical register, or with the doctor agreeing undertakings (voluntary conditions) with the GMC.

| Medical practitioners tribunal hearing outcomes | 2015 | 2016 | 2017 |
|---|------------|------------|------------|
| Impaired: Erasure | 72 | 70 | 62 |
| Impaired: Suspension | 94 | 93 | 76 |
| Impaired: Conditions | 24 | 17 | 13 |
| Impaired: No action | 2 | 2 | 4 |
| Not impaired: warning | 6 | 11 | 13 |
| Not impaired | 38 | 34 | 27 |
| Voluntary erasure | 1 | 2 | 0 |
| Undertakings | 1 | 0 | 0 |
| Total | 238 | 229 | 195 |

Medical practitioners tribunal hearings – non-compliance

Non-compliance hearings have been held since 2016, following changes to the Medical Act. If non-compliance is found, a tribunal can impose a sanction of conditions or suspension.

| Outcomes in non-compliance hearings | 2015 | 2016 | 2017 |
|-------------------------------------|------|----------|----------|
| Suspension | | 2 | 8 |
| Conditions | | 5 | 0 |
| Non-compliance not found | | 0 | 1 |
| Total | | 7 | 9 |

Medical practitioners tribunal hearings – restoration

We held 21 restoration hearings in 2017, a slight increase on previous years.

| Outcomes in restoration hearings | 2015 | 2016 | 2017 |
|----------------------------------|-----------|-----------|-----------|
| Application granted | 3 | 6 | 8 |
| Application refused | 12 | 9 | 13 |
| Total | 15 | 15 | 21 |

Interim orders tribunal hearings – new cases

Interim orders tribunals considered 350 new cases in 2017, a similar number to 2016 but significantly fewer than in previous years.

| Outcomes in interim orders tribunal hearings | 2015 | 2016 | 2017 |
|--|------------|------------|------------|
| Suspension | 49 | 58 | 43 |
| Conditions | 359 | 233 | 238 |
| No action | 114 | 48 | 71 |
| Total | 522 | 339 | 352 |

Review hearings

We expanded the use of review hearings on the papers in 2017 after introducing them in 2016. We found this to be an efficient use of resources and less stressful for those involved in the hearing. The first non-compliance review hearings were held in 2017.

| Medical practitioners tribunal review hearings | 2015 | 2016 | 2017 |
|---|------------|------------|------------|
| Medical practitioners tribunal review | 157 | 171 | 148 |
| Medical practitioners tribunal review on the papers | | 4 | 12 |
| Total | 157 | 175 | 160 |

| Interim orders tribunal review hearings | 2015 | 2016 | 2017 |
|--|--------------|--------------|------------|
| Interim orders tribunal review | 1,445 | 860 | 524 |
| Interim orders tribunal review on the papers | | 277 | 351 |
| Total | 1,445 | 1,137 | 875 |

| Non-compliance review hearings | 2016 | 2017 |
|-------------------------------------|------|----------|
| Non-compliance review | 0 | 7 |
| Non-compliance review on the papers | 0 | 0 |
| Total | | 7 |

Appeals

After a medical practitioners tribunal hearing, there is a right of appeal against the final decision for the doctor, the GMC and the Professional Standards Authority (PSA).

Appeals are heard by the Court of Session in Scotland, the High Court of Justice of Northern Ireland, or the High Court of Justice in England and Wales.

If a case proceeds to a court hearing, the judge can:

- dismiss the appeal
- allow the appeal, in whole or in part, and quash the relevant tribunal decision
- substitute the tribunal's decision for another the tribunal could have given
- refer the case back for a new MPTS tribunal decision.

Any doctor who has been found impaired by a medical practitioners tribunal can appeal against the decision within 28 days of being notified of the decision of the tribunal.

If a doctor wishes to challenge any other decision made by a tribunal, for example the issuing of a warning, this is done by way of judicial review.

The GMC can appeal against decisions made by medical practitioners tribunal where it believes a relevant decision (including a tribunal sanction, decision to restore a doctor to the register or an order in response to a doctor's non-compliance with a fitness to practise investigation) is not sufficient to protect the public.

The GMC gained a right of appeal on 31 December 2015, when changes to the Medical Act were enacted. This change reflected the unique position of the MPTS in health regulation as an operationally separate adjudication service.

The PSA reviews the decisions of the fitness to practise tribunals or panels of nine healthcare regulators in the UK. It has the right to refer a medical practitioners tribunal's decision to the relevant court if it believes it is not sufficient for the protection of the public. Also, the PSA has a power to join a GMC appeal, and to take over the conduct of an appeal that the GMC decides to withdraw.

How we respond to appeal judgments

Judgments in appeals or in challenges brought by all parties, can be helpful in clarifying matters of law and in providing learning points that we can use to improve future decision-making by MPTS tribunals.

We communicate any such learning points to our tribunal members in a number of ways:

- Publishing appeal circulars, which summarise the key information from the judgment and identify any learning points or good practice
- At our annual training for tribunal members
- Providing updates on the outcomes of appeals directly to tribunal members involved in the appealed hearing (and of the outcome of any remitted hearing following the appeal).
- By providing direct feedback to individual tribunal members, if necessary, as part of their annual appraisal and continuous professional development.

A summary of learning points issued in 2017 is provided on pages 16–17 of this report.

Appeal outcomes

| Doctor appeals | 2015 | 2016 | 2017 |
|----------------|-----------|-----------|-----------|
| Successful | 1 | 3 | 5 |
| Dismissed | 15 | 25 | 13 |
| Struck out | 3 | 0 | 0 |
| Stayed | 1 | 0 | 0 |
| Withdrawn | 8 | 3 | 6 |
| Date set | 0 | 0 | 1 |
| Total | 28 | 31 | 25 |

| GMC appeals | 2015 | 2016 | 2017 |
|--------------|------|----------|-----------|
| Successful | | 4 | 13 |
| Unsuccessful | | 0 | 2 |
| Withdrawn | | 0 | 4 |
| Date set | | 0 | 0 |
| Total | | 4 | 19 |

| PSA appeals | 2015 | 2016 | 2017 |
|--------------|----------|----------|----------|
| Successful | 2 | 1 | 1 |
| Total | 2 | 1 | 1 |

Our next report

We will deliver our third report to Parliament in 2019, reporting on our activity in 2018.

We will report on progress on the actions set out in the foreword to this report, and the impact any changes have had on the efficiency and effectiveness of our tribunal service.

Further information

If you require more information about the MPTS, please contact enquiries@mpts-uk.org.

Email: **enquiries@mpts-uk.org**

Website: **www.mpts-uk.org**

Telephone: **0161 923 6263**

Medical Practitioners Tribunal Service

7th Floor, St James's Buildings, 79 Oxford Street, Manchester M1 6FQ

Textphone: please **dial the prefix 18001** then
0161 923 6263 to use the Text Relay service

To ask for this publication in Welsh, or in another format
or language, please call us on **0161 923 6263** or email us at
enquiries@mpts-uk.org.

The Medical Practitioners Tribunal Service makes independent decisions on doctors' fitness
to practise. The Medical Practitioners Tribunal Service is a Statutory Committee of the General
Medical Council.

Published September 2018

© 2018 Medical Practitioners Tribunal Service and General Medical Council

The text of this document may be reproduced free of charge in any format or medium providing
it is reproduced accurately and not in a misleading context. The material must be acknowledged as
GMC copyright and the document title specified.

The GMC is a charity registered in England and Wales (1089278) and Scotland (SC037750)

Code: MPTS/RTPI7/0918