

Report to Parliament 2018





MPTS Medical Practitioners
Tribunal Service



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Foreword

As Chair of the Medical Practitioners Tribunal Service (MPTS), I am pleased to introduce our third 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 around 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. Delays can have a stressful impact on doctors, witnesses and all those involved in our hearings, and we believe it is important that we do all we can to keep them to a minimum.

There was an increase in the number of cases referred to us in 2018, compared with recent years. This increased the peaks in hearing volumes at certain times of the year that we had already identified as an issue of concern.

Therefore, during 2018, we reviewed the pre-hearing case management service we currently offer, to identify opportunities for improvement and consider how best to meet the needs of those attending hearings.

Our review identified a number of changes which we will be implementing throughout 2019. We believe these changes will allow us to list many cases for a hearing sooner, and ensure that more hearings are ready to proceed on the first day.

Foreword

It is also important that the decisions given by our tribunals are of a consistently high quality. During 2018, we have provided annual training sessions for existing tribunal members, along with frequent updates on recent developments in the regulatory field, including High Court appeals brought by doctors, the GMC and the Professional Standards Authority. For the first time, we utilised webinars and eLearning to train our tribunal members remotely.

We recognise our continuing role in supporting the wellbeing of doctors referred to us for a hearing, particularly those who have no legal representation. In 2018 we increased the support we offered to such doctors. We also made improvements to the facilities at our hearing centre to make attendance less stressful for witnesses, especially vulnerable witnesses.

All of this work is only possible with the hard work, support and commitment of MPTS staff, tribunal members and other associates, for which I thank them all very much.

Dame Caroline Swift

MPTS Chair

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 General Medical Council (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 2018 the MPTS Committee was composed of:

- ▶ Dame Caroline Swift, Chair
- ▶ Joy Hamilton, lay tribunal member
- ▶ Professor Jacky Hayden, medical member
- ▶ Dr Patricia Moultrie, medical tribunal member
- ▶ Judith Worthington, lay member

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.

Who we are

Improving what we do

Throughout 2018 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 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.

In 2018 we launched a new website, created with the needs of users in mind. Our decisions are now much easier to search for and find online.

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 made a number of changes in 2018.

Since March 2018, parties have been required to submit a hearing bundle in advance in medical practitioners tribunal (MPT) hearings, unless there are exceptional circumstances. This means tribunals do not have to spend time on the first day reading.

We now use legally qualified chairs (LQCs) in the majority of our hearings. Previously, all tribunals were assisted by a legal assessor, who are now only appointed in exceptional circumstances.

When active case management of a hearing is needed, LQCs are able to act with confidence because of their experience.

Combined with more pre-hearing case management, these changes have resulted in a significant increase in the number of tribunal hearings finishing on time or early.

Sometimes, our hearings do not conclude within their estimated timeframe and have to be adjourned. We look carefully at 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. We hope that, by this means, 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.

Who we are

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, was extended in 2018. Two members of staff now dedicate 50% of their time to operating the Contact Service and giving support to doctors.

We have also improved the support we offer to the 13% of doctors who appear at hearings without legal representation. The new website we launched in 2018 includes a user-focussed guide to hearings, written specifically for those without legal representation.

[Read our resources for doctors here](#)



During 2018 we have made improvements to the facilities available to witnesses called to our hearings by the GMC and by doctors. These include a new purpose-built waiting room and new online resources to help witnesses familiarise themselves with the hearings process.

How our hearings work

We hear the vast majority of cases in our dedicated hearing centre in Manchester. We can run a maximum of 15 hearings at one time.

As of 31 December 2018, we employed 96 full-time and part-time members of staff to support hearings directly 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.

Types of hearings

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

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 are 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 decided on the papers by a legally qualified chair when both the GMC and the doctor 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 2018, 37% of our interim orders reviews were held in this way.

How our hearings work

This is an efficient use of our resources and less stressful for those involved in the fitness to practise 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 adverse health or inadequate knowledge of the 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*.

How our hearings work

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.

As with interim orders tribunals, review hearings can be held on the papers when both parties agree on the proposed outcome, thus 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 the 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. It does not have the power to erase the doctor's name from the register by reason of non-compliance.

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

Medical practitioners tribunal hearings – restoration

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

There is no automatic right to restoration. When a case is referred to a medical practitioners tribunal, the onus is on the doctor to demonstrate to a tribunal that they:

- ▶ have insight and have dealt with the issues that led to erasure
- ▶ have 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 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 and 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 <https://www.mpts-uk.org/about/how-we-work/the-committee-and-their-interests>

Register of interests – Tribunal members

We publish a register of interests for all tribunal members.

This supports transparency, probity and confidence in our processes.

Transparency

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, to avoid conscious and unconscious bias.

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 2018 were the provision of evidence bundles in advance of hearings, the *Sanctions guidance*, and the observations of tribunal members for appraisal purposes.

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, as a witness or another interested party such as a bereaved family member.

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

Transparency

Witnesses are called to our hearings by both the GMC and by doctors. We provide facilities to allow both parties to look after their witnesses. Our facilities were improved in 2018, with a new purpose-built waiting room and new online resources.

In 2018, 13% of doctors appearing before tribunals in all case types did so without legal representation. This can be challenging for both tribunals and the doctors concerned.

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

- ▶ a range of information booklets, 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.

Non-attendance of doctors

In 2018, 37% of doctors did not attend and were not represented at their MPTS hearing.

In some cases, those doctors ceased to engage with the GMC during the investigation process and, at other times, after referral to the MPTS.

Our tribunals always consider carefully the reasons for absence and decide whether it is fair to proceed. Usually, in a case where the doctor has voluntarily absented himself or herself for no good reason, the tribunal will decide that it is in the public interest to continue with the hearing.

We continue to make efforts to convey the value of engaging with the fitness to practise process at the earliest opportunity.

Doctors have a duty to engage with their regulator and a failure to do so when faced with disciplinary proceedings cannot be of benefit to the individual concerned. A failure to take any part at all will inevitably deprive the doctor of the opportunity of presenting their side of the case.

It will also make it difficult for the tribunal to conclude that the doctor has demonstrated the degree of insight and remediation necessary to avoid a finding of impairment and subsequent suspension or erasure.

Decision making

Tribunal members

As of 31 December 2018, we had 297 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.

The majority of tribunals now have a legally qualified chair. A legal assessor now is only appointed to advise a tribunal if a case manager identifies exceptional circumstances that make it necessary.

Diversity of tribunal members

As of 31 December 2018, we had 297 tribunal members of whom 48% 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 (29% female and 7% BME) and tribunals in England and Wales (46% female and 11% BME). (Source: <https://www.judiciary.uk/publications/judicial-diversity-statistics-2018/>)

It also compares well with the UK population (51% female and 13% BME). (Source: www.ons.gov.uk/census/2011census)

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 2018, our tribunals had both ethnicity and gender diversity on 48% of hearings. On 42% of hearings our tribunals had gender diversity only, while on 4% of hearing days our tribunals had ethnicity diversity only. A non-BME, single gender tribunal only sat on 5% of hearings.

Training of tribunal members

All new tribunal members attend in-depth 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.

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 training specific to their chairing role.

In 2018, the MPTS ran successful shared chairs training with our colleagues at the Nursing and Midwifery Council. Pooling our resources in this way has been an efficient way of delivering training and sharing best practice.

Decision making

In 2018, our training included case law refreshers through e-learning and discussion, clarifying MPTS processes and guidance and updates on policy developments. It also included exercises where tribunal chairs (including LQCs) played the role of self-represented doctors or vulnerable witnesses, to highlight those perspectives and the ways in which tribunal members should manage challenging hearings both fairly and effectively.

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 MPTS staff.

Quality assurance of tribunal decision making

The Quality Assurance Group (QAG) 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 2018, the QAG reviewed 473 tribunal 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 QAG also reviews tribunal decisions which have been the subject of appeals, including appeals by, or of learning points raised by, the Professional Standards Authority (PSA). During 2018, the PSA raised learning points in 11 cases.

Learning points issued by the Quality Assurance Group

In 2018, the QAG issued learning points to tribunal members on a variety of topics. These included:

- ▶ Giving clear reasons for deciding if a doctor's fitness to practice is impaired by reason of misconduct, and setting out if the misconduct found was serious.
- ▶ The introduction of the Occupational English Test as an additional test that can be routinely and automatically accepted by the GMC.
- ▶ Changes to the Publication and Disclosure policy.
- ▶ The need to consider all three limbs of the statutory overarching objective when making decisions.
- ▶ The need to take account of both emotional and physical harm, when deciding whether a patient has been harmed by the actions of a doctor.

Decision making

- ▶ Explaining and demonstrating how any case law and guidance referred to in a determination support the tribunal's reasoning.
- ▶ Clearly explaining the level of supervision ('close' or 'direct') required when imposing conditions.
- ▶ Reminder of the '*Guidance on drafting*' guidance available to tribunals.
- ▶ Indicating whether the doctor can or cannot make further applications to be restored to the register following a restoration application being refused.

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

Updates to tribunal guidance

During 2018, we issued new guidance to tribunal members on:

- ▶ Matters to consider when an individual shows signs of struggling or being unwell during a hearing.
- ▶ Listing reconvened hearings when a case has to adjourn part-heard.

Cases referred to us

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.

	2016	2017	2018
Decisions to refer a doctor to a medical practitioners tribunal hearing	232	250*	310
Decisions to refer a doctor to a non-compliance hearing	16	19	8

- ▶ Some GMC referrals are cancelled before a hearing commences. This might be because information has become available which means the threshold for referral is no longer met, or because of other exceptional circumstances.
- ▶ Sometimes a doctor is referred more than once, if the GMC receives additional information before a hearing is listed.¹

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 grounds:
 - ▶ 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.

Cases referred to us

Type of alleged impairment in medical practitioners tribunal hearings	2016	2017	2018
Misconduct	150	121	164
Conviction	20	35	33
Performance	5	4	7
Health	8	1	5
Determination by another regulator	0	2	0
Language	2	0	1
Misconduct and performance	13	3	9
Misconduct and conviction	5	9	11
Misconduct and health	6	4	5
Conviction and health	5	8	4
Other combinations of the above	15	8	7
Total	229	195	246

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 2018 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 261 pre-hearing meetings in 2018 (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 2018.
- ▶ Since March 2018, parties have been required to submit a hearing bundle in advance in medical practitioners tribunal (MPT) hearings, unless there are exceptional circumstances.
- ▶ 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.

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 currently being referred by the GMC in order to plan the best use of our resources for the future.

Cases referred to us

- ▶ 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 in most periods in 2018. In two months of the year, we missed our target to begin 90% of MPT hearings within nine months of a referral. On a single occasion, we missed our three week target for holding an IOT hearing.

- ▶ The reasons for those targets being missed included:
 - ▶ delays in the GMC investigation, or with disclosure of evidence to the doctor.
 - ▶ delays caused due to the doctor's health or lack of representation.
 - ▶ delays in securing a quorate tribunal.

- ▶ In 2019 we will be implementing changes to our pre-hearing case management processes that we believe will allow us to list many cases for a hearing sooner, and ensure that more hearings are ready to proceed on the first day.

- ▶ We used 76% of our hearing rooms per working day for all medical practitioners tribunal (MPT) and interim orders tribunal (IOT) hearings, against our target of 80%.

Hearing days	2016	2017	2018
Medical practitioners tribunals	2,431	2,007	2,204
Interim orders tribunals	354	266	258
Total	2,785	2,273	2,462

Hearing outcomes

Medical practitioners tribunal hearings – new cases

- ▶ Medical practitioners tribunals made decisions in new cases involving 246 doctors in 2018, a higher number than in 2017.
- ▶ To put that figure in context, there are approximately 300,000 doctors on the UK medical register, and the GMC considers around 8,000 complaints about doctors each year.
- ▶ In 2018, just 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 just over 20% of new cases. In some of those cases, the tribunal felt it necessary to issue a warning on the doctor's registration.
- ▶ Three cases concluded last year with the tribunal accepting an application from the doctor for voluntary erasure from the medical register.

Medical practitioners tribunal hearing outcomes	2016	2017	2018
Impaired: Erasure	70	62	65
Impaired: Suspension	93	76	101
Impaired: Conditions	17	13	25
Impaired: No action	2	4	2
Not impaired: Warning	11	13	10
Not impaired	34	27	41
Voluntary erasure	2	0	3
Total	229	195	247

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.

Hearing outcomes

Outcomes in non-compliance hearings	2016	2017	2018
Suspension	2	8	7
Conditions	5	0	0
Non-compliance not found	0	1	3
Total	7	9	10

Medical practitioners tribunal hearings – restoration

- Five doctors were restored to the medical register in 2018, while ten applications were refused.

Outcomes in restoration hearings	2016	2017	2018
Application granted	6	8	5
Application refused	9	13	10
Total	15	21	15

Interim orders tribunal hearings – new cases

- Interim orders tribunals considered 388 new cases in 2018, slightly more than in 2017.

Outcomes in interim orders tribunal hearings	2016	2017	2018
Suspension	58	43	48
Conditions	233	238	247
No action	48	71	93
Total	339	352	388

Review hearings

- Reviews on the papers were first introduced in 2016, following changes to the Medical Act.

In 2018, more interim orders reviews were conducted on the papers than in hearings. This is an efficient use of our resources and less stressful for those involved.

Hearing outcomes

Medical practitioners tribunal review hearings	2016	2017	2018
Medical practitioners tribunal review	171	148	151
Medical practitioners tribunal review on the papers	4	12	6
Total	175	160	157

Interim orders tribunal review hearings	2016	2017	2018
Interim orders tribunal review	860	524	417
Interim orders tribunal review on the papers	277	351	462
Total	1,137	875	879

Non-compliance review hearings	2016	2017	2018
Non-compliance review	-	7	13
Non-compliance review on the papers	-	0	0
Total		7	13

Appeals

After a medical practitioners tribunal hearing, there is a right of appeal against the final decision for the doctor, the GMC and the 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 or
 - ▶ refer the case back for a new MPT 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 tribunals where it believes the 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 **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).

Appeals

- ▶ 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 2018 is provided on page 17 of this report.

Appeal outcomes

- ▶ Year columns refer to the date tribunal hearings concluded, not when appeals were heard.

Doctor appeals	2016	2017	2018
Successful	3	5	2
Dismissed	25	13	12
Struck out	0	0	0
Stayed	0	0	4
Withdrawn	3	6	4
Date set	0	1	0
Remitted to MPT	-	-	2
Total	31	25	24

GMC appeals	2016	2017	2018
Successful	4	13	3
Unsuccessful	0	2	2
Withdrawn	0	4	0
Date set	0	0	0
Total	4	19	5

PSA appeals	2016	2017	2018
Successful	1	1	0
To be heard	-	-	2
Total	1	1	2

Report to Parliament 2019

Our next report

We will deliver our fourth report to Parliament in 2020, reporting on our activity in 2019.

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.





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