

Medical Practitioners Tribunal Service

Medical Practitioners Tribunal
Service Report to Parliament
2019

Medical Practitioners Tribunal Service

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Report to Parliament 2019





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Foreword

As Chair of the Medical Practitioners Tribunal Service (MPTS), I am pleased to introduce our Annual Report to Parliament for 2019.

The MPTS provides an adjudication service for doctors in the UK. We operate separately from the GMC's role in investigating complaints and presenting cases at hearings.

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.

We are always striving to improve the efficiency and effectiveness of our tribunal hearings. Delays may be stressful for doctors, witnesses or anyone else involved in our hearings, so we believe it is important that we do all we can to keep them to a minimum.

In 2019 we made improvements to our pre-hearing case management processes, to better meet the needs of those attending our hearings.

Pre-hearing meetings are now held earlier, allowing us to use our powers to issue legally binding directions at the earliest opportunity. This helps ensure parties are ready to present their respective cases from the first day of a hearing.

As a result of these changes, we are now better able to manage the peaks in hearing volumes at certain times of the year that we have had previously.

In mid-March 2020, we took the decision to close our hearing centre in Manchester, in response to the COVID-19 pandemic.

The cessation of hearings was necessary in order to free up medical tribunal members to treat coronavirus patients, and to protect the health of all those involved in our hearings.

Urgent decisions on some cases were still required though, so we acted quickly to begin holding virtual hearings for the first time in our history.

Foreword

By working in this new way, we have continued to meet our statutory objective to protect the public, imposing interim restrictions on doctors where necessary and reviewing existing orders and sanctions.

We continue to focus on the importance of equality, diversity and inclusion within our work. This report includes information on the diversity of the tribunal members we appoint, bringing a wide range of perspectives to our decision-making.

Also included is information on peer-reviewed research by the GMC which asked if there was a relationship between the protected characteristics of doctors and the seriousness of MPTS hearing outcomes. It concluded there was no 'systematic' link with characteristics, but a consistent link with doctors' level of engagement with proceedings.

We will continue to do all we can to stress to the medical profession the importance of engagement if they become the subject of one of our hearings.

Next year we will report in more detail on the steps taken to respond to the pandemic, how the MPTS has continued to operate in these difficult circumstances and the impact on the efficiency and effectiveness of our tribunal service.

Our positive response to the pandemic has only been possible with the dedication, hard work and support of MPTS staff and tribunal members, for which I am very grateful.



Dame Caroline Swift

MPTS Chair

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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 GMC's Director of Resources for the efficient and effective use of resources.

Who we are

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 2019 we have taken various steps towards realising this vision.

Pre-hearing case management

Effective pre-hearing case management is beneficial to everyone involved in a hearing. It can resolve legal matters in advance, so parties are ready to present their respective cases from the first day.

This can minimise the stressful impact of delays on doctors, witnesses and all those involved in our hearings.

In 2018 we carried out a review of our own pre-hearing case management service, to identify opportunities for continuous improvement, ensure efficient use of our resources and consider how best to meet the needs of those attending hearings.

In 2019 we implemented the findings of that review, with the intention of maximising our resources and managing our hearings workload more effectively.

While making these changes, we liaised closely with colleagues in both the GMC's Fitness to Practise directorate, and in organisations representing doctors in our hearings.

Who we are

We reorganised the staffing of the MPTS to create a dedicated case management team, to manage our hearing calendar and conduct pre-hearing meetings with legal representatives for the GMC and doctors.

This team includes legally qualified case managers who can make pre-hearing decisions on postponement applications. They can also make directions, for example that special measures be put in place for a doctor or witness.

All new medical practitioner tribunal hearings are now subject to pre-hearing case management, regardless of hearing length.

Pre-hearing meetings are now held earlier, so that we use our powers to issue legally binding directions at the earliest opportunity.

We have set clear expectations about the level of information we require from both parties after a case is referred to the MPTS for a hearing.

Along with new guidance documents on our revised processes, we also provided training sessions to colleagues in GMC Legal and medical defence organisations.

Our changes have allowed us to be smarter in the way we list our hearings. Cases are now listed sooner if both parties are ready to proceed.

This has reduced the peaks and troughs we have traditionally seen in our hearings calendar.

Referrals

Our case management changes helped us respond to an increase in the number of doctors referred to us for a hearing by the GMC.



In 2019 we had **377** doctors referred to us for a hearing, compared to **310** in 2018.

That is a small number in the context of around 300,000 doctors on the UK register, but it created a logistical challenge for the MPTS during 2019.

By making use of our pre-hearing case management powers, we were able to start 'flattening' our hearing calendar by the end of 2019. Instead of holding lots of hearings in some months, but very few in others, we began to hold a similar number at all times.

This allows the MPTS to provide a more effective and efficient service.

Who we are

Research into hearing outcomes

We welcomed the publication of GMC peer-reviewed research into our hearing outcomes in the journal, BMC Medicine.

The cross-sectional study considered hearing outcomes between June 2012 and December 2016.

It concluded that there is no 'systematic' association between a doctor's characteristics, such as age, race, sex, domestic/international primary medical qualification (PMQ), and the seriousness of the outcome of their MPTS decision.

The outcome of MPTS decisions was 'consistently' linked to doctors' engagement during hearings.

Those who failed to attend the hearing and/or did not have legal representation were more likely to receive a more serious outcome, i.e. erasure or suspension.

The study found that an apparent relationship between age or location of PMQ and the seriousness of the MPTS outcome disappeared once the factor of attendance at the hearing was taken into account.

These findings underline the importance of doctors engaging with their regulator in fitness to practise proceedings.

Most doctors are represented before our tribunals by lawyers, often instructed by one of the medical defence organisations, sometimes by specialist firms of solicitors. However, in 2019, around 11% of doctors attended a hearing without legal representation. We provide more details about this in the *Transparency* section of this report.

The MPTS is committed to giving what support we can to those doctors who attend our hearings without legal representation. More information on our support for doctors can also be seen in the *Transparency* section of this report.



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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 2019, we employed 102 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 includes 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 concerns about their fitness to practise 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 if they consider it necessary 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).

How our hearings work

In 2019, 50% of our interim orders reviews were held on the papers.

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 direct 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. If the doctor was erased for disciplinary reasons they can apply for restoration after a minimum of five years has elapsed.

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 demonstrated insight into the matters that led to erasure, taken responsibility for their actions, and actively addressed the findings about their behaviour or skills.
- ▶ what they have done since their name was erased from the register.
- ▶ the steps taken to keep their medical knowledge and skills up to date.
- ▶ that they 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.



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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

After a medical practitioners tribunal hearing concludes, we publish a Record of Determinations which explains the reasons for any decisions taken. This is available on our website for 12 months.

If there has been a finding of impairment, or a warning issued, the same record will also appear on a doctor's entry on the GMC's medical register.

Details of interim orders to suspend or restrict a doctor's registration (pending the outcome of a GMC investigation) are published on our website for six weeks. We do not publish detailed records of decisions taken by interim orders tribunals, unless a doctor has requested their hearing be held publicly.

They are also published on the medical register while the order remains in place.

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 www.mpts-uk.org/about/how-we-work/the-committee-and-their-interests

Transparency

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, diversity and inclusion

Equality, diversity and inclusion 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.

We undertake monitoring, quality assurance and analysis of the application of our processes as both an adjudicator and an employer to ensure we are meeting this aim and commitments.

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.

Transparency

Among the issues discussed at the meetings in 2019 were a review of case management services, the new MPTS website, refurbishment of the hearing centre, and the costs of using video evidence.

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.

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 2019, around **11%** 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 students from BPP University Law School Manchester, 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.

Transparency

Non-attendance of doctors

In 2019, 28% of doctors did not attend and were not legally represented at their medical practitioners tribunal hearing.



Across all types of hearing, **37%** of doctors **did not attend** and were not legally represented.

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 themselves 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 to the medical profession the importance 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 fitness to practise 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.



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Doctor

Decision making

Tribunal members

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

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

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

In 2019, we appointed 25 new legally qualified chairs and 23 new medical tribunal members.

As of 31 December 2019, we had 338 tribunal members, of whom 47% were medical members and 53% lay members (including legally qualified chairs).

Diversity of tribunal members



As of 31 December 2019, **45%** of our 338 tribunal members were **female** and **20%** identified as coming from **black, Asian and minority ethnic (BAME)** backgrounds.



This compares favourably with the most recently published figures for courts in England and Wales (**32% female** and **7% BAME**)



and tribunals in England and Wales (**50% female** and **15% BAME**). (Source: www.judiciary.uk/publications/judicial-diversity-statistics-2019/)

It also compares well with the UK population (51% female and 13% BME). (Source: www.ethnicity-facts-figures.service.gov.uk/)

Decision making

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

In 2019, our tribunals had both ethnicity and gender diversity on 36% of hearings. On 53% of hearings our tribunals had gender diversity only, while on 5% of hearing days our tribunals had ethnicity diversity only. A non-BAME, single gender tribunal only sat on 6% of hearings.

Training of tribunal members

All new tribunal members attend several days of 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, videos and webinars.

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, if necessary, where they receive training specific to their chairing role.

In 2019 we ran webinars and distributed a video on the subject of adjournments, addressing learning from recent judgments. We also provided e-learning modules on case law, information security, and interim orders tribunals.

Our annual in-house training covered equality, diversity and inclusion, factors to consider in decision-making, and general policy and guidance changes. We also focussed on adjournments and effective management of time in hearings.

In 2019, all newly-appointed tribunal members received four days of induction training.

Development of tribunal members

So that standards are maintained, tribunal members also participate in a number of processes to assist their development.

This includes 360-degree feedback where comments are received from other tribunal members with whom they have sat, and observations of their competencies displayed during hearings are 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.

Decision making

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 2019, the QAG reviewed 363 tribunal decisions, including 25% of new MPT decisions and 25% of new IOT decisions.

The QAG also reviews tribunal decisions which have been the subject of appeals, including appeals by, or learning points raised by, the Professional Standards Authority (PSA). During 2019, the PSA raised learning points for both the MPTS and GMC in 8 cases.

Learning points issued by the Quality Assurance Group

In 2019, the QAG issued learning points to tribunal members on a variety of topics.

These included:

- ▶ Ensuring all references to case law and guidance are relevant and clearly explained in a determination, to assist the reader's understanding of the decision.
- ▶ When a hearing is held partly in private, clearly explaining in the determination which parts of the hearing were heard in private session and why.
- ▶ Exercising caution in referring to a witness's demeanour, focussing instead on the evidence considered when explaining reasoning.
- ▶ Explaining the background to a conviction or caution when finding facts proved.
- ▶ Not using phrases such as 'heightened examination of the evidence', as the standard of proof is simply the balance of probabilities.

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

Updates to tribunal guidance

During 2019, we issued new guidance to tribunal members on:

- ▶ Non-compliance hearings, which is easier to navigate and clarifies the approach to take and the questions to determine when considering non-compliance.
- ▶ Restoration hearings, responding to learning points from recent court judgments.
- ▶ Minor updates to the *Sanctions guidance*, amending sections on statements from responsible officers and amending terminology to more closely reflect external guidance or legislation.
- ▶ Adjourning hearings to direct a performance or health assessment.
- ▶ Use of *Skype for Business* in hearings where remote attendance is needed.



Cases referred to us

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Cases referred to us

Number of cases referred to a medical practitioners tribunal

- ▶ The GMC can refer a doctor to us for a medical practitioners tribunal hearing following a fitness to practise investigation.
- ▶ The GMC can also make a referral for non-compliance with a direction, or to decide on a restoration application.

	2017	2018	2019
Decisions to refer a doctor to a medical practitioners tribunal hearing	239	292*	363
Decisions to refer a doctor to a non-compliance hearing	18	8	6
Decisions to refer a restoration application to a hearing	20	20	24

- ▶ When the MPTS receives a referral from the GMC, we begin the process of preparing for a hearing.
- ▶ There are more referrals than hearings because some referrals are cancelled. This might be because information has become available which means the threshold for referral is no longer met, or because of other exceptional circumstances.

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 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.

Cases referred to us

Type of alleged impairment in medical practitioners tribunal hearings	2017	2018	2019
Misconduct	121	163	187
Conviction	35	33	26
Performance	4	7	5
Health	1	5	8
Determination by another regulator	2	0	1
Language	0	1	0
Misconduct and performance	3	9	4
Misconduct and conviction	9	11	10
Misconduct and health	4	5	5
Conviction and health	8	4	3
Other combinations of the above	8	8	7
Total	195	246	257

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.
- ▶ All new medical practitioner tribunal hearings are subject to pre-hearing case management, regardless of hearing length.
- ▶ 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 2019.
- ▶ 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.

Cases referred to us

Service targets and hearing days

- ▶ 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.
- ▶ 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 in 2019.

Hearing days	2017	2018	2019
Medical practitioners tribunals	2,007	2,204	2,317
Interim orders tribunals	266	258	248
Total	2,273	2,462	2,565



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Hearing outcomes

Medical practitioners tribunal hearings – new cases

- ▶ Medical practitioners tribunals made decisions in new cases involving 257 doctors in 2019, a higher number than in 2018.
- ▶ 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 2019, just under 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 under a quarter 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	2017	2018	2019
Impaired: Erasure	62	65	55
Impaired: Suspension	76	101	120
Impaired: Conditions	13	25	14
Impaired: No action	4	2	4
Not impaired: Warning	13	10	17
Not impaired	27	41	44
Voluntary erasure	0	3	3
Total	195	247	257

Medical practitioners tribunal hearings – non-compliance

- ▶ Non-compliance hearings were first held in 2016, following changes to the Medical Act. There were fewer in 2019 than in the previous two years.
- ▶ If non-compliance is found, a tribunal can impose a sanction of conditions or suspension.

Hearing outcomes

Outcomes in non-compliance hearings	2017	2018	2019
Suspension	8	7	5
Conditions	0	0	0
Non-compliance not found	1	3	0
Total	9	10	5

Medical practitioners tribunal hearings – restoration

- ▶ Two doctors were restored to the medical register in 2019, while 11 applications were refused.

Outcomes in restoration hearings	2017	2018	2019
Application granted	8	5	2
Application refused	13	10	11
Total	21	15	13

Interim orders tribunal hearings – new cases

- ▶ Interim orders tribunals considered 359 new cases in 2019, a slight reduction on the number heard in 2018.

Outcomes in interim orders tribunal hearings	2017	2018	2019
Suspension	43	48	52
Conditions	238	247	225
No action	71	93	82
Total	352	388	359

Review hearings

- ▶ Since 2016, the MPTS has been able to hold review hearings 'on the papers'. We do this when both parties agree on the proposed outcome.
- ▶ This is an efficient use of our resources and less stressful for those involved.

Hearing outcomes

Medical practitioners tribunal review hearings	2017	2018	2019
Medical practitioners tribunal review	148	151	134
Medical practitioners tribunal review on the papers	12	6	7
Total	160	157	141

Interim orders tribunal review hearings	2017	2018	2019
Interim orders tribunal review	524	417	466
Interim orders tribunal review on the papers	351	462	461
Total	875	879	927

Non-compliance review hearings	2017	2018	2019
Non-compliance review	7	13	13
Non-compliance review on the papers	0	0	0
Total	7	13	13



Appeals

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Appeal outcomes 35

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.

Appeals

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 2019 can be seen in the *Decision-making* section of this report.

Appeal outcomes

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

Doctor appeals	2017	2018	2019
Successful	5	2	2
Dismissed	14	12	13
Struck out	0	0	0
Stayed	0	4	0
Withdrawn	6	4	2
Date set	0	0	5
Remitted to MPT	0	2	2
Total	25	24	24

Appeals

GMC appeals	2017	2018	2019
Successful	13	3	3
Unsuccessful	2	2	1
Withdrawn	4	0	0
Date set	0	0	1
Total	19	5	5

PSA appeals	2017	2018	2019
Successful	1	0	0
To be heard	-	2	1
Total	1	2	1

Report to Parliament 2020

Our next report

We will deliver our next report to Parliament in 2021, reporting on our activity in 2020.

This will include more detail on the steps taken to respond to the pandemic, how the MPTS continued to operate in these difficult circumstances, and the impact 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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