Criteria for the appointment of Legal Assessors

Background
The Medical Practitioners Tribunal Service (MPTS) is the statutory committee of the General Medical Council (GMC) responsible for providing a hearings service that is efficient, effective and clearly separate from the investigatory role of the Fitness to Practise Directorate.

The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 requires publication of the criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment as a Legal Assessor.

This document constitutes the publication of those criteria.

Legal Assessors
The MPTS appoints Legal Assessors who advise its medical practitioners tribunals (MPT) and interim orders tribunals (IOT) on questions of law as to evidence or procedure arising in the proceedings before them and to advise on the drafting of decisions in accordance with Schedule 4 Paragraph 7 to the Act. In order to avoid any perception of bias, Legal Assessors may not represent any parties in the proceedings before the Tribunals nor in any proceedings relating to an appeal against a decision by the Committee/Tribunal.

Legal Assessors play no part in the Tribunal's decision making.

Legal Assessors must complete annual MPTS training in order to carry out their role.

Legal Assessors must be over the age of 18 at the time of appointment. There is no maximum age for appointment.
Qualifications, experience and competencies

The criteria for a Legal Assessor are:

a To fulfil the role of a barrister, chartered legal executive or solicitor in England and Wales; an advocate or solicitor in Scotland; or a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland; and

b To have five years post qualification experience; and,

c To meet the current requirements of the relevant regulator for their profession in terms of current practising arrangements.¹

Legal knowledge and experience

Sound knowledge of civil or criminal law in England and Wales, the Human Rights Act and other relevant legislation and current knowledge of relevant Court decisions.

Intellectual and analytical ability

Good analytical skills; able to identify key issues clearly, assimilate information quickly and accurately, and manage complex material with ease.

Sound judgement

Able to support decision making to ensure its fair accurate and legally sound.

Working with others

Able to ensure own views are heard, constructively and legally challenge the opinions of others, work to achieve a shared consensus and accept collective responsibility.

Communication skills, integrity and sound temperament including drafting skills

Excellent drafting skills; is able to produce clear concise and accurate explanations of the Tribunal’s decision made in circumstances where the issues may be complex or technical and structure these appropriately.

¹ If you are holding a suitable judicial or quasi-judicial appointment you may not be required to meet this.
Knowledge of MPTS/ GMC Policies and Procedures

Shows commitment to and understanding of the MPTS’ fitness to practise and interim orders policies and procedures and the legal framework within which tribunals work. Is well informed and keeps up to date on current issues.

Confidentiality, fairness, equality and diversity

A clear understanding of confidentiality in relation both to evidence and to the tribunal’s deliberations, and be committed to it. Those appointed must adhere to the GMC’s information security and data protection policies.

Ability to ensure that arrangements are made for a fair hearing and can provide appropriate support to parties and colleagues during hearings in line with legislative and contractual requirements.

Equal Opportunities

MPTS values equality and diversity and is committed to ensuring that our procedures are fair, transparent and free from unlawful discrimination. Legal Assessors are appointed from all suitably qualified applicants. We have a legal obligation to promote and advance quality of opportunity, and everyone who acts for the MPTS or GMC in any capacity is expected to adhere to the spirit and letter of the legislation.
Annex A: Associates Conflicts of Interest Policy

Purpose
The aim of this policy is to set out the expectations regarding real or potential conflicts of interest and the process for dealing with a conflict raised in relation to an associate.

Scope
The policy is aimed at all individuals who have a contract for services – the types of associates include MPTS Tribunal Members; Appeal Panel Members; PLAB Examiners; Education Visitors; Registration Panel Members; Performance Assessors; Health Assessors. This list is not exhaustive.

Compliance with this policy is compulsory for all associates and breaches may result in suspension of service or termination of the contract.

What is a conflict of interest?
A conflict of interest arises where an associate has a private interest which might influence, or be perceived to influence, that person’s judgment in carrying out the duties as determined by their contract for service.

When a reasonable, fair-minded and informed observer would conclude that there is a real possibility that a GMC decision maker is or could be biased because of a particular interest then there is a conflict of interest.

This is not a definitive list but examples of relevant interests where a conflict might arise include:

a Making a decision or leading on a case involving a doctor where the panel member has a strong personal belief about the nature of that doctor’s practice.

b A past or present interest that could reasonably be thought to cast doubt on an associate’s independence or impartiality with regard to his or her duties as a GMC associate.

c Membership of or any position within a political party, a pressure/interest group, a voluntary organisation or any association connected directly or indirectly with the healthcare sector.
d Where there have been previous interactions with an individual whose case is being considered. These interactions could be personal or professional. Knowing of the individual would not necessarily be considered a conflict of interest.

e Being appointed to or having worked for a Royal College; faculty; specialist association, or similar body in the public, private or voluntary sector for a specialty which is under consideration of a GMC education panel.

f Where an associate’s immediate family member is attending or has recently graduated from the medical school that they have been asked to visit as part of their provision of service. This would be in addition to a medical associate being awarded a degree by the school.

The aims of the Conflicts of Interest Policy

Our conflicts of interest policy is designed to ensure that our work is carried out free from improper influence and that it is independent, fair and devoid of bias and must be seen to be so.

As we are responsible for promoting and setting standards of conduct among doctors, as well as making decisions about doctors whose fitness to practise may be impaired, our own conduct both as an organisation and as individuals must reflect the highest standards.

How does the policy apply in practice?

This policy sets out how we should manage conflicts of interest and related matters.

The GMC does not wish to collect or retain private information about its associates' interests unless it is relevant to their role or an aspect of their role within the GMC.

It is the responsibility of all associates not to put themselves or the work of the GMC in a position where there is a conflict between the duties required as set out in the contract and their own private interests.

Associates must avoid making decisions or handling matters where they have interests that might influence, or be perceived as influencing their judgement.

Declaration of interests

On appointment to the GMC all associates will be asked to complete a declaration of interest form. This will be retained centrally and will be referred to at the point of empanelment or engagement of services. The GMC also reserves the right to review
this information on an annual basis asking all associates to ensure that the information is up-to-date.

The associate will need to consider whether any past or present interest or association with any person or body or any fact or matter (whether entailing an association with any person or otherwise) of whatsoever nature might reasonably be expected to give rise to a conflict of interest or the suspicion of a conflict. The conflict might arise where an interest might influence or be perceived to influence the associate’s judgement in carrying out his or her function – for example as a tribunal member, whether as to his or her independence, impartiality or in any other way.

The associate has a responsibility at all times to advise the GMC of any appointments or changes to their personal circumstances which may in turn cause potential conflicts of interest.

If at any time in the course of their provision of services an associate recognises a potential conflict they must advise the operational Head of Section. At this point the Head of Section will decide on the most suitable course of action.

Where there is a potential conflict of interest, the Head of Section will agree with the associate what if any action should be taken. In many cases this is likely to mean that the associate will be asked to stand down for the particular activity that they have been asked to undertake. Plainly, the sooner the potential conflict is identified and an assessment made the better.

This information may be made public if there has been improper influence as result of the conflict of interest or there is a legal obligation to disclose it.

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