MPTS Committee
Tuesday 10 May 2016
10:00-13:00
Chair’s office
7th Floor, St James’s Buildings
79, Oxford Street, Manchester, M1 6FQ

Agenda

Meeting
1 Chair’s business
2 Minutes of the meeting on 23 February 2016
3 Chair’s report (oral)
4 Assistant Director’s report
5 Draft Report of the Medical Practitioners Tribunal Service Committee
6 MPTS Risk Register
7 Developing the MPTS Vision
8 Any other business

9 *Section 60 impact and benefits
10 *Legally Qualified Chairs pilot update

Members should notify the Chair a minimum of two days prior to the meeting should they wish to discuss any *starred items. If not then it is assumed that the Committee wishes to agree the recommendations without discussion.
10 May 2016

MPTS Committee

To approve

Minutes of the Meeting on 23 February 2016¹

Members present

David Pearl, Chair

Richard Davies
Patricia Moultrie
Tim Howard
Judith Worthington

Others present

Natasha Bidad, Interim Head of Tribunal Development (items 3 & 5)
Claire Gardner, Quality Assurance and Continuous Improvement Manager (items 4-6)
Lindsey Mallors, Assistant Director Audit and Risk Assurance (item 6)

Howard Matthews, Assistant Director - MPTS
Patsy Morrissey, Committee Secretary
Martin Willers, Corporate Business Planning Manager

¹ These Minutes should be read in conjunction with the MPTS Committee papers for this meeting, which are available on our website at http://www.mpts-uk.org
Chair’s business

1 The Chair welcomed members to the first meeting of the MPTS Committee.

Matters arising

2 One matter arising was raised in relation to the indemnity arrangements for MPTS Committee members. Members noted that indemnity arrangements had been put in place as part of the member appointments process.

Chair’s report

3 The Chair provided an update on work and activities that had taken place since November 2015, noting that he had:

a Spoken at meetings of the Medico and Legal Society of Norfolk and Norwich, and at the Institute of Psychiatrists.

b An article published in the Medico Legal Society Journal.

Assistant Director’s report

4 The Committee received the Assistant Director’s report, and noted:

a MPTS operational performance data for the year end 2015, including workload predictors for Fitness to Practise Panels (FTP) and Interim Orders Panels (IOP)\(^2\), an overview of service targets and data on outcomes for FTP and IOP.

b A detailed analysis of FTP postponement and adjournment data for 2015.

c An update on the panel diversity achievement rate for 2015.

d Doctor representation and attendance data for 2015.

e Forecasts for Medical Practitioners Tribunals and Interim Order Tribunals for 2016, the financial outturn for 2015 and 2016 budget.

5 The Committee also:

a Considered the proposed efficiency and effectiveness measures which could be used to provide assurance to the Committee on the performance of the MPTS, and

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\(^2\) The terms ‘Fitness to Practise Panels’ and ‘Interim Orders Panels’ were replaced with ‘Medical Practitioner Tribunals’ and ‘Interim Orders Tribunals’ from 31 December 2015.
agreed that a simple and concise report measuring four-five targets/indicators should be developed.

b Approved the audit action plan developed in response to the Moore Stephens review of the tribunal members’ observation process.

c Considered the options for tribunal member recruitment for 2016 and agreed that:

i An external recruitment campaign for medical members of the IOT and MPT should commence.

ii In parallel an internal transfer exercise between the IOT and MPT should take place to replenish the pools of members.

iii The recruitment of Legally Qualified Chairs should be scheduled for later in the year pending the outcome of the LQC pilot. An update on LQC recruitment, including the outcome of the pilot, would be considered by the Committee at its meeting on 10 May 2016.

iv The appointment of legal assessors should be regularised with formal letters of appointment, which would also bring legal assessors within our appraisal processes. The level of remuneration paid to legal assessors would be considered by the Committee at its meeting on 10 May 2016.

d Noted the very positive feedback from the recent training programme delivered to support the implementation of the S60 Order changes to the adjudication process, and thanked staff within the Tribunal Development team for their efforts in this regard.

6 During discussion, the Committee noted:

a A reduction in the number of IOT referrals and possible reasons for the reduction, including the work of the GMC to support local resolution of concerns about doctors through the work of Responsible Officers and Employer Liaison Advisers (ELA). The MPTS had access to a dedicated ELA who provided feedback relevant to the MPTS and it was suggested that feedback from the Responsible Officer Forum could also help to inform the Committee’s decision making by providing further context on the environment within which doctors’ work.

b That the Service Level Agreements (SLAs) for Fitness to Practise Tribunals and Interim Order Tribunals were met throughout 2015. However, while this was very positive it was acknowledged that the targets were set at a conservative level and that it might be timely to consider the possibility of reducing the targets from the current six and nine month level. It was also suggested that consideration should be given to whether more intelligent measures could be used to assess
performance, rather than solely using a hearings commenced target, which could easily be skewed by one or two hearings missing the commencement target and give a misleading impression of overall performance.

c That lessons learnt from recent case management experiences would be shared and would clarify what was expected from all parties, including from the GMC. Clarity around the definition of ‘case ready’ would also be sought in order to further realise the benefits of case management.

d That sanction distribution rates, including erasures remained steady against a uniform workload, indicating that referrals to hearing were maintaining a consistent standard.

e That the diversity of FTP panels in 2015 had increased while the rate for IOPs had decreased considerably. It was agreed that in order to better understand the data, the Assistant Director’s report for the Committee’s May meeting should include the data on the diversity of the complete pool of tribunal members and not just for individual tribunals.

f That three postponements in 2015 had been made at the request of the MPTS. All postponement decisions would continue to be monitored by the Quality Assurance Group.

g That adjournment rates had peaked in September and November at 32% which was a cause for concern given the impact on the efficiency and effectiveness of the hearing service and on the doctors concerned. While detailed reports were provided by the Head of Operations, Tribunal Chairs and Clerks it was difficult to pinpoint any consistent theme although data did show that hearings involving self-represented doctors were adjourning at a higher rate than for doctors with representation.

h The work being undertaken by Professor Louis Appleby to review every stage of the GMC investigation process to identify what further changes could be made to support vulnerable doctors. MPTS staff had been asked to provide their feedback on MPTS processes. While further support had been put in place for self-represented doctors, many doctors were not making use of the support available. It was suggested that one possible solution could be to make the case management call a mandatory requirement for all hearings, excluding those cases related to health matters.

i The importance of handling the communication on the observation process in a sensitive way so that tribunal members viewed it as part of the totality of our constructive appraisal processes. A Q&A note would be developed to support the communications around this work, and would include a reference to the resources available to support tribunal members’ individual development needs. An update on
the audit actions would be provided to the Committee at its meeting on 10 May 2016 along with the indicators for measuring the success of the new approach.

Quality Assurance

7 The Committee considered a summary of the quality assurance work planned for 2016.

8 The Committee:

a Endorsed the plan to produce a directorate quality assurance plan for the MPTS, in line with the corporate approach agreed by the Performance and Resources Board.

b Agreed that the options for a quality control audit to take place later in the year should be further considered by the Committee at its meeting on 10 May 2016.

Quality Assurance Group update

9 The Committee received and noted an update from the Quality Assurance Group (QAG) detailing the outputs of its work in 2015.

10 During discussion, the Committee noted that Tim Howard would attend and observe the meeting of the QAG which would take place following the MPTS Committee meeting on 23 February 2016. A brief report would be prepared for the Committee’s next meeting on 10 May 2016 at which time the interface between the Committee and the QAG would be explored.

MPTS Risk Register

11 The Committee received a presentation on the GMC’s risk management framework in order to inform its scrutiny of the draft MPTS Risk Register, and consideration of the risks that had been identified and the mitigating actions.

12 During discussion, the Committee noted that:

a The MPTS risk register is a directorate level register focussing on operational risks mapped to the roles and duties described in the Committee’s statement of purpose. Any MPTS risks rated critical would be escalated to the Corporate Risk (CRR) Register, for which Council has ultimate responsibility.

b Generic strategic risks were captured on the CRR but further consideration would be given to how strategic/horizon scanning risks relating to the MPTS might be identified and monitored.

c The MPTS Risk Register would be refined in light of the Committee’s discussion, including consideration of the addition of timescales, reviewing the rating assigned
to risk 2, consideration of whether grouping risks under headings/priorities would be helpful and amending ownership of risk 14.

d  That the Risk Register would be a standing item of the agenda for Committee meetings.

MPTS Committee work programme 2016

13 The Committee considered and approved its proposed forward work programme for 2016, subject to further updates arising from the Committee’s discussion.

14 During the discussion, the Committee noted that it would be helpful for members to continue to attend and observe meetings of the User Group and Case Management Group, as required. The meeting dates for both Groups would be circulated to members.

Any other business

15 On behalf of the Committee the Chair expressed his thanks to Tim Howard for his significant contribution to the work of the MPTS and GMC. Tim would remain a member of the Committee until 29 April 2016.

16 The Committee noted that the next meeting would be on 10 May 2016.

Confirmed:

David Pearl, Chair 10 May 2016
Executive summary
This report provides data on workload volumes and other operational data for the MPTS and has been revised to include a front page dashboard for key measures (at Annex A) with supporting data provided (at Annex B). The figures cover the period 1 January 2016 – 31 March 2016, with rolling 12 month figures indicated where appropriate.

A report from Dr Tim Howard on his observations of the Quality Assurance Group are included at Annex C.

Recommendation
The Committee is asked to consider the report (and Annexes A, B and C).
Operational Data

1. Annex A is a short dashboard, summarising key indicators and Service Level Agreements (SLAs) against the headings of efficiency and effectiveness. The data supporting the dashboard is contained in Annex B.

2. Interim Orders Tribunal referrals have been lower this year than previously and the rolling average has fallen from 51 to 40. There has been no change in GMC processes and this reduction can be attributed to the case mix being received.

3. Hearing volumes for the first quarter have been slightly higher than forecast but this is expected to even out as the year progresses. Despite this over-delivery of hearings financial performance is marginally under budget due to Section 60 savings.

4. We have now gathered data from Siebel on average hearing lengths and this is included in the dashboard. Average length for hearings completing in March has been distorted by the very long hearing for Dr Squier.

Doctor Representation

5. Rolling 12 month data on doctor representation at hearings is included. The proportion of doctors present at their hearing but unrepresented over the period has remained largely static at 13% for Fitness to Practise Panel/Medical Practitioners Tribunal (FTP/MPT) and 10% for Interim Orders Panel/Interim Orders Tribunal (IOP/IOT).

Adjourned and Postponed

6. Data on adjournments and postponements is included in the report, separating out those request by the doctor. A current hearing recently sought to adjourn for the fourth time and to a date some two and a half years after its start. Under rule 6(9) the MPTS has invited the parties to a case management meeting. The Chair of this tribunal is due to demit in the intervening period and a replacement is being organised.

Tribunal Diversity

7. Data is now included on the diversity of the pool of tribunal members to inform the monthly data on hearings. Further refinement of the data is required to enable a clear measure of comparability between pool and hearing data. An individual tribunal member can be included in a number of categories while hearing data currently reports on the tribunal as a whole. This will be further developed with the GMC Management Information and Statistics Team.
Tribunals in the wider regulatory system

8  The process has now been revised whereby tribunals may notify the GMC if concerns arise in the course of a hearing about wider system or other issues. It will be a matter of routine to consider whether a notification needs to be made.

Service Level Agreements

9  The GMC Quality Assurance and Continuous Improvement team is currently carrying out a review of Service Level Agreements (SLAs) and Key Performance Indicators (KPIs) across the organisation. Performance measures for SLAs and KPIs vary from percentages to time or variances and the rationale for the different figures needs to be revisited as they were set some time ago.

10  For the MPTS, as previously discussed, the SLA for commencement of MPT hearings of nine months has a number of issues;

   a  It excludes doctor generated delay and so becomes a measure of GMC preparedness only.

   b  It is set at nine months for Regional investigation team cases and six months for National team and these times could be revisited.

   c  As it is a percentage it is vulnerable to being missed when numbers of hearings are low.

   d  The PSA are now including data on how many cases completed within their allotted time, rather than a simple start date.

11  More useful data would appear to be on the range of start dates within the target period. This could then inform any revision of the target. Defence firms, particularly through the User Group, have protested that the current target is arbitrary and can lead to hearings being listed to a specific date rather than to the convenience of all parties.

12  While not strictly speaking a Service Level Agreement, the proportion of hearings being completed within their allotted time could be included as a KPI. This would need to combine with adjournment data as an adjourned hearing may still complete with the days allotted.

13  Detailed development of revised SLAs and KPIs will be taken forward with the Quality Assurance team.
Revalidation

14 The application of Dr Sarah Hull to be Suitable person for the MPTS cohort has been approved. Several doctors have already made contact with Dr Hull who will consider their various positions. The application is approved for those who do MPTS work only. If a doctor does any other work which requires a licence to practise, Dr Hull would not be able to connect as Suitable Person. MPTS has clarified the position for other work that does not require a licence and further communication to Dr Hull and the cohort has been issued.

Business Continuity

15 MPTS recently completed a business continuity exercise focussing on the management of a hearing in the case of a prolonged evacuation. A detailed business continuity plan is in place to ensure continuity of hearings.

Control Audit and Quality Assurance processes

16 At its meeting on 23 February 2016, the Committee discussed a control audit as part of the quality assurance programme. This review will analyse the Notice of Hearing process. This is a high risk area as a failed notice of hearing would delay a tribunal. Parts of the process are new as the IOT notices are now issued by MPTS. Auditors will review both the process itself for any improvement opportunities and will check a sample of notices for compliance.

17 On the wider Quality Assurance (QA) Strategy, the first meetings between teams and the QA unit are being scheduled. These will be structured to consider risk areas, current controls in place and their effectiveness and where quality measures can be developed. This will lead to a detailed development plan in July/August with a further report to the MPTS Committee in September.

18 The audit report on the observation process is not currently approved for publication in line with Council policy on audit reports. Due to continued interest in the observation process - particularly the comments raised at the User Group - it is appropriate to consider whether a high level report can be extrapolated to be published. This will be explored further with the Assistant Director for Audit and Risk Assurance.

19 Work to implement the action plan will continue. We will review the operational resource to best support the observation process.
# Performance Details – KPIs

**RAG RATINGS**
- **Green** – item is within 5% tolerance of original cost
- **Amber** – item is under / over spending by between 5%-10%
- **Red** – item is under / over spending by more than 10%

<table>
<thead>
<tr>
<th>KPIs</th>
<th>Jan</th>
<th>Feb</th>
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<th>Apr</th>
<th>May</th>
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<tbody>
<tr>
<td>To commence 100% of IOT hearings within 3 weeks of referral</td>
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<tr>
<td>Commence 90% of MPT hearings within nine months of referral</td>
<td>100%</td>
<td>100%</td>
<td>91%</td>
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## Efficiency

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<td>Finance variance (cumulative)</td>
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<td>Hearing room utilisation (80%)</td>
<td>94%</td>
<td>93%</td>
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<tr>
<td>Hearing days vs budget variance (cumulative)</td>
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<tr>
<td>Adjournments – MPT (%)</td>
<td>26</td>
<td>10</td>
<td>19</td>
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<tr>
<td>Postponements (granted)</td>
<td>2016 cumulative</td>
<td>13 (5)</td>
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<tr>
<td>Average hearing length</td>
<td>6.47</td>
<td>8.00</td>
<td>11.37</td>
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</table>

### Appeals registered (results)

- **Dr**
  - Jan: 1(0)
  - Feb: 1(0)
  - Apr: 0(0)
- **GMC**
  - Jan: 0
  - Feb: 0
  - Apr: 0
- **PSA**
  - Jan: 0
  - Feb: 0
  - Apr: 0

### PSA Reports

- Jan: 0
- Feb: 0
- Apr: 0

### Complaints

- Jan: 4
- Feb: 6
- Apr: 1

### Diversity Quarterly % of MPT

32%
Operational Data to March 2016 - Annex B
The GMC triaged 888 enquiries in March 2016, up 75 (9.2%) from 813 in February 2016 and up 27 (3.1%) from 861 in March 2015. The 12 month rolling average is 803 triages per month compared with 800 in February 2016 and 784 in March 2015.

678 triages were closed in March 2016 (76.4% of all triages), up 70 from 608 (11.5%) in February 2016 and up 126 (552/22.8%) in March 2015. The 12 month rolling average is 558 (62.8% of all triages) per month compared to 548 (74.8% of all triages) in February 2016 and 512 (57.7% of all triages) in March 2015.

A total of 131 (14.8%) triages went into S1/NIT (114/17) up 23 from 108 triages in February 2016 and down 116 from 247 triages in March 2015. The 12 month rolling average is 170 (19.1% of triages) compared to 179 (22%) in February 2016 and 252 (29.3%) in March 2015.

47 triages were directed to notify RO/Employer (5.3% of all triages) and 32 triages were placed in provisional enquiries (3.6% of all triages) in March 2016 compared to 55 and 42 in February 2016 and 61 and 1 in March 2015 respectively.
Referrals have decreased from 31 in February 2016 to 21 in March 2016. The rolling average remains constant at 29 since November 2015.

Commentary
There were 39 referrals to IOP in March 2016, compared to 38 in February 2016 and 56 in March 2015. The rolling average has decreased slightly (2.1%) to 40 from 51 in March 2016.

Commentary
Referrals have decreased from 31 in February 2016 to 21 in March 2016. The rolling average remains constant at 29 since November 2015.

Commentary
Hearing room utilisation has decreased by 20% from the previous month to 74% in March 2016. The rolling average of 74% is 6% lower than what it was in March 2015.
Overview  Service targets

Service target 4: Commence 90% of MPT hearings within 9 months

Commentary
This published target has since been met after missing for the first time in September 2014.
The figures shown exclude exceptions which are detailed in the main report.

Service target 5: 100% of IOT referrals to be heard within 3 weeks

Commentary
The IOT service target has since been 100% after missing for the first time in October 2014 (95%).
# MPTS Tribunal Member pool diversity statistics

<table>
<thead>
<tr>
<th></th>
<th>Medical Practitioners Tribunal</th>
<th>Interim Orders Tribunal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male (%)</td>
<td>123 (57%)</td>
<td>34 (56%)</td>
<td>157 (56%)</td>
</tr>
<tr>
<td>Female (%)</td>
<td>94 (43%)</td>
<td>27 (44%)</td>
<td>121 (44%)</td>
</tr>
<tr>
<td>BME (%)</td>
<td>40 (18%)</td>
<td>7 (11%)</td>
<td>47 (17%)</td>
</tr>
<tr>
<td>Disability</td>
<td>11 (5%)</td>
<td>1 (2%)</td>
<td>12 (4%)</td>
</tr>
<tr>
<td>Total</td>
<td>217 (100%)</td>
<td>61 (100%)</td>
<td>278 (100%)</td>
</tr>
</tbody>
</table>
## MPT Panel diversity

<table>
<thead>
<tr>
<th>Medical Practitioners Tribunal</th>
<th>Q1 2016</th>
<th>Q2 2016</th>
<th>Q3 2016</th>
<th>Q4 2016</th>
<th>Total 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Actual hearing days</td>
<td>704</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Diverse tribunal hearing days - ethnicity and gender (%)</td>
<td>225 (32%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>3. Diverse tribunal hearing days - gender only (%)</td>
<td>397 (56%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>4. Diverse tribunal hearing days - ethnicity only (%)</td>
<td>43 (6%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>5. Non-diverse tribunal hearing days – no BME/Non-BME and single-sex (%)</td>
<td>39 (6%)</td>
<td>(%)</td>
<td>(%)</td>
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<td>(%)</td>
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</table>
## IOT Diversity

<table>
<thead>
<tr>
<th>Interim Orders Tribunal</th>
<th>Q1 2016</th>
<th>Q2 2016</th>
<th>Q3 2016</th>
<th>Q4 2016</th>
<th>Total 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Actual hearing days</td>
<td>108</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Diverse tribunal hearing days – ethnicity and gender (%)</td>
<td>21 (19.5%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>3. Diverse tribunal hearing days - gender only (%)</td>
<td>79 (73%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>4. Diverse tribunal hearing days - ethnicity only (%)</td>
<td>0 (0%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
</tr>
<tr>
<td>5. Non-diverse tribunal hearing days – no BME/Non-BME and single-sex (%)</td>
<td>8 (7.5%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
<td>(%)</td>
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</table>
Panel Diversity

- FTP Diversity Rate
- IOP Diversity Rate

Q1 2014 to Q1 2016

Graphic chart showing changes in panel diversity rates.
<table>
<thead>
<tr>
<th>Tribunal</th>
<th>March 2016</th>
<th>Year to end March 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Manchester</td>
<td></td>
</tr>
<tr>
<td>MPT Conviction</td>
<td>8 (5)</td>
<td>18 (29)</td>
</tr>
<tr>
<td>MPT Determination</td>
<td>0 (0)</td>
<td>1 (2)</td>
</tr>
<tr>
<td>MPT Health</td>
<td>20 (2)</td>
<td>35 (19)</td>
</tr>
<tr>
<td>MPT Misconduct</td>
<td>126 (160)</td>
<td>479 (443)</td>
</tr>
<tr>
<td>MPT Performance</td>
<td>0 (2)</td>
<td>10 (36)</td>
</tr>
<tr>
<td>MPT English language</td>
<td>2 (0)</td>
<td>5 (0)</td>
</tr>
<tr>
<td>MPT Multi-factorial</td>
<td>31 (43)</td>
<td>135 (104)</td>
</tr>
<tr>
<td>MPT Restoration</td>
<td>9 (3)</td>
<td>21 (6)</td>
</tr>
<tr>
<td>Interim Orders Tribunal</td>
<td>38 (47)</td>
<td>108 (132)</td>
</tr>
<tr>
<td>Total</td>
<td>234 (262)</td>
<td>812 (771)</td>
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## MPT Postponement Applications

<table>
<thead>
<tr>
<th>Quarterly breakdown</th>
<th>Doctor</th>
<th>GMC</th>
<th>MPTS</th>
<th>Total</th>
<th>2016 Jan - Mar</th>
<th>Opposed</th>
<th>Not opposed</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applications</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Application by doctor</td>
<td></td>
<td></td>
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<tr>
<td>received</td>
<td>12</td>
<td>1</td>
<td>-</td>
<td>13</td>
<td>7</td>
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Rolling 12 month Adjourned MPT

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![Chart showing monthly adjourned MPT data]
## Doctor representation data MPT

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# MPTS 2016 Forecasts

## Hearing Days Forecast

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## Hearing Days Actual

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<th>Jul-16</th>
<th>Aug-16</th>
<th>Sep-16</th>
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### Financial outturn and budget.

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<td>Budget</td>
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<td>Direct staffing costs</td>
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<td>Office costs</td>
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<td>Legal costs</td>
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#### Commentary

- Headcount in line with budget. Underspend due to current vacancies.
- Budget provision for MPTS chair recruitment.
- Stationery savings through new contract.
- Provision for instruction of counsel and process servers.
- Hearing days slightly over forecast in the first quarter, offset by Section 60 savings.
- £84k of efficiencies delivered in Q1 due to Section 60 LQCs.

<table>
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<th>Hearing days</th>
<th>Budget</th>
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<tr>
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<td>812</td>
<td>(14)</td>
<td>(1.8)%</td>
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QAG Observations

Comments from observation of QAG meeting 23 February 2016

Dr Howard has provided the following report.

‘I was kindly given the opportunity of observing the QAG meeting on 23rd February. I could only stay for the first hour and a half of the meeting. These observations are, of necessity, subjective and anecdotal.

1 Membership: Chair plus 8 officers.

2 Process: The Determinations proceeding from a selected group of Tribunals were examined discussed sequentially, and any other relevant documents, such as the Chair’s report, were attached. These had been read by all attendees before the meeting, and as the volume of paperwork was large, considerable time resource had been devoted to preparation.

The Chair introduced each case, and invited comments on it. Individuals contributed, and a general discussion followed, focusing on a range of issues, both positive and negative. Supporting documentation was referenced as needed. Learning points were identified, and potential weaknesses and pitfalls highlighted. Quality of prosecution and issues concerning allegations were explored. Good practice was noted.

3 Observations: It was apparent to an observer that only 4 members of the group made major contributions to the debate on all the cases discussed. 2 others made minor contributions occasionally, and 2 made almost no contribution during the time observed.

It appeared that the contributing members came at the discussion from different angles, some slightly critical, others more supportive. Some members looked at the
determination in the round, analysing the likely response of an uninformed reader, others looked more at the technicalities of the determination, questioning or applauding phraseology or judgements cited in support of an argument.

4 Conclusions. (These must be very tentative, based as they are on a very small sample.)

The general tone of the meeting was constructive and supportive of Tribunals, and there was no hint of inappropriate criticism. All comments were aimed at helping Chairs and Members, at identifying and remedying deficient practice in prosecution and defence, and publicising good practice where it occurred. It was very noticeable that the meeting was entirely different in tone to the old Determination Audit Group meetings which QAG replaced. These were often negative and sometimes destructive, and were less than valuable.

It might help the outcome of QAG discussions if a template was developed, against which all Determinations could be checked prior to discussion, and a similar ‘outcomes’ template to enable structured consequences to be considered. It might be reasonable to ask whether the time commitment of all members of QAG are strictly necessary. It is a time consuming task, and unless members are asked for comments on their specific areas of expertise, they might be usefully performed elsewhere.’
MPTS Committee meeting, 10 May 2016

Executive summary
The purpose of the Report of the Medical Practitioners Tribunal Service (MPTS) Committee is primarily to provide assurance that the MPTS is fulfilling its responsibilities as set out in its Statement of Purpose, and to bring to Council’s attention any significant matters arising from MPTS activities.

The draft report at Annex A provides a summary of the MPTS activities since the Chair’s last report to Council on 10 December 2015.

Key points to highlight include:
- Section 60 Order amendments have been enacted and all MPTS change projects were delivered on time and are now delivering benefits.
- Review hearings are being held ‘on the papers’, legally qualified chairs have been trialled in hearings and the majority of cases are being actively case managed.
- The new statutory MPTS Committee is in place and has met twice since 1 January 2016 (including the meeting on 10 May 2016).

Recommendations
The MPTS Committee is asked to:
- Suggest any changes required to the existing sections of the report.
- Approve the draft report at Annex A for consideration by GMC/MPTS Liaison Group on 17 May 2016, and GMC Council on 17 June 2016.
Reporting arrangements

1. The Chair of the MPTS is accountable to the General Medical Council through the Chair of the GMC's Council, and reports to Council on a twice-yearly basis. The report to Council provides a summary on the performance of the MPTS during the previous reporting period, and the work of the MPTS Committee.

2. The MPTS is required to report to Parliament on an annual basis. In due course, the MPTS annual report will form an annex to one of the reports to Council.

MPTS Committee - key areas of activity

3. By the time the report is presented to Council, the MPTS Committee will have met on two occasions since it was established in statute. It has considered a range of matters, areas to highlight arising from the Committee’s responsibilities and activities include:

   a. Deciding on how it will receive assurance across all areas of its responsibilities.

   b. Endorsing arrangements for quality assurance in line with the corporate plan.

   c. Proactively monitoring the MPTS Risk Register at every meeting.

   d. Scrutinising assurance that the Section 60 implementation has been a success and that the intended benefits are being realised (item 9 on the agenda).

   e. Developing the MPTS vision (item 7 on the agenda).
5 - Draft Report of the Medical Practitioners Tribunal Service Committee

5 - Annex A

Draft Report of the Medical Practitioners Tribunal Service Committee to Council
Executive summary
This report sets out the progress of the Medical Practitioners Tribunal Service since the last report to Council in December 2015. Key points to note:

- Section 60 Order amendments have been enacted and all MPTS change projects were delivered on time and are now delivering benefits.

- Review hearings are being held ‘on the papers’, legally qualified chairs have been trialled in hearings and the majority of cases are being actively case managed.

- The new statutory MPTS Committee is in place and has met twice since 1 January 2016.

Recommendation
Council is asked to consider the report of the Medical Practitioners Tribunal Committee.
Committee update

1 This paper is the Medical Practitioners Tribunal Service (MPTS) Committee’s first biannual report to Council of 2016.

2015 performance

2 Hearing outcomes for three full calendar years of the operationally separate MPTS are now available, and are at Annex A. In 2015, 239 doctors appeared before new MPTS fitness to practise panel hearings. 30% of those doctors were erased, 40% suspended, and 10% were given conditions. 16% were found not impaired, while just over 2% were found not impaired and received a warning. In the remaining 1% of hearings, the panel agreed undertakings, found impairment but took no action, or granted an application for voluntary erasure.

3 These figures are broadly similar to the fitness to practise panel outcomes in the two previous calendar years.

4 In 2015, 522 doctors appeared before interim orders panel hearings. 9% of doctors received interim suspensions and 69% interim conditions. The IOP made no order in 22% of cases.

5 The 522 doctors referred to IOP hearings in 2015 was fewer than in the previous two calendar years (571 in 2014 and 634 in 2013). The proportion of doctors receiving an interim suspension (9%) was also lower (17% in 2014 and 19% in 2013).

Legislative update

6 Section 60 Order amendments to the Medical Act 1983 were enacted on 31 December 2015. A significant and challenging change programme was delivered on time across the MPTS and Fitness to Practise Directorate.

7 The MPTS is now established in law as a committee of Council, and our operational separation is underlined by the GMC’s new right of appeal against tribunal decisions.

8 The MPTS now has the discretion to appoint legally qualified chairs (LQC). This has been trialled in 78 interim orders tribunals and 34 medical practitioners tribunal hearings between January and March 2016. Detailed feedback from tribunal members and legal representatives has been compiled and the results are consistently positive. The LQC model will now be confirmed as standard practice and will be extended into other hearing types.

9 86 reviews of interim orders were held ‘on the papers’ between January and March 2016, where both parties agree on the proposed outcome. This change means many
doctors do not need to travel to Manchester for short hearings. In January to March 2016 the MPTS has made an efficiency saving of £25,201 because of this change.

10 The majority of cases before the MPTS are now subject to pre-hearing case management. Previously only a narrow category of cases were case managed. Only those cases referred to the MPTS since 31 December 2015 are subject to legally binding case management directions and costs powers. The MPTS will publish figures for how often these powers are used.

**Resources**

11 The MPTS budget for 2016 was confirmed as £10.6 million. In terms of both staff and financial resource the MPTS represents 10% of the GMC.

12 Reducing the average daily cost and average length of our hearings are priorities for the MPTS. When the MPTS was established in June 2012, the cost of running hearings was £4,167 per hearing day. For 2016, the MPTS is budgeting for a cost of £3,398.

13 In 2015 we budgeted for an average hearing length of 8.15 days. More case management of hearings, and greater support for self-represented doctors mean that in 2016 we are budgeting for an average length of 7.9 days.

14 The various Section 60 changes, including reviews ‘on the papers’ and legally qualified chairs, have allowed the MPTS to make a net efficiency saving of £94,402 in January to March 2016.

**MPTS Committee**

15 The MPTS Committee received an induction on its new responsibilities in January 2016. The Committee met for the first time as a statutory committee of Council on 23 February, when it considered operational reports, the MPTS work programme for 2016 and a considered the new MPTS risk register. The Committee’s papers and minutes will be published on the MPTS web site.

16 The second meeting of the Committee took place on 10 May 2016. The Committee has considered a range of matters, including:

- a Scrutinising assurance that the Section 60 implementation has been a success and that the intended benefits are being realised.

- b Developing the MPTS vision.
**Tribunal member recruitment and diversity**

17 The MPTS is carrying out an internal recruitment for new Tribunal Chairs and will carry out a recruitment exercise for new medical tribunal members in 2016. As with previous recruitment rounds, we will appropriately target our advertising to encourage a diverse range of applicants.

18 The diversity of our tribunal members compares well to other courts and tribunals in the UK. As of April 2016, the MPTS has 278 tribunal members of whom 44% are female and 17% identify as BME. This compares favourably with the most recently published figures for UK courts (25% female and 6% BME) and UK tribunals (45% female and 14% BME) (Source: [https://www.judiciary.gov.uk/publications/judicial-statistics-2015](https://www.judiciary.gov.uk/publications/judicial-statistics-2015))

**MPTS external engagement**

19 The MPTS regularly engages with those representing doctors in our hearings. Our regular User Group meeting was held on 4 April, where representatives can raise issues with the MPTS Chair and Assistant Director.

20 The MPTS takes part in regular meetings with adjudication functions of other health regulators, to share best practice and consider opportunities for collaboration.

21 During 2016, the MPTS Chair and Committee members will be speaking to a number of Local Medical Committees (LMC) to engage directly with doctors about the work of the MPTS. The Chair and Assistant Director spoke at a meeting of Glasgow LMC in April and the Chair will be speaking at various English LMC meetings over the summer.

22 The MPTS communications team provides support and advice to journalists wishing to cover public hearings, and monitors coverage to ensure MPTS decisions are accurately reported. There were 882 accurate mentions of MPTS decisions across all media in 2015. In Jan-Mar 2016 there were 575 accurate mentions, largely because of a small number of high profile hearings. In Jan-Mar 2016 there were 470 media enquiries across the whole GMC, of which 231 (49%) were about MPTS hearings.
# 5 - Report of the Medical Practitioners Tribunal Service Committee

## 5 - Annex A

### Medical practitioners tribunals / Fitness to practise panels

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<tr>
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<td>95</td>
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<tr>
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**Interim orders tribunals / Interim orders panels**

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<td><strong>571</strong></td>
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7 - Developing the MPTS Vision
The following slides introduce the strategic work that the MPTS executive and MPTS Policy Forum propose to take forward. The vision is a piece of strategic planning work that knits our change and transformation work into a cohesive plan to deliver the future MPTS.

The Committee is asked to consider and agree the vision and design principles which form the backbone of the wider planning piece.

Prior to the meeting the Committee is asked to consider the vision, design principles and SWOT items and bring any comments that they may have to the meeting.
1. Introductory comments
2. Consider MPTS vision statement
3. Consider MPTS design principles
4. Approach to take this work forward
5. Strengths, weaknesses, opportunities and threats
6. Planned change activity and its relationship with the vision
Vision nomenclature

**Vision**
- Communicates the end goals of the organisation
- Outward facing description of the desired future state

**Design principles**
- Establish the parameters for our strategic planning work
- The future state will address all of the design principles

**Future, current and interim states and gap analysis**
- The future state describes what we want to achieve
- Gap analysis: what steps need to be taken to move from the current to the future state
- Interim state(s): defined stages in the transition form current to future state

**Blueprint/target operating model**
- A detailed description of the desired state of the operations of a business
- POTI: processes, organisational structure, technology, information requirements

[www.mpts-uk.org](http://www.mpts-uk.org)
It is our goal to provide a tribunals service that is recognised as a model of excellence and efficiency in the adjudication of fitness to practise proceedings.

This will be achieved by:

- providing enhanced support and training to empower our decision-makers and staff and promote higher standards of decision-making, ensuring fairness for all parties;
- using technological advances, a range of efficient hearing delivery methods and alternative dispute resolution, provide an efficient and effective customer-focused hearings management service; and
- working with others to support effective regulation of the wider healthcare system by sharing our services and expertise with others.
To provide a tribunals service that is recognised as a model of excellence in the adjudication of fitness to practise proceedings

We will develop a customer focussed culture which offers best in class service to all who are involved in our hearings.

In the spirit of cooperation, we will share our best practice with other healthcare regulators in the UK and abroad.

We will demonstrate value for money through all our activities by working effectively and efficiently.

We will continue to consider new and innovative ways to support doctors without representation to enable them to prepare appropriately for their hearing.

We will continue to protect the public by arranging hearings promptly and promoting high quality, fair decision-making by providing training, development and QA to decision-makers and staff.

We will respond innovatively to the needs of a changing world.

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Approach

MPTS Policy Forum develop draft vision and design principles

MPTS Committee agree vision and consider design principles (TODAY)

MPTS Policy Forum develop future state process

Executive compare future state to current state (gap analysis) and draft outline plan/blueprint

MPTS Policy Forum review gap analysis and outline plan/blueprint

MPTS Committee consider gap analysis and outline plan/blueprint (September)

Executive progress with outline plan/blueprint

MPTS Committee updated on progress (December)

Council updated on progress (December)
## SWOT

### Strengths
- Add strengths here
- Text
- Text
- Text
- Text
- Text

### Weaknesses
- Add weaknesses here
- Text
- Text
- Text
- Text
- Text

### Opportunities
- Add opportunities here
- Text
- Text
- Text
- Text
- Text

### Threats
- Add threats here
- Text
- Text
- Text
- Text
- Text

www.mpts-uk.org
### Change and improvement activity: relationship with vision

With an effective vision in place, all change and improvement activities can be mapped and prioritised. It will clearly answer the question: why are we doing this?

<table>
<thead>
<tr>
<th>Time frame</th>
<th>Estimated timeframe</th>
<th>Short, medium or long-term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short term</td>
<td>Less than nine months</td>
<td>No significant legislative, technical, staff, process or system changes prevent us from.</td>
</tr>
<tr>
<td>Medium term</td>
<td>Nine to 24 months</td>
<td>Requires additional staff, process, system changes to achieve. May include consultation for secondary legislative change.</td>
</tr>
<tr>
<td>Long term</td>
<td>More than 24 months</td>
<td>Requires substantial organisational changes. Includes primary and secondary legislative change.</td>
</tr>
</tbody>
</table>
### Change and improvement activity: relationship with vision

<table>
<thead>
<tr>
<th>Planned activity</th>
<th>How it maps to the vision</th>
<th>Short, medium or long-term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audit our decision-making for unconscious bias</td>
<td>Ensuring the highest standards of fairness in our decision-making</td>
<td>Short-term</td>
</tr>
<tr>
<td>Develop a decision-making tool for Tribunal Chairs and Members including the fact finding, impairment and sanction stages of a hearing.</td>
<td>Ensuring the highest standards of fairness in our decision-making</td>
<td>Short-term</td>
</tr>
<tr>
<td>Reduction of transcription costs</td>
<td>Administration of hearings that best serve our users</td>
<td>Medium-term</td>
</tr>
<tr>
<td>Explore improvements to the support we provide to unrepresented doctors</td>
<td>Administration of hearings that best serve our users</td>
<td>Short-term</td>
</tr>
<tr>
<td>Planned activity</td>
<td>How it maps to the vision</td>
<td>Short, medium or long-term</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Continue to develop and deliver training to ensure our Tribunal Chairs and Members make fair decisions in line with the equality duty and recognising unconscious bias</td>
<td>Ensuring the highest standards of fairness in our decision-making</td>
<td>Short-term</td>
</tr>
<tr>
<td>Allow for appropriate involvement of patients in our hearings (through a patient impact statement)</td>
<td>Administration of hearings that best serve our users</td>
<td>Short-term</td>
</tr>
<tr>
<td>Explore technological advances to develop alternative methods of running hearings enhancing portability and accessibility – current example being the introduction of paperless hearings</td>
<td>Administration of hearings that best serve our users</td>
<td>Medium to long-term</td>
</tr>
</tbody>
</table>
## Change and improvement activity: relationship with vision

<table>
<thead>
<tr>
<th>Planned activity</th>
<th>How it maps to the vision</th>
<th>Short, medium or long-term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Explore the use of MPTS-facilitated arbitration</td>
<td>Administration of hearings that best serve our users</td>
<td>Medium to long-term</td>
</tr>
<tr>
<td>Continue to share our facilities and expertise, including providing joint training of Tribunal Chairs, Members and Clerks</td>
<td>Working with others and sharing our services as appropriate</td>
<td>Medium-term</td>
</tr>
<tr>
<td>Explore developing a consultancy service to offer to others with the aim of providing effective healthcare regulation, including a joint hearing process for different healthcare professionals</td>
<td>Working with others and sharing our services as appropriate</td>
<td>Long-term</td>
</tr>
</tbody>
</table>
Executive summary
The Section 60 Order amendments to the Medical Act 1983 were implemented on 31 December 2015.

This report provides an update on the implementation of Section 60 and the benefits that have been realised thus far. It includes the report of an audit of business readiness for the changes.

It also notes the final steps required to correct errors in the original legislation.

Recommendation
The MPTS Committee is asked to note the update and annexes A and B which provide assurance that the Section 60 implementation has been a success and that the intended benefits are now being realised.
Section 60 Impact

1. The implementation of the Section 60 changes has had a significant impact on the business, in particular the changes further emphasise the separation of the MPTS from the GMC.

2. Operational terminology changes include:
   a. Renaming Fitness to Practise Panels, Medical Practitioners Tribunals and Interim Orders Panels, Interim Orders Tribunals.
   b. Renaming panel secretaries, Tribunal Clerks and panel assistants Tribunal Assistants. Other managerial roles have followed this pattern
   c. The Adjudication team has now become the MPTS Operations team and Panel Development team is now known as the MPTS Tribunal Development team.

3. Other large scale system changes were made to how staff use and enter information into the Siebel case management system reflecting the changes brought into place.

Implementation update by workstream

4. Highlighted below are the key changes that were delivered as part of the section 60 programme.

Review Orders

5. The MPTS no longer has to direct the GMC to apply for a High Court extension to an interim order which is due to lapse.

6. Powers to review and extend restrictions before they expire have been enhanced.

7. The Assistant Registrar (GMC) will also have the power to direct an MPT review hearing where a tribunal has not done so

Case Management and Costs

8. The full time Case Manager has been appointed and her decisions are now legally binding, requiring parties and the tribunal to comply with decisions made prior to the hearing. Pre-hearing decision to refuse postponement manager cannot be revisited unless there has been a change in circumstances.
Reviews on papers

9 The new rules allow the MPTS to carry out reviews ‘on the papers’ if both parties agree on the desired outcome - for example, where both parties agree interim conditions should be maintained or revoked.

10 These cases can be considered remotely by a legally qualified chair (LQC), rather than a panel of three. If an LQC does not approve the submissions made they will have the power to refer the review to a full tribunal. Significant time and resource benefits will accrue from this change.

Non-compliance hearings

11 This new process ensures that the GMC has the power to act when a doctor does not comply with an investigation (i.e. not complying with a request for a health or performance assessment or to provide information). In these cases the GMC will have the power to refer a doctor to a non-compliance hearing.

12 The tribunal will consider whether there has been non-compliance with a reasonable request and whether there is reasonable excuse. It will have the power to impose orders of conditional registration or suspension.

Separation of Notice of Hearing and decisions by email

13 The MPTS now serves notices of hearings time and date on doctors for MPT and IOT hearings. The GMC will notify the doctor of the details of the allegation being referred to a hearing which better reflects the separation between the two organisations.

Legally qualified Chairs

14 The delivery and operation of the LQC programme is considered in detail in a separate paper to the Committee.

Further changes

15 Following publication of the legislative documents a number of typographical errors, introduced at the departmental drafting stage were identified. The Department of Health (England) has developed a plan for the correction of these.

16 GMC Council has been asked to delegate authority to the Chief Executive and Chair to approve and seal the amendment order making the corrections. This is currently planned for 9 May 2016.

17 DoH(E) are not clear that they can meet this deadline and the alternative date is 6 June 2016.
Section 60 benefits realisation

1. The MPTS change team recently undertook a desktop review of all the changes with the key leads for each workstream that have been delivered.

2. The GMC’s auditors also carried out a review of business readiness which reported green, attached at Annex B. The process for non-compliance hearings has now been confirmed and the LQC pilot is complete as reported elsewhere on the agenda.

3. The outcome of the review revealed all key deliverables are operating and new ways of working are operating as intended.

4. As part of the introduction of the changes a number of cost savings have already been delivered.

5. Further benefits are expected as Case Management beds in and overall hearing days fall.
### Benefits realised

<table>
<thead>
<tr>
<th>Cost Saving work streams</th>
<th>Forecast for 2016</th>
<th>Actual cost savings / expenditure realised Q1 2016</th>
<th>Q1Actual % of full year</th>
<th>Q1 Forecast % of full year</th>
<th>Info in relation to stats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of Hearings</td>
<td>£ 13,081.00</td>
<td>£ 2,967.00</td>
<td>23%</td>
<td>25%</td>
<td>This activity was planned as a new cost to the MPTS. In fact cost has been slightly less than what was anticipated (spent 23% compared to 25%).</td>
</tr>
<tr>
<td>LQC</td>
<td>£ 226,980.00</td>
<td>£ 72,168.00</td>
<td>32%</td>
<td>25%</td>
<td>Efficiencies are currently ahead of forecast.</td>
</tr>
<tr>
<td>Review on Papers</td>
<td>£ 88,585.00</td>
<td>£ 25,201.00</td>
<td>29%</td>
<td>25%</td>
<td>Efficiencies are currently ahead of forecast.</td>
</tr>
</tbody>
</table>

| Section60 gross benefits to 31.03.2016 | £ 97,369.00 |
| Section60 costs to 31.03.2016          | £ 2,967    |
| Section60 net benefits to 31.03.2016   | £ 94,402.00 |
Section 60 Audit report

1. The GMC's auditors, Moore Stevens, conducted an audit of business readiness for the section changes and this is attached. The report was Green overall.

2. One area was noted as Green/Amber and covered several elements of the Section 60:

3. IS changes were scheduled for two weeks after go live with plans in place for interim manual operations. This period operated successfully and all IS changes are now in place.

4. Reviews on the papers were implemented for IOTs and the next phase is now ready for deployment.

5. The process for dealing with non-compliance with Tribunal Directed assessments has been agreed between FTP and MPTS.

6. A separate update on the use of Legally Qualified Chairs is included in Committee papers.
## Adoption of S60 amendments in MPTS and FtP

**Status:** Draft as at 22\textsuperscript{th} February 2016

<table>
<thead>
<tr>
<th><strong>Audit opinion</strong></th>
<th>Green</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Overall,</strong> there is a sound control framework in place to achieve system objectives and the controls to manage the risks audited are being consistently applied. There may be some weaknesses but these are relatively small or relate to attaining higher or best practice standards.</td>
<td></td>
</tr>
</tbody>
</table>

| **Audit sponsor** | Anthony Omo, Director of Fitness to Practise and General Counsel Howard Matthews, Assistant Director MPTS |

| **Audit team** | Work performed by: Michelle Debique, Assistant Manager Reviewed by: Kami Nuttall, Associate Director Report reviewed by: Lindsey Mallors, Assistant Director Audit and Risk Assurance |

| **Distribution** | Assistant Director FtP – Anna Rowland S60 Programme Manager – Chris Bone |

| **Audit schedule** | Scope agreed: 22 January 2016 |
| | Fieldwork completed: 04 February 2016 |
| | First draft report issued: 11 February 2016 |
| | Management comments and response to actions: |
| | Final report issued: |
Executive summary

Introduction

7 In March 2015 the UK Parliament, Scottish Parliament and the Privy Council approved a Section 60 Order amending the Medical Act 1983, introducing a number of changes to reform the adjudication processes and enhance MPTS separation. One key change that will apply to hearings concluding on or after 31 December 2015 is that the GMC will have a right of appeal against decisions made by MPTS tribunals.

8 There are a number of key changes that have been introduced including:

- Fitness to Practise Panels and Interim Orders Panels will become known as Medical Practitioners Tribunals and Interim Orders Tribunals. Panellists will become known as tribunal members.

- The MPTS will have the power to run hearings with a legally qualified chair. In such circumstances, a legal assessor need not be present.

- Where a doctor already has sanctions in place they are usually required to attend a follow-up (review) hearing. Where a doctor has an interim order in place such a review is mandatory. As part of the reforms, where both parties agree on the proposed outcome of the review, the MPTS will be able to consider the matter ‘on the papers,’ avoiding the need for parties to attend a full review hearing.

- From 1 January 2016 MPTS has been placed on a statutory footing, meaning that it will no longer exist solely as a discretionary committee of the GMC but is a legal requirement. This ensures clearer separation between the GMC’s investigation function and the MPTS’s adjudication function enabling the GMC to have a right of appeal against decisions made by MPTS tribunals.

9 This audit was conducted with the prior knowledge that the s60 amendments were implemented in a shorter timescale than was originally anticipated in order for the changes to be effected from 1 January 2016.

Context

10 The Fitness to Practise Section 60 order and supporting rule changes were finally implemented on 31 December 2015 after many years of planning. The Section 60 changes were originally requested by the GMC in 2011 following a public consultation on the establishment of the MPTS. Work commenced with the Department of Health to progress the changes to the Medical Act needed to establish the MPTS in law and give it more robust case management powers but the Department of Health put this work on hold in late 2012 on the grounds that the Department proposed to introduce a new regulatory bill based on work by the Law Commission.
In March 2014, when the Bill was not included in the Queen’s Speech, the Department of Health agreed to resume work on the Section 60. By then, time was short to ensure that the Order laid before March 2015 when Parliament pro-rogued for the General Election but this was achieved. Following the laying of the Section 60 Order the GMC consulted in the late Spring of 2015 on the rules needed to implement the Section 60. Despite the substantial programme of work required to implement these significant reforms into the GMC’s fitness to practise procedures, including changes spanning both the Fitness to Practise Directorate and the MPTS, significant electronic system changes and training of over 700 members of staff and associates, the Department of Health proscribed that the changes must be made before the end of 2015. In order to meet this extremely challenging timetable, the work programme ran the development of policy and the development of operational processes in parallel.

Scope and purpose

12 The purpose of the review was to provide assurance to the Audit and Risk Committee and Executive that appropriate processes and arrangements have been put in place to address the S60 changes. A second piece of work will be undertaken in quarter 3 to assess how the arrangements have worked in practice.

13 The scope of the audit focused on:

a S60 amendment requirements have been rolled out from 31st December into business as usual activities.

b Procedures and guidance notes for the teams have been updated.

14 In reviewing the planning methodology, the review also assessed the management of risks associated with the S60 changes and the wider GMC Change Programme and developed an understanding of the business assurance framework underpinning the S60 changes.

Conclusion

15 It was found that generally the GMC and MPTS had appropriate arrangements in place to implement the S60 changes into its business as usual processes from the 31st December 2015. Relevant policy, procedural and guidance documentation was updated to reflect changes and a programme of extensive staff, tribunal member, legal assessor and legally qualified chair training was conducted in November and December 2015.

16 A formal and methodical approach was developed to discuss, consult and approve changes to existing and new processes impacted by the change. There was also a robust system in place for managing and escalating risks.
17 Proactive and consultative decisions were taken to implement the new “Review on Papers” (ROP) and “Non Compliance hearing” processes on a phased basis. The MPTS also used its legislative discretion to phase the implementation of the use of legally qualified chairs (LQCs) for interim orders tribunals (OITs) and medical practitioners tribunals (MPTs). All updates to SIEBEL went live in January 2016.

18 At the time of the review, a suite of exception and performance reports were being developed on SIEBEL and the MPTS expanded the scope of their quality assurance review process to include audits of the ROP review decisions.

Assessment: Green

Contribution to assurance map

19 First line assurance will be enhanced through Seibel’s reporting capability, this and development of a dashboard will enable monitoring of cases impacted by the s60 amendments.

20 Second line assurance QA processes for MPTS have been expanded to incorporate sample review of ROP decisions and observation of a sample of LQC led tribunals. In principal this is satisfactory, but not yet tested.

Acknowledgement

21 We would like to thank all the staff involved in this review for their time and engagement.

Audit approach

22 The planned audit approach was to:

   a  Conduct a desktop review of documentation supporting the implementation of the S60 amendments.

   b  Interview with key staff involved in designing and updating processes and documentation.

23 A list of staff who have provided information for the review is included at Annex B.

Key findings Roll out of S60 Changes on 31st December 2015
Planning Arrangements

www.mpts-uk.org
Background

Planning arrangements to ensure the successful implementation of the S60 changes were assessed through the review of key programme and process documentation and interview with the S60 programme manager.

Positive findings

- A S60 and Rules Programme Board was set up to oversee and direct the interpretation and implementation of the legislative changes. The Programme Board has the right mix of senior level representation from both the MPTS and the GMC to ensure effective oversight.

- Each legislative change was interpreted into a programme work stream. Each work stream had clearly defined objectives and appropriately assigned working groups with representation from the GMC and the MPTS. The working groups were responsible for delivery of work stream objectives.

- Changes to existing processes and new processes were appropriately mapped out and there is a clear audit trail of consultation, discussion, challenge and approval.

- Detailed training needs analysis was carried out both by the MPTS and GMC to identify teams needing training on the new processes. A detailed training plan was developed based on the outcome of the analysis.

- A programme risk register was maintained and key risks and mitigating actions were escalated to the programme board where appropriate and discussed at the monthly programme board meetings.
Business Readiness

Assessment: Green  Amber

Background

25 The MPTS and the GMC had to ensure that arrangements and processes were in place to “go live” with changes from the 31st December. This was assessed through the review of process, policy, procedural and training documentation and interviews with key staff at the S60 and Rules programme office.

Positive findings

- Key policy, procedural and guidance documentation was in place as at the 31st December “go live” date. These included the following:
  
  i  GMC Right of Appeal – Operational Guidance for Decision makers and the Legal team
  
  ii  Review on Papers process – Interim Order Tribunals (IOTs) and Medical Practitioners Tribunals (MPTs) manuals
  
  iii  Non Compliance Process – Non Compliance Hearing (NCH) for MPTS and FTP decision makers
  
  iv  Case Management Costs – Guidance for Case Managers and Tribunal members.
  
- An extensive programme of staff training across both organisations was conducted in November and December 2015 with “mop up” sessions scheduled for January and February 2016.

- As part of the updates to SIEBEL, a programme of user acceptance testing was conducted in December and issues were addressed as part of the overall updates to SIEBEL.
Areas to note

- Although user acceptance testing was completed in December, all updates to SIEBEL went live on the 18th January 2016 as agreed by the Section 60 Programme Board the GMC Performance and Resources Board. As a result of this, the GMC and MPTS ran a manual system for two weeks for any new hearings after the 31st December. Further discussions with the programme team revealed that volume of hearings during this period were relatively low and it has been confirmed that the case trail from hearings ran during this period have now been uploaded on SIEBEL.

- The new “Review on Papers” (ROP) process has been implemented on a two-phased basis. After extensive consultation, a decision was made by the programme board to implement less complex review cases without variations to conditions, undertakings or suspensions from the 31st December. This will allow for any issues to be addressed prior to phasing into more complex variations review cases. Phase two of the ROP process will be implemented in March 2016. We have reviewed the process map for the phase two implementation and have been informed by the programme team that the phase two procedural and guidance documents are currently being developed.

- The new process for managing instances where a doctor does not comply with a tribunal directed assessment is still yet to be implemented. (A tribunal directed assessment is a tribunal decision where the doctor must undergo a health, English language or performance assessment to inform tribunal decision-making, typically at the impairment stage of the hearing.) Internal Audit was advised that a decision was taken by the Programme Board to delay the implementation of this process. This was to enable further consultation and legal advice to be obtained on the best approach to implementing the process. Additionally, a trend analysis conducted of doctors’ non-compliance with previous assessment hearing rulings revealed that this is very rare occurrence. At the time of the fieldwork, a decision on the process has been agreed and a draft process map has been developed for approval.

- The use of legally qualified chairs (LQCs) at new Medical Practitioners Tribunals (MPTs) is yet to be implemented. Due to the complexity of these hearings, a decision was taken by the Programme Board to run a pilot using LQCs for Interim Order Tribunals (IOTs), IOT reviews and MPT reviews. The pilot will include 100 IOT sessions during which feedback on performance of how the sessions are run will be collated and analysed. The legislation also allows MPTS the discretion to use LCQs for MPTs.
Business Assurance Underpinning S60 Changes

Assessment: Green

Background

26 Quality assurance arrangements should be developed to support the new process changes and amendments. This was assessed through interviews with the key programme team and review of planning documentation.

Positive findings

- A dashboard of new performance and exception reports on SIEBEL is currently being developed to monitor performance of the changes.

- The remit of MPTS’s on-going quality review arrangements have been expanded to include auditing a sample of ROP decisions and observation of a sample of LQC led tribunals.

- As the new processes become embedded, two weekly meetings are being held with various teams across MPTS, FtP and Legal to discuss and resolve any issues. These meetings will be rolled out to other teams as and when required.

- This area continues to be work in progress.
Annex A

Assurance definitions

<table>
<thead>
<tr>
<th>Color</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green</td>
<td>Overall, there is a sound control framework in place to achieve system</td>
</tr>
<tr>
<td></td>
<td>objectives and the controls to manage the risks audited are being</td>
</tr>
<tr>
<td></td>
<td>consistently applied. There may be some weaknesses but these are</td>
</tr>
<tr>
<td></td>
<td>relatively small or relate to attaining higher or best practice standards.</td>
</tr>
<tr>
<td>Green-amber</td>
<td>Minor weaknesses have been identified in the control framework or non-</td>
</tr>
<tr>
<td></td>
<td>compliance which may put achievement of system objectives at risk.</td>
</tr>
<tr>
<td>Amber</td>
<td>Weaknesses have been identified in the control framework or non-compliance</td>
</tr>
<tr>
<td></td>
<td>which put achievement of system objectives at risk. Some remedial action will</td>
</tr>
<tr>
<td></td>
<td>be required.</td>
</tr>
<tr>
<td>Amber-red</td>
<td>Significant weaknesses have been identified in the control framework or</td>
</tr>
<tr>
<td></td>
<td>non-compliance which put achievement of system objectives at risk. Remedial</td>
</tr>
<tr>
<td></td>
<td>action should be taken promptly.</td>
</tr>
<tr>
<td>Red</td>
<td>Fundamental weaknesses have been identified in the control framework or</td>
</tr>
<tr>
<td></td>
<td>non-compliance with controls leaving the systems open to error or abuse.</td>
</tr>
<tr>
<td></td>
<td>Remedial action is required as a priority.</td>
</tr>
</tbody>
</table>

Risk and significance categories

| Priority ranking 1 | There is potential for financial loss, damage to reputation or loss of     |
|                   | information. This may have implications for the achievement of business    |
|                   | objectives and the recommendation should be actioned immediately.          |
| Priority ranking 2 | There is a need to strengthen internal control or enhance business          |
|                   | efficiency.                                                                 |
| Priority ranking 3 | Internal control should be strengthened, but there is little risk of material|
|                   | loss.                                                                       |
Annex B

The following staff have been consulted during the course of this work.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Howard Matthews</td>
<td>Assistant Director, MPTS</td>
</tr>
<tr>
<td>Anna Rowland</td>
<td>Assistant Director, FtP</td>
</tr>
<tr>
<td>Chris Bone</td>
<td>S60 Programme Manager</td>
</tr>
<tr>
<td>Stephen Gannon</td>
<td>FPD Project Manager</td>
</tr>
<tr>
<td>Umair Badat</td>
<td>MPTS Change Manager</td>
</tr>
</tbody>
</table>
Executive summary
This paper details the outcome of the evaluation of the trial of the use of Legally Qualified Chairs (LQCs) between 1 January 2016 and 31 March 2016.

During the evaluation period, LQCs were used in 302 Interim Orders Tribunal (IOT) hearings, 34 Medical Practitioners Tribunal (MPT) review hearings and 24 reviews on the paper.

422 survey responses were received out of 720 surveys sent - a 59% response rate.

Eight observations have been carried out of hearings chaired by a LQC - one MPT review hearing and seven IOT hearings.

Feedback on the use of LQCs has been broadly positive and the discretionary use of LQCs is therefore considered effective in respect of the current scope.

This paper also details the intended preparation for the next phase of the trial.

Recommendation
The Committee is asked to note:

a The update on the LQCs trial.

b The continued use of LQCs within the current scope while further development of the use of LQCs is considered.
Evaluation survey data

1 Between 1 January 2016 and 31 March 2016 (the initial trial period) LQCs chaired 306 IOT hearings, 34 MPT (review hearings) and 24 reviews on the paper. The original target for the number of hearings during this period had been 100, and this has therefore been exceeded.

Evaluation Survey Response Rates

2 During the initial trial period the target had been to collate 100 responses from each of the following groups; tribunal members and clerks, representatives, and LQCs. It is worth noting that only 78 IOT hearing days had been completed during the relevant period and participants for these hearings would have provided feedback in respect of the hearing day as opposed to the individual hearing.

3 720 surveys were issued and 422 responses were received, a 59% response rate. The highest response rate was from the LQCs (75%) and the lowest response rate from representatives (31%). 247 responses were received from tribunal members and tribunal clerks, 85 responses were received from LQCs and 75 responses were received from legal representatives.

4 While the target number of responses has not been received across all groups, due to the overall level of responses and the theme of the responses it is considered that sufficient feedback has been received to confirm the success of this stage of the trial. Full statistical data for the trial period responses is included at Annex A.

Evaluation Survey Feedback

5 Feedback on the use of LQCs has been extremely positive in all areas with only a small number of responses indicating that they felt the use of LQCs could be considered disadvantageous. When exploring the commentary from the latter, it would appear that the main criticisms related to the preference to have a legal assessor that could assist with matters with parties outside of a hearing room, comments regarding the individual approach of the LQC or a more general preference to have a legal assessor for hearings.

6 LQCs overwhelmingly felt the process was more streamlined and efficient without the need to repeatedly ask for advice and in particular those chairing IOT hearings felt that the use of LQCs worked more effectively. One response referred to a case where an unrepresented doctor had health concerns and comments were made that the use of a legal assessor to discuss the proceedings outside of the hearing room may have
been useful. However, other feedback also indicated positive approaches by LQCs to managing unrepresented doctors.

7 Tribunal members and clerks felt that the LQC was more efficient particularly on straightforward cases. Criticisms from this group tended to relate more to the approach of an individual rather than the process of using a LQC and this feedback can be used to assist in the development of the role and the training required.

8 Legal representatives were very positive about the use of LQCs commenting on the efficiency of the process and the ‘impressive’ approach. There was mixed feedback in relation to the advice tendered by LQCs - some indicating they felt it less detailed, others that it was useful that no unnecessary recitation of the law occurred.

9 All feedback will be taken into consideration for the development of the LQCs pilot and a summary of the survey response data can be found in Annex A.

Quality Assurance Group and Observations

10 Of the 20 LQCs appointed for the trial period, all but three have had decisions reviewed by the Quality Assurance Group (QAG) and eight have been observed. QAG had considered 42 cases where the hearing was chaired by a LQC and in only 5% of cases were learning points identified - none of which related to the process of having a LQC.

11 We intend to continue to review cases as part of the QAG process and carry out observations of those LQCs where this is yet to be completed.

Phase Two

12 The initial stage of the trial period is now complete with sufficient positive responses received to confirm that the principle of using a LQC in MPTS hearings is effective. The use of LQCs has been confined to certain hearings to date and we now intend to explore - taking into consideration the feedback received - how we can extend the use of LQCs.

13 Activity over the next two quarters will be to put in place a clear plan to extend the use of LQCs in other areas and commence the planning to implement the use of LQCs as a permanent part of MPTS hearings. We will continue to use LQCs under the current arrangements during this time.
10 - Legally Qualified Chairs trial update

10 - Annex A

Evaluation Survey data

EVALUATION PERIOD TO DATE  1 January 2016 to 31 March 2016

Number of LQC hearings completed

<table>
<thead>
<tr>
<th>Month</th>
<th>MPT</th>
<th>IOT</th>
<th>RoPs</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-31 January 2016</td>
<td>12</td>
<td>21</td>
<td>3</td>
<td>36</td>
</tr>
<tr>
<td>1-29 February 2016</td>
<td>13</td>
<td>24</td>
<td>9</td>
<td>46</td>
</tr>
<tr>
<td>1-31 March 2016</td>
<td>9</td>
<td>33</td>
<td>12</td>
<td>54</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>34</strong></td>
<td><strong>78</strong></td>
<td><strong>24</strong></td>
<td><strong>136</strong></td>
</tr>
</tbody>
</table>

Number of survey responses received during evaluation period to date

<table>
<thead>
<tr>
<th></th>
<th>REQUESTS OUT</th>
<th>RESPONSES IN</th>
<th>RESPONSE RATE (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LQC</td>
<td>114</td>
<td>85</td>
<td>75</td>
</tr>
<tr>
<td>Legal representatives</td>
<td>243</td>
<td>75</td>
<td>31</td>
</tr>
<tr>
<td>Tribunal members and clerks</td>
<td>344</td>
<td>247</td>
<td>72</td>
</tr>
<tr>
<td>RoPs</td>
<td>19</td>
<td>15</td>
<td>79</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>720</strong></td>
<td><strong>422</strong></td>
<td><strong>59</strong></td>
</tr>
</tbody>
</table>
Response rate (%) month by month

<table>
<thead>
<tr>
<th></th>
<th>January 2016</th>
<th>February 2016</th>
<th>March 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>LQCs</td>
<td>67</td>
<td>72</td>
<td>83</td>
</tr>
<tr>
<td>Legal representatives</td>
<td>32</td>
<td>39</td>
<td>24</td>
</tr>
<tr>
<td>Tribunal members and clerks</td>
<td>69</td>
<td>82</td>
<td>64</td>
</tr>
<tr>
<td>RoPs</td>
<td>33</td>
<td>81</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>OVERALL</strong></td>
<td><strong>56</strong></td>
<td><strong>67</strong></td>
<td><strong>52</strong></td>
</tr>
</tbody>
</table>

Observations undertaken during evaluation period to date

<table>
<thead>
<tr>
<th>Month</th>
<th>MPT</th>
<th>IOT</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-31 January 2016</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1-29 February 2016</td>
<td>1</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>1-31 March 2016</td>
<td>0</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>
10 - Legally Qualified Chairs trial update

10 - Annex B

LQC Evaluation Survey Responses 1 January - 31 March 2016

Where the doctor was unrepresented, to what extent do you agree or disagree that the tribunal process was clearly explained to them, and that any questions were dealt with appropriately?

![Pie chart for LQC responses]

- Strongly agree: 0%
- Agree: 29%
- Neither agree nor disagree: 0%
- Disagree: 53%
- Strongly disagree: 0%

![Pie chart for Legal Representatives responses]

- Strongly agree: 20%
- Agree: 33%
- Neither agree nor disagree: 0%
- Disagree: 47%
- Strongly disagree: 0%
Where the doctor was unrepresented, to what extent do you agree or disagree that the tribunal process was clearly explained to them, and that any questions were dealt with appropriately?
To what extent do you agree that time management of the hearing was effective?
To what extent do you agree that time management of the hearing was effective?
Overall, how did you find chairing / the tribunal being chaired by an LQC to be?
Overall, how did you find the tribunal being chaired by an LQC to be?

**Tribunal Members**
- Very advantageous: 21 (13%)
- Advantageous: 11 (6%)
- Neither advantageous nor disadvantageous: 31 (19%)
- Disadvantageous: 2 (1%)
- Very disadvantageous: 101 (61%)

**Tribunal Clerks**
- Very advantageous: 0 (0%)
- Advantageous: 2 (3%)
- Neither advantageous nor disadvantageous: 8 (10%)
- Disadvantageous: 33 (41%)
- Very disadvantageous: 37 (46%)
How effectively do you feel the tribunal worked together?

**Tribunal Members**
- Very effectively
- Effectively
- Neither effectively nor ineffectively
- Ineffectively
- Very ineffectively

**Tribunal Clerks**
- Very effectively
- Effectively
- Neither effectively nor ineffectively
- Ineffectively
- Very ineffectively

MPTS Committee meeting, 10 May 2016
Did the LQC advise on any questions of law as evidence or procedure during the hearing?

### LQC Advice
- **Yes**: 48 (56%)
- **No**: 37 (44%)

### Legal Representative Advice
- **Yes**: 30 (40%)
- **No**: 45 (60%)