Panellist Circular

28 September 2012

To: Interim Orders Panel Panellists
   Fitness to Practise Panel Panellists
   Legal Assessors

Cc: Panel Secretaries

Updates

Quality Assurance Group

As you will be aware the Quality Assurance Group reviews decisions of the Fitness to Practise panels and Interim Orders Panels. Further to decisions that have been reviewed we thought it would be helpful if we share some of the matters that have been discussed in recent months.

Allegations

We wished to remind you of Rule 17(3) of the General Medical Council (Fitness to Practise) Rules 2004 which states;

‘(3) Where it appears to the FTP Panel at any time that-

(a) the particulars of the allegation or the facts upon which it is based, of which notice has been given under rule 15, should be amended; and
(b) the amendment can be made without injustice,

it may, after hearing the parties and consulting with the Legal Assessor, amend the particulars on appropriate terms.’
In some cases it may be helpful for the panel to consider Rule 17(3) and whether the charges need to be amended and or separated in order to consider the case effectively.

Warnings

Where panels are considering a new Fitness to Practise case and are considering issuing a warning they should have regard to Rule 17(2)(l) of the General Medical Council (Fitness to Practise) Rules 2004 and the ‘Guidance on warnings’.

It is important to note that a warning does not place any restrictions on the doctor’s registration. Warnings are published via the GMC’s website on the List of Registered Medical Practitioners for a five-year period and disclosed to any enquirer. After five years, the warning will cease to be published on LRMP however it will be kept on record and disclosed to employers on request.

Testimonials and expressions of regret and apology

Panels should refer to paragraphs 30-31 of the Indicative Sanctions Guidance when considering what weight to attribute to testimonials. It is important to ensure that testimonials are weighed up against the nature of the facts found proved.

Where an apology is provided by the doctor during a Fitness to Practise hearing, the panel should refer to paragraphs 32-37 of the Indicative Sanctions Guidance. In particular, we wish to remind you of paragraph 34 which states;

‘This ‘insight’ - the expectation that a doctor will be able to stand back and accept that, with hindsight, they should have behaved differently, and that it is expected that he/she will take steps to prevent a reoccurrence - is an important factor in a hearing. When assessing whether a doctor has insight the panel will need to take into account whether he/she has demonstrated insight consistently throughout the hearing, eg has not given any untruthful evidence to the panel or falsified documents.’

Use of case law in determinations

Simply listing case law in determinations is rarely useful; what is more helpful is to ensure that where case law is referenced it is relevant to the case and explains why it is relevant.

Kind Regards

David Pearl
Chair, MPTS