

**General
Medical
Council**

Regulating doctors
Ensuring good medical practice

Fitness to Practise Panel

Pre-hearing Case Management Procedure

Guidance Manual

November 2010 (Revised)

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Introduction

1. The GMC is committed to discharging its Fitness to Practise responsibilities in an effective, fair and transparent way. We consider that, generally, this commitment will be furthered by Fitness to Practise (FTP) Panel hearings taking place as soon as reasonably practicable, consistent with sufficient time being allowed to all parties to prepare adequately. In most instances, we will aim to have the start date of cases scheduled to commence within 15 months of receipt of an allegation against a doctor. Up to nine months of this period is intended for the case management / adjudication process following the Case Examiners' decision to refer to the FTP Panel. The case management procedure is intended to assist in ensuring that a case is heard within these timescales.

2. This guidance manual aims to assist parties to prepare for and participate in the pre-hearing case management procedure. The procedure is primarily intended to reduce delays, facilitate the effective running of FTP Panel hearings and minimise the stress on respondent doctors and witnesses at a hearing by setting up an effective channel of communication between parties during the pre-hearing period and seeking agreement in relation to a number of key issues. The procedure will not, however, provide an opportunity to consider the merits of a referral, or to test the evidence before a hearing.

3. Participation in the procedure is voluntary. It will normally apply to new referrals where there is an allegation of impairment by reason of misconduct. However, an adapted version of the procedure may be appropriate in certain performance cases. Where there has been no performance assessment and the facts are in dispute, Stage 1 and Stage 2 teleconferences can be arranged to assist in the listing of cases. Where there has been a performance assessment, but parties cannot agree on dates, a limited Stage 1 telephone conference may be held to allow parties to speak together and come to an agreement with the listings officer chairing. Requests for such teleconferences can be made by either the GMC or the doctor's solicitors, with the underlying presumption that both parties are agreeable. Hearings where there are allegations of impairment other than misconduct and performance would not normally go through the case management procedure.

4. The procedure is facilitated by the Adjudication Section, which has responsibility for all aspects of pre-hearing administration. In taking forward this area of work, the Adjudication Section will liaise closely with all parties to a case awaiting consideration by the FTP Panel.

5. The procedure is normally focused on two exchanges (which will, as a general rule, take place by telephone conference) between parties – one soon after the referral of a case to the FTP Panel and the other around the time that the GMC has disclosed its case in full to the respondent doctor. The cost of the telephone conference facility will be borne by the Adjudication Section. Participant telephone costs will be charged at the local rate. A step by step guide on the BT MeetMe Service, which is used for the telephone conferences, is at Annex G.

6. An additional third teleconference will be held where there are unrepresented doctors who have participated in the case management procedure. This will take place shortly after the Notice of Hearing has been issued and will provide a further opportunity to establish whether the doctor plans to attend the hearing, whether he/she intends to seek legal representation and whether he/she intends to raise any preliminary arguments.

7. This guidance was revised in November 2010 and Annex I explains the background to these revisions.

8. If you have any comments on the guidance, please contact us as follows:

Adjudication Manager
Adjudication Section
Fitness to Practise Directorate
General Medical Council
7th Floor
St James's Building
79 Oxford Street
Manchester M1 6FQ

Email: listings@gmc-uk.org

The pre-hearing case management procedure

9. The pre-hearing case management procedure comprises two-stages as follows:

Stage 1

Stage 1 telephone conference

- a. Between 27 – 43 days after the Case Examiners' decision to refer the case to the FTP Panel, a Stage 1 telephone conference will be held. It will be chaired by the Adjudication Section listings officer and involve the GMC Investigation Officer, the GMC solicitor, the doctor or his legal representative. The date and time of the telephone conference will be set by agreement with the parties involved. Participants are expected to agree a date within the timescale set out above. If only one party agrees to participate, the telephone conference will nevertheless proceed. Where a doctor has legal representation, his/her solicitor will normally participate in the telephone conference.
- b. Unrepresented doctors will be encouraged to engage with the case management procedure. The process should not, however, be unduly delayed if the unrepresented doctor does not respond to correspondence in a timely manner. The invitation letter confirms that if a doctor does not respond by a specified date, then the procedure will continue in their absence and they will be provided with a record of the outcome.
- c. A Stage 1 telephone conference proforma is at Annex A. This is intended to guide discussion and record outcomes of the main areas discussed. There are also adapted Stage 1 proformas for performance cases at Annex E and Annex F.
- d. At the telephone conference, parties will seek to agree a timetable for the case including a provisional listing date, time estimate and location of hearing. Both parties should check the availability of the known main participants prior to the teleconference. Where an interim order - particularly an interim suspension order - has been imposed on the doctor's registration, the expiry date of that order will be taken into account to avoid, wherever possible, the need to seek an extension of the order. Where Counsel's availability would result in a case being delayed, particularly beyond the service target, it will not usually be possible to resolve this during the teleconference. Parties will be invited to make representations on the matter to the Adjudication Manager so that it can be given appropriate consideration.
- e. The GMC will be required to set out the timescale for disclosure of the evidence and draft allegations.. The doctor or his/her solicitors will then set out their timescale for preparation and disclosure of evidence. Both parties will be expected to disclose evidence as it becomes available, and therefore the

preparation time required by the defence will, either in part or fully, be concurrent with the time required by the GMC. Longer and more complex cases are likely to be listed close to the service target date. However, for shorter cases, parties will be expected to consider appropriate reductions to preparation time with a view to listing the case earlier, in the interests of all parties.

f. In setting a time estimate for a hearing, parties should take account of all stages of the process, including any preliminary arguments, presentation of the GMC's case and the doctor's case, submissions on impairment and sanction and the time the panel will require for its in-camera deliberations and drafting of its decisions at the various stages. Listings staff will suggest the amount of in-camera time required, drawn from broad guidelines, although these may be varied to take account of specific circumstances in individual cases.

g. In cases where the hearing length is estimated at 30 days or more, an additional allocation of approximately 10% should be added. This is to provide a degree of flexibility for non-sitting days specifically for medical panellists, where there can be problems in obtaining availability for such cases.

h. At the Stage 1 teleconference, either party may request a case review before an independent Case Manager. Case reviews are an important part of the pre-hearing case management process. The case review procedure aims to minimise delays that can arise during the pre-hearing preparation stage, which have led to hearing dates being vacated, and the hearing stage, where valuable time is often spent dealing with preliminary matters which can ordinarily be resolved prior to the hearing.

i. Where a party requests a case review, it is typically arranged shortly after the date when the GMC disclosure is scheduled to take place. As part of the improvements to the case management process, a case review will automatically be scheduled in all longer cases to facilitate the issuing of directions. For this purpose, a longer hearing is one defined as 15 days or more, but this will be subject to review.

j. Where a case has an estimated hearing length of less than 15 days, it remains open to either party and / or the Adjudication Section to request that such hearings go through the case review process where it is deemed advantageous to case management to do so. Requests for a case review will not normally be refused, but the Registrar has discretion in the matter.

k. If a case review is not required, a Stage 2 telephone conference will be arranged and will take place after the disclosure by the GMC solicitor of both the evidence and the draft allegations.

l. A record of the telephone conference will be prepared by the Adjudication Section listings officer and circulated to all parties, whether or not

they participated in the telephone conference, within seven days of the telephone conference taking place. Participants may request amendments to the record at this stage. This record will be limited to the format of the proforma, with a note of potential issues raised by either party. It is not intended as a verbatim record of the discussion.

Stage 2

Either

Stage 2 case review

m. Where a formal case review between parties has been scheduled, an independent Case Manager will be assigned to the case and will be issued with a copy of all relevant documentation, including the Stage 1 telephone conference record of agreement and the draft charges. The Case Manager will be a barrister, advocate or solicitor of at least 10 years standing and will chair the case review. If only one party attends on the day, the case review will nevertheless proceed and the Case Manager may still give directions in accordance with Rule 16(5) of the GMC Fitness to Practise Rules 2004, as amended (the Rules).

n. Accurate estimation of the hearing length is challenging, particularly so if: information about witness availability; whether the witnesses will be required to give oral evidence; the amount of time needed to hear each witness; and how long it will take to gather evidence is not already provided. The parties are therefore expected to ensure that they share such information in advance of the hearing.

o. At the case review¹, the hearing date, time estimate and location will be confirmed and any outstanding procedural and legal issues will be considered. The Case Manager will consider the estimated length of hearing and, where the length of hearing is thought to be significantly under or over-estimated, will work with parties to agree a more accurate estimate to reduce the risk of hearings either finishing early or going part heard due to lack of time. The Case Manager may also issue directions, as appropriate (Rule 16(6) of the Rules sets out the type of directions a Case Manager may issue). The Case Manager will give reasons for any directions made.

p. Parties will be expected to comply with the evidence provisions as set out at Rule 34(9) of the Rules. In the event that a party does not comply with the provisions of Rule 34(9), the other party is entitled to raise the matter with the FTP Panel and, where non-compliance appears to have been unreasonable, to argue that the evidence in question should not be admitted.

¹ Case reviews will, as a general rule, proceed by telephone conference, although there may be occasions e.g. in complex or multi-doctor cases where they will proceed by a meeting of parties.

q. The Case Manager shall play a critical role in the coordination of all evidence (as per Rule 16 (6)), working with parties to resolve any issues outstanding and will scrutinise witness scheduling arrangements. The Case Manager may also determine whether a witness should be treated as vulnerable. Both parties will be expected to support the Case Manager fully in these matters.

r. A Stage 2 case review proforma is at Annex C. This is intended to guide discussion and record directions made.

s. The Case Manager will prepare a record of the case review, which will include all agreements, admissions and directions issued, as appropriate. This record will be served on the parties, whether or not they participated in the case review, no later than seven days after the case review. The Adjudication Listings team may, where appropriate, collate details of compliance with directions on behalf of the Case Manager, in advance of the hearing.

t. The case review record may be disclosed to the FTP Panel at the substantive hearing by either party. The panel may also request copies of the case review record. Directions issued by the Case Manager should always be complied with and any failure to do so may result in evidence not being admitted before the panel or adverse inferences being drawn.

u. Compliance with Case Manager's directions and general pre-hearing case management issues will be the subject of regular discussion between the Adjudication Section, the GMC and the medical defence organisations. Such meetings will, through critical assessment of historic cases, develop and promote best practice which can be adopted by parties in the future.

v. If so required, additional case reviews will be arranged on a case-by-case basis.

Or

Stage 2 telephone conference

w. Where a case review is not scheduled, a Stage 2 telephone conference will be scheduled; this will be chaired by the Adjudication Section listings officer and involve the GMC Investigation Officer, the GMC solicitor, the doctor or his/her legal representative. If only one party attends on the day, the Stage 2 telephone conference will nevertheless proceed. At the telephone conference the hearing date, time estimate and location will be confirmed and any outstanding procedural and legal issues will be considered. At this stage parties may also request any additional facilities required for the hearing e.g. video link up. Parties, including the Adjudication Listings team, may also request a Stage 2 case review at this point, including where there are disclosure issues outstanding.

x. A Stage 2 telephone conference proforma is at Annex B. This is intended to guide discussion and record the initial telephone conference outcomes.

y. A record of the telephone conference will be prepared by the Adjudication Section listings officer and circulated to all parties, whether or not they participated in the telephone conference, within seven days. Participants may request amendments to the record at this stage. As with the Stage 1 telephone conference, this record will be limited to the format of the proforma, with a note of potential issues raised by either party. It is not intended as a verbatim record of the discussion. Where the doctor has not participated in the teleconference or been represented, a covering letter and pro-forma for completion will be included with the minutes, to try to ascertain whether or not the doctor intends to attend the hearing.

z. If required, additional follow up Stage 2 telephone conferences will be arranged on a case-by-case basis.

Stage 3 telephone conference (Unrepresented doctors only)

10. An additional, Stage 3 telephone conference will be held where unrepresented doctors have participated in the case management procedure.

a. This will take place shortly after the Notice of Hearing has been issued. This telephone conference will provide a further opportunity to establish whether the doctor intends to be present at the hearing, whether he/she is seeking legal representation and whether he/she intends to raise any preliminary arguments.

b. A Stage 3 telephone conference proforma is at Annex D. This is intended to guide discussion and record the telephone conference outcomes.

c. A record of the telephone conference will be prepared by the Adjudication Section listings officer and circulated to all parties, whether or not they participated in the telephone conference, within seven days. Participants may request amendments to the record at this stage. As with previous records, this record will be limited to the format of the proforma, with a note of potential issues raised by either party.

Pre-hearing case management procedure: schedule

11. The GMC's overall service target is to have the start date of cases scheduled to commence within 15 months of receipt of an allegation against a doctor. Up to nine months of this period is intended for the case management/adjudication process following the Case Examiners' decision to refer the matter to the FTP Panel.

Step	Action	Time allowed
Stage 1		
1.	GMC Case Presentation Team (CPT) to refer case to GMC Adjudication Section to commence case management procedure.	14 days from referral.
2.	GMC Adjudication Section to contact parties to arrange Stage 1 telephone conference.	21 days from referral.
3.	Stage 1 telephone conference between parties, chaired by GMC Adjudication Section listings officer.	42 days from referral.
	A record of agreement to be prepared by the listings officer and circulated to parties.	Seven days from conference.
4.	Completion of GMC investigation (i.e. disclosure to take place as material becomes available with intention that all documents and draft allegations served by end of Step 4).	Sliding scale (to maximum of four ² months from referral).
Stage 2		
Either		
5.	Case review telephone conference before an independent Case Manager to confirm hearing date, time estimate and location of hearing and to consider any legal and procedural issues outstanding.	As soon as possible after step 4 and in any event within 14 days.
	Directions may be issued by the Case Manager as appropriate.	

(Where a case review is subsequently requested at the Stage 2 teleconference this will be arranged as soon as parties are available, subject to the appropriate notice.)

² Unless a case has been referred for adjudication within six months of receipt of an allegation against a doctor. In such circumstances, the post-referral GMC investigation period might be longer than four months.

Step	Action	Time allowed
<i>Stage 2 case review continued...</i>		
	The Case Manager to prepare a record of the case review, to include all agreements, admissions and directions issued, as relevant. This record to be served on parties, whether or not they participated in the case review.	Seven days from case review.
Or		
6.	Stage 2 telephone conference between parties to confirm hearing date, time estimate and location of hearing and to consider any legal and procedural issues outstanding.	As soon as possible after Step 4 and in any event within 14 days.
	A record of agreement to be prepared by the listings officer and circulated to parties.	Seven days from conference.
7.	Preparation of doctor's case. The timescales are concurrent and not necessarily consecutive, where there has been ongoing disclosure. Therefore the defence will not necessarily require the same preparation time as the GMC.	Up to maximum of four months from end of Step 4 in complex cases.

Stage 3 (For unrepresented doctors participating in case management procedure only)

8.	Stage 3 telephone conference between parties to confirm Doctor's intentions regarding attendance and representation and identify any potential preliminary arguments.	ASAP after Notice of Hearing issued and in any event within 14 days.
	A record of agreement to be prepared by the listings officer and circulated to parties.	Seven days from conference.
9.	FTP Panel hearing	Maximum of 15 months from receipt of allegation, and nine months from Case Examiners' decision.

GMC Pre-adjudication case management procedure

Stage 1 Telephone Conference

Case:

Service Target Date:

Target Listing Date:

Telephone conference date:

Areas to be covered

	Action	Outcome/Time limit
1.	GMC to complete investigation Investigation may include:- witness statements <input type="checkbox"/> expert reports <input type="checkbox"/> obtaining medical records <input type="checkbox"/> other - list <input type="checkbox"/>	Date:
2.	GMC to disclose evidence and draft charges	Date:
3.	Doctor to indicate the timetable for preparation of his/her case and disclosure of evidence. Assuming disclosure of GMC takes place as it becomes available, how much time after final disclosure is required for preparation?	Date:
4.	Timetable for defence disclosure (based on allegations as set out in the Rule 7 letter): witness statements <input type="checkbox"/> expert reports <input type="checkbox"/> other - list <input type="checkbox"/>	
5.	Will any preliminary legal arguments be made at the hearing?	Days:

	If so, how much time is required?	
6.	Will the health of the doctor be raised as an issue at the hearing?	Yes/No
7.	Is a specialist adviser required? If so, which specialty? Specialist advisers are normally requested where health or performance assessment reports will be considered	Yes/No
8.	Is there an interim order in place? If so, what type of order? When does the current order expire? Wherever possible, these cases should be given priority, particularly if the doctor is subject to an interim suspension order, and listed prior to the expiry date.	Yes / No Suspension/conditions Date:
9.	Provisional hearing date Parties should have the availability of the main participants. Counsel availability cannot normally be taken into consideration.	Date:
10.	Time estimate This should take account of:- Presentation of GMC case (including cross-examination of witnesses) Presentation of doctor's case (including cross-examination of witnesses) Submissions on impairment and sanction Panel in camera time (deliberations and drafting) For cases where the hearing length is estimated at 30 days or more – add 10%	Days:
11.	Location of hearing	Location:

12.	<p><i>Vulnerable witnesses</i></p> <p>Should any witnesses be treated as vulnerable witnesses? If so, specify names (or anonymised name) and how their evidence should be obtained or presented at the hearing:</p> <p>Witness(es):</p> <p>Early notification of vulnerable witnesses will assist in the arrangements at a later stage</p>	
13.	<p>Is a case review required?</p> <p>Requested by :</p> <p>GMC Doctor Both Auto (longer hearing)</p>	
14.	<p>Date and time of Stage 2 case review or telephone conference</p>	<p>Date:</p> <p>Time:</p>

GMC Pre-adjudication case management procedure**Stage 2 Telephone Conference****Case:****Service Target date:****Target Listing Date:****Telephone conference date:****Areas to be covered**

	Action	Outcome
1.	Is GMC disclosure complete? If no, please record below actions and timescale for completion (continue on separate sheet if necessary)	(please circle) Yes/No
2.	Any outstanding procedural or legal issues? If so, please record below (continue on separate sheet if necessary)	Yes/No
3.	Update on timetable for defence disclosure witness statements <input type="checkbox"/> expert reports <input type="checkbox"/> other - list <input type="checkbox"/>	
4.	Will any preliminary legal arguments be made at the hearing? If so, how much time is required	Yes/No

5.	Are there any health issues regarding the doctor, which may affect the planned hearing date for this case?	Yes/No
6.	Is a specialist adviser required? If so, which specialty Specialist advisers are normally requested where health or performance assessment reports will be considered	Yes/No
7.	Confirm hearing date	Date:
8.	Confirm time estimate (see 3 above) Where the doctor is not represented, and has clearly indicated they will not take part in the proceedings, the Investigation Officer/GMC may indicate if the length of the hearing can be reduced, and by how much.	Days:
9.	Confirm location of hearing	Location:
10.	Is there agreement under Rule 34(9)(c) as to whether any witnesses are not required? If so, list witnesses not required to attend hearing to give evidence	Yes/No Name(s):
11.	<i>Vulnerable witnesses</i> Should any witnesses be treated as vulnerable witnesses? If so, specify names (or anonymised name) and how their evidence should be obtained or presented at the hearing: Witness(es):	
12.	Will any other witnesses need to give evidence via video link up? If so, please specify country or location in UK:	Yes/No

13.	Any other facilities required e.g. video/tape/CD/DVD player etc? If so, please specify:	Yes/No
14.	For cases 15 - 20 days – does either party wish to request a daily transcript? Daily transcripts are normally provided only for hearings of 21 days duration or longer, Exceptionally, daily transcripts may be provided in shorter cases. If either party considers that a transcript is required in shorter cases they may submit a written request to the Adjudication Manager.	Yes/No
15.	Is a follow-up Stage 2 telephone conference required? If so, confirm date and time	Yes/No Date: Time:
16.	Is a Stage 2 case review required? If so, confirm date and time	Yes/No Date: Time:
17.	Unrepresented doctors only Date & time of Stage 3 telephone conference	Date: Time:

GMC Pre-adjudication case management procedure

Stage 2 Case Review Telephone Conference

Case: **Service Target Date:**
Target Listing Date:

Case review date: **Case Manager:**

Part A - Areas from Stage 1 telephone conference

	Action	Outcome
1.	Is GMC disclosure complete? If no, please record below actions and timescale for completion (continue on separate sheet if necessary):	(please circle) Yes / No
2.	Any outstanding procedural or legal issues? If so, please record below (continue on separate sheet if necessary)	Yes / No

Part B - Case Manager Directions

	Direction	Time limit	Outcome
3.	Parties to disclose any documentary evidence in their possession or power relating to the allegation.		Yes / No
4.	Parties to disclose witness details (including the doctor) on whom they intend to rely and signed witness statements.		Yes / No
5.	Parties to disclose a curriculum vitae and an expert report in respect of any expert on whom they intend to rely.		Yes / No
6.	Doctor to provide a schedule setting out which of the allegations, if any, are admitted.		Yes / No
7.	Doctor to provide a schedule of admitted facts.		Yes / No
8.	Doctor to identify which witness evidence is admitted and which witnesses are required for cross examination.		Yes / No
9.	Doctor to indicate, as far as practicable, whether any preliminary legal arguments are to be made. If so, how much time is required?		Yes / No
10.	Parties to disclose skeleton arguments		Yes / No
11.	Where the allegation is admitted, parties to produce a statement of agreed facts.		Yes / No

12.	<p>Where the parties agree, that a witness statement shall stand as the evidence-in-chief of that witness.</p> <p>Witness(es):</p>		Yes / No
Direction		Time limit	Outcome
13.	<p><i>Vulnerable witnesses</i></p> <p>Should any witnesses be treated as vulnerable witnesses? If so, specify names and how their evidence should be obtained or presented at the hearing:</p> <p>Witness(es):</p>		Yes / No
14.	<p>Review time estimate</p> <p>Taking into account the information from parties and the directions set, does the hearing length require revision?</p>	Days:	Yes / No

15.	<p><i>Other directions (please record and continue on other sheet if necessary)</i></p> <p>There will normally be a standard direction that a copy of this record will be placed in front of the panel. If either party feels this may compromise the panel, Case Manager to decide the appropriate resolution.</p>		Yes / No
16.	<p><i>Reason(s) for direction(s) (please record and continue on other sheet if necessary)</i></p>		

Part C - Other areas to be covered

	Action	Outcome
17.	Are there any health issues regarding the doctor, which may affect the planned hearing date for this case?	(Please circle) Yes / No

18.	<p>Is a specialist adviser required?</p> <p>If so, which specialty</p> <p>Specialist advisers are normally requested where health or performance assessment reports will be considered</p>	Yes / No
19.	Confirm hearing date	Date:
20.	Confirm location of hearing	Location:
21.	<p>Will any witnesses need to give evidence via video link up?</p> <p>If so, please specify country or location in UK:</p>	Yes / No
22.	<p>Are any other facilities required at hearing e.g. video /tape /CD /DVD player etc?</p> <p>If so, please specify:</p>	Yes / No
23.	<p>For cases 15 - 20 days – does either party wish to request a daily transcript?</p> <p>Daily transcripts are normally provided only for hearings of 21 days duration or longer, Exceptionally, daily transcripts may be provided in shorter cases. If either party considers that a transcript is required in shorter cases they may submit a written request to the Adjudication Manager.</p>	Yes/No
24.	<p><i>Follow-up case review</i></p> <p>Is a follow-up case review required?</p> <p>If so, confirm date and time:</p>	<p>Yes / No</p> <p>Date:</p> <p>Time:</p>
25.	<p>Unrepresented doctors only</p> <p>Date & time of Stage 3 telephone conference</p>	<p>Date:</p> <p>Time:</p>

GMC Pre-adjudication case management procedure**Stage 3 Telephone Conference**

(This stage will only apply to cases where an unrepresented doctor has engaged in the case management procedure)

Case:

Service Target date:

Target Listing Date:

Telephone conference date:

Areas to be covered

	Action	Outcome
1.	Any outstanding disclosure, procedural or legal issues? If so, please record below (continue on separate sheet if necessary)	(please circle) Yes/No
2.	Is the doctor planning to attend the hearing?	Yes/No
3.	Will the doctor be represented at the hearing?	Yes/No
4.	Will any preliminary legal arguments be made at the hearing? If so, give an indication of the nature of the argument and the likely time required to deal with the application	Yes/No
5.	Are there any health issues regarding the doctor, which may affect the planned hearing date for this case?	Yes/No

6.	Confirm hearing date	Date:
7.	<p>Confirm time estimate (see 3 above)</p> <p>If the doctor is not represented, and has indicated they will not take part in the proceedings, the Investigation Officer/GMC may indicate if the length of the hearing can be reduced, and by how much.</p>	Days:
8.	Confirm location of hearing	Location:
9.	Confirm specialist adviser appointed, if requested at earlier stage	Yes/No
10.	Confirm any requests for facilities previously requested	Yes/No

GMC Pre-adjudication case management procedure – performance cases

Where there has not been a performance assessment, and the case will involve proving charges and parties cannot agree on dates, a telephone conference will be held to allow parties to speak together and reach agreement with the listings officer chairing.

Stage 1 Telephone Conference**Case:****Service Target Date:****Target Listing Date:****Telephone conference date:****Areas to be covered**

	Action	Outcome/Time limit
1.	GMC to complete investigation	Date:
2.	GMC to disclose evidence and draft charges	Date:
3.	Doctor to indicate timetable for preparation of defence and disclosure of evidence.	Date:
4.	Will any preliminary legal arguments be made at the hearing? If so, how much time is required?	Days:
5.	Will the health of the doctor be raised as an issue at the hearing?	Yes/No
6.	Is a specialist adviser required? If so, which specialty? Specialist advisers are normally requested where health or performance assessment reports will be considered	

7.	<p>Is there an interim order in place?</p> <p>If so, what type of order?</p> <p>When does the current order expire?</p> <p>Wherever possible, these cases should be given priority, particularly suspension, and listed prior to the expiry date.</p>	<p>Yes / No</p> <p>Suspension/conditions</p> <p>Date:</p>
8.	Provisional hearing date	Date:
9.	<p>Time estimate</p> <p>This should take account of:-</p> <p>Presentation of GMC case (including x-examination of witnesses)</p> <p>Presentation of doctor's case (including x-examination of witnesses)</p> <p>Submissions on impairment, sanction and whether an immediate order should be imposed</p> <p>Panel in camera time</p> <p>For cases where the hearing length is estimated at 30 days or more – add 10%</p>	Days:
10.	Location of hearing	Location:
11.	<p>Is a case review required?</p> <p>Requested by :</p> <p>GMC Doctor Both Auto (longer hearing)</p>	
12.	Date and time of Stage 2 case review or telephone conference (if requested)	<p>Date:</p> <p>Time:</p>

GMC Pre-adjudication case management procedure – performance cases

Where there has been a performance assessment and when parties cannot agree on dates a limited telephone conference will be held to allow parties to speak together and reach agreement with the listings officer chairing. In addition to main participants' availability, the Investigation Officer should bring lead assessor availability dates to the teleconference.

The limited telephone conference will cover the following:

Stage 1 Telephone Conference

Case:

Service Target Date:

Target Listing Date:

Telephone conference date:

Areas to be covered

	Action	Outcome/Time limit
1	Will any preliminary legal arguments be made at the hearing? If so, how much time is required?	Yes / No
2.	Will the health of the doctor be raised as an issue at the hearing?	Yes / No
3.	Is a specialist adviser required? If so, which specialty Specialist advisers are normally requested where health or performance assessment reports will be considered	Yes/No
4.	Is there an interim order in place? If so, what type of order? When does the current order expire? Wherever possible, these cases should be given priority, particularly suspension, and listed prior to the expiry date.	Yes / No Suspension/conditions Date:
5.	Provisional hearing date	Date:

6.	Time estimate Incorporate time for any preliminary legal arguments that may be made.	Days:
7.	Location of hearing	Location:

GMC Pre-adjudication case management procedure**BT MeetMe telephone conferencing – A step-by-step guide**

Participant passcode: **7320458**

MeetMe telephone no: **0800 169 4617**
 or
 0844 800 6041

1. Date and time of telephone conference must be agreed in advance.
2. At the agreed time, ring the MeetMe telephone number - **0800 169 4617** or **0844 800 6041** (either number will connect to the teleconference).
3. You will be prompted to enter the participant pass code.
4. Enter **7320458** and then a **#**.
5. You may be prompted to give your name. Please do so, if asked, and accept the subsequent recording.
6. Wait for the telephone conference to start.

Points to note

- I. The telephone conference cannot begin until the Adjudication Section listings officer (as Chair) has joined it.
- II. The cost to participants (doctor and/or legal representatives and GMC solicitors) will be that of a normal telephone call. The conference call costs will be borne by the GMC.
- III. It is important to call in at the agreed time so that we are efficient with time and money.
- IV. Participants can use additional features during the telephone conference:
- V. Dialling *0 Signals BT co-ordinator for assistance;
- VI. Dialling *4 Automatically adjusts the volume of your line;
- VII. Dialling *6 Mutes your telephone line (useful for noisy connections).

General Medical Council

Criteria for deciding on the listing of Fitness to Practise adjudication hearings

1. The overriding principle is that the General Medical Council (GMC) considers that it is in the public interest that it should discharge its Fitness to Practise responsibilities in an effective, fair and transparent way. The GMC considers that, generally, this principle will be enhanced by hearings taking place as soon as reasonably practicable, and within the service target, consistent with sufficient time being allowed to all parties to prepare adequately.
2. The GMC will always aim to list within service target – if either location is available then preference can be taken into account. Otherwise the hearing will be scheduled in the location which meets the service target. If a case is outside the service target, it should be listed in the earliest slot available, although minor differences (e.g. up to four weeks) may be accommodated.
3. The majority of the GMC's hearing rooms are in Manchester. This relates not only to the hearing rooms, but to all the support services required to manage the hearings. This inevitably means that a number of cases where parties are located in the South East will not be able to be accommodated within a reasonable timescale in London.
4. Where an interim order- particularly an interim suspension order - has been imposed on a doctor's registration, wherever possible, the cases should be given priority, and listed prior to the expiry date of the order.
5. In deciding on the location of any particular hearing, the GMC shall have regard to the circumstances of the individual case. Within the constraints of paragraphs 2 & 3 above, the following factors can also be taken into consideration:
 - a. the estimated length of the proposed hearing and when a hearing of that length can first be accommodated in either location and within service targets;
 - b. the location of events complained of or the place of residence and of practise of the doctor or doctors concerned and/or witnesses or the complainant;
 - c. any expressed preference of the doctor or doctors concerned as to the location for the proposed hearing;
 - d. any expressed preference of any complainant or complainants as to the location for the proposed hearing.
6. As the number and length of FTP Panel hearings increases year on year, the issue of Counsel availability may be raised when listing dates are discussed. Whilst it

is appreciated that there will often be a preference for a particular Counsel, the additional constraints that would be imposed in managing the overall number of hearings in acceding to such requests are generally not acceptable. However, in exceptional circumstances, the following factors may be taken into consideration:

- a. the complexity of the case;
- b. the period of delay that would arise if Counsel availability were taken into account;
- c. the extent to which relevant Counsel has had previous involvement in the case;
- d. the existence of other proceedings in which Counsel has been instructed, and the degree of overlap between the issues in the various proceedings;
- e. the availability of Junior and Senior Counsel, where instructed.

7. A hearing can be provisionally listed in either location on the most appropriate date. Where there are valid issues relating to the attendance of individual witnesses, arrangements can be considered to allow them to give evidence by video-link. Following the telephone conference a party can make written representations for a change of date or location. All requests will be dealt with on their own merits. Written representations to be received within 14 days of the date upon which the case was listed, or as soon as possible when there has been a change in circumstances and should be supported wherever possible by supplementary documentation.

8. Any such requests made before the formal Notice of Hearing is issued, will be considered by the Adjudication Manager in the first instance. Further requests may be referred to the Head of Section for a decision.

9. The weighting of the factors set out in paragraph 4 above, and any other factors which the GMC considers relevant in a particular case, shall be a matter for the GMC to assess on the facts of each particular case.

10. Having made a decision as to location, the GMC reserves the right to alter the location of a proposed hearing when a change of circumstances makes it appropriate to do so. Before making such an alteration, the GMC shall contact all parties informing them of the change in circumstances and give such opportunity as is reasonable in the circumstances of the case for all parties to make representations within such timescale and in such form as the GMC shall determine, to the GMC as to whether the location should be altered. In deciding whether an alteration should be made, the GMC shall have regard to such representations as have been received within the timescale and to the factors set out at paragraph 4 above, as applied to the circumstances of the individual case as they then appear to the GMC.

11. Where it is decided to change the location of a hearing, the hearing shall usually take place:

- a. not earlier than 14 days after notice of the new date, time and place for the hearing has been posted to, or otherwise served on, the parties; and
- b. not earlier than the date on which it was due to take place at the original location (except where paragraph 12 applies), and
- c. where both parties are in agreement that an earlier date may be agreed.

12. Depending on hearing room availability, it may be necessary to reschedule the hearing to an earlier date. An earlier hearing date will only be arranged where at least 28 days notice can be given, unless parties agree to waive this. In such instances, paragraph 11b is disapplied.

Annex I

Update document – explaining November 2010 revisions to this guidance

Introduction

1. The GMC is committed to ensuring that Fitness to Practise (FTP) Panel hearings take place as soon as reasonably practicable, consistent with sufficient time being allowed for all parties to prepare adequately. It is in the interests of all parties that hearings run as effectively and efficiently as possible and that steps are taken to avoid unnecessary delay before and during hearings.

2. Effective case management, both before the start of the FTP Panel hearing and during the course of the hearing, is vital to ensure that hearings are run efficiently. This principle is widely accepted in the courts and the GMC has considered what steps it can take to improve its case management arrangements.

3. The average length of FTP Panel hearings has increased in recent years³. A number of factors have contributed to that increase, including failure to disclose evidence in advance of the hearing. For example, there have been many occasions where evidence has been disclosed for the first time at the beginning of a hearing, resulting in time spent unnecessarily in preliminary discussions. This has sometimes led to cases being adjourned, with consequential impact on doctors, witnesses and others. It has also resulted in wasted hearing costs and under-utilisation of hearing capacity.

The Hearing Management Working Group

4. In June 2010, the GMC convened an expert group to discuss how to address these issues. In its discussions, the Hearing Management Working Group, which included representatives of the GMC, the Office of the Healthcare Professions Adjudicator and the Council for Healthcare Regulatory Excellence, recognised the importance of efficient hearing management and made two specific recommendations to improve this:

- a. Develop more robust guidance to ensure better case management and timely admission of evidence under the existing Fitness to Practise Rules; and
- b. Explore the feasibility of using sample charges at Fitness to Practise Panel hearings.

5. This update sets out how we are implementing the Working Group's first recommendation where the GMC will be:

³ During the period January to June 2008, the average number of sitting days per closed hearing each month was 5.46 days. This increased to 5.5 days in the same period in 2009. In 2010 it rose to 6.41 days.

- a. Issuing parties and panels with specific guidance on the powers available to Case Managers under Rule 16 of the General Medical Council (Fitness to Practise) Rules Order of Council 2004, as amended (the Rules) which include the giving of directions to one or both parties and the potential consequences of non-compliance with such directions, i.e. the panel may draw inferences in respect of the failure by a party to comply with the directions given.
- b. Arguing for the inadmissibility of evidence not disclosed by the defence in accordance with Rule 34(9) of the Rules (where the details of evidence and witnesses to be called to give evidence should be disclosed not less than 28 days before the hearing) where non-compliance appears to have been unreasonable.
- c. Routinely assuming its witnesses do not need to be called unless the defence request attendance under Rule 34(9) of the Rules.
- d. Meeting regularly with medical defence organisations to review any cases where a party has failed to comply with case management directions or provisions.

Clarifying the Case Managers' powers

6. Case reviews are an important part of the pre-hearing case management process. The case review procedure aims to minimise delays that can arise during the pre-hearing preparation stage - which have led to hearing dates being vacated - and the hearing stage - where valuable time is often spent dealing with preliminary matters which can ordinarily be resolved prior to the hearing. Case reviews also assist in establishing effective communication channels between both parties and help to prepare doctors and witnesses for the hearing.

7. The *Pre-Hearing Case Management Procedure Guidance Manual*, including the annex which sets out the Stage 2 case review proforma, has been revised to emphasise and clarify the powers of the Case Manager⁴ and is attached to this update. The following paragraphs explain the changes that have been made.

The Case Managers' directions

8. Directions issued by Case Managers should always be complied with: any failure to do so, where non-compliance could reasonably have been avoided by one or both parties, may result in evidence not being admitted and / or adverse inferences being drawn by the FTP Panel as set out in Rule 16(8) of the Rules. The case review record - which states the Case Manager directions - may be disclosed to the FTP Panel by either party or at the request of the panel.

⁴ The revised guidance is available from our website at: www.gmc-uk.org/concerns/hearings_and_decisions/an_introduction_to_adjudication.asp.

9. Where a Case Manager has issued a direction in relation to a particular issue, panels are strongly encouraged to proceed in accordance with that direction unless there are exceptional circumstances as to why this is no longer appropriate. Parties and witnesses will have prepared for the hearing on the basis of the directions given and a change in approach may undermine these preparations and cause delay to the hearing.

10. If directions issued by a Case Manager are not taken into consideration, the panel is strongly encouraged to make clear its reasons for doing so and ensure that those reasons are recorded in the hearing transcript.

Hearing length and witness scheduling

11. Accurate estimation of hearing length is extremely challenging due to the difficulties of witness scheduling. Estimated lengths of hearing are often made without full knowledge of the extent of the case, including what evidence is required, which witnesses (expert or otherwise) will be required to give evidence and whether any special measures are needed. If these requirements are under or over-estimated, it can result in further wasted hearing time. Better information given in advance of the hearing is required from the parties to assist witness scheduling and hearing length estimation.

12. The Case Manager will consider the estimated length of hearing and, where the length of hearing is thought to be significantly under or over-estimated, will work with parties to agree a more accurate estimate to reduce the risk of hearings either finishing early or going part heard due to lack of time.. In addition, the Case Manager shall play a critical role in the coordination of all evidence (as per Rule 16 (6)), working with parties to resolve any issues outstanding and will scrutinise witness scheduling arrangements. The Case Manager may also determine whether a witness should be treated as vulnerable.

13. Both parties will be expected to support the Case Manager fully in these matters.

Case reviews for all cases with an estimated hearing length of 15 days or more

14. From 1 November 2010 onwards, and in recognition of the value and importance of case reviews, all cases with an estimated hearing length of 15 days or more will automatically be listed for a case review. Parties should note that they may be asked to participate in subsequent case reviews, subject to the discretion of the Case Manager.

15. Where a case has an estimated hearing length of less than 15 days, it remains open to either party and / or the Adjudication Section to request that such hearings go through the case review process where it is deemed advantageous to case management to do so.

Disclosure of evidence

16. Rule 34(9) of the Rules states:

“...unless otherwise agreed between the parties or directed by a Case Manager, each party shall not less than 28 days before the date of a hearing-

(a) provide to the other party a list of every document which he proposes to introduce as evidence;

(b) provide to the other party a copy of every document listed in paragraph (a) which the other party has not previously received; and

(c) require the other party to notify him, within 14 days of the list being provided to him, whether or not he requires any relevant person to attend and give oral evidence in relation to the subject matter or making of such document.”

17. Rule 34(9) is important; its aim is to minimise the risk of hearing time being occupied unnecessarily with preliminary arguments or requests for adjournments to allow the parties to consider evidence disclosed late.

18. Both parties will be expected to comply with the provisions of Rule 34(9). In the event that a party does not comply with the provisions of Rule 34(9), the opposing party is entitled to raise the matter with the FTP Panel and, where non-compliance appears to have been unreasonable, to argue that the evidence in question should not be admitted. The decision whether to admit the evidence is a matter for the FTP Panel but, when considering the matter, the FTP Panel should take into account the reasons for a failure to comply with the statutory provisions set out in the Rules.

Notification of required witnesses

19. As a means of seeking to reduce the amount of time required at a hearing, the GMC will usually assume, unless it is notified to the contrary in accordance with the timelines set out in Rule 34(9) of the Rules, or otherwise agreed between parties, that its witnesses do not need to be called to give evidence and will inform the witnesses that their attendance is not required.

Monitoring compliance with the case management procedure

20. The Adjudication Section will work closely with the Case Managers to monitor compliance with the case management procedure and / or any directions issued. During case reviews, both parties will be directed to supply the Adjudication Section with confirmation that they have complied with the directions made during the case review.

21. The Adjudication Section will meet regularly with the medical defence organisations and those at the GMC responsible for the preparation and presentation of cases to discuss instances of non-compliance with the case management process, particularly any failure to comply with the Case Manager's directions and with the provisions of Rule 34(9) of the Rules.

22. Such meetings will, through critical assessment of historic cases, develop and promote best practice which can be adopted by parties in the future.