

## Guidance on providing testimonial evidence in Medical Practitioners Tribunal hearings

- 1 There are normally three stages to a Medical Practitioners Tribunal hearing. The first stage is for the tribunal to determine whether or not the factual allegations are found to be proved. If the tribunal finds that some or all of the allegations are proved, it moves to the second stage where it considers whether the doctor's fitness to practise medicine is currently impaired. If the tribunal finds that the doctor's fitness to practise is impaired, the tribunal will progress to the third stage to consider whether or not to impose a sanction on the doctor's registration.

### How do testimonials help?

- 2 During the second stage of the hearing, the tribunal will need to decide whether or not a doctor's fitness to practise is currently impaired. The tribunal is often assisted at this stage by evidence presented by the doctor under investigation, such as testimonials and references from colleagues, patients, and other relevant individuals.
- 3 This evidence allows the doctor to provide feedback about their clinical practice or character from selected individuals. This may include feedback from individuals that are aware of the concerns about the doctor and who, where appropriate, can comment on the extent to which the doctor has reflected on the concerns and remediated. This feedback will assist the tribunal with their decision at this stage of the process.
- 4 For example, if a doctor faces allegation in relation to clinical practice, a colleague who has supervised the doctor may be able to provide a reference that comments on the training undertaken by the doctor since the concerns came to light.

### Why does the GMC verify testimonials?

- 5 A tribunal is likely to place greater emphasis on a testimonial if it has confidence that the author's identity has been verified and that the author in providing the testimonial was aware of the allegations that the doctor is facing.

## How are testimonials verified?

- 6 The GMC has developed a process for verifying testimonials, and details can be obtained from the GMC Legal Team if required.
- 7 In summary, a testimonial may be verified by a doctor's legal representative or by the GMC. The GMC will undertake all verification on behalf of doctors, unless the doctor's legal representative has elected to do so.
- 8 In order for the GMC to verify a testimonial, it must be provided at least eight weeks before the hearing and should include a telephone number for the testimonial author. The author should be made aware that they will be contacted by the GMC.
- 9 The process aims to verify:
  - the identity of the testimonial author (if a GMC registered doctor)
  - the author's knowledge of the fitness to practise proceedings
  - the author's knowledge of the allegations that the doctor faces.
- 10 We ask for eight weeks because testimonial authors may not be immediately contactable and we want to build in time for us to contact and speak to the testimonial author over the telephone. This will allow us to make multiple attempts to contact authors (including requesting a telephone number if one has not been provided).

## What is the tribunal looking for in a testimonial?

- 11 Paragraphs 34-36 of the Sanctions Guidance provide guidance to tribunals in respect of references and testimonials provided in support of the doctor. The author should take the guidance into account when drafting a testimonial, in particular the matters summarised below.

### Is the author of the testimonial aware of the allegations?

- 12 This is so that the tribunal can satisfy themselves that the author of the testimonial is providing a balanced and informed opinion. In order to do this it is necessary for the author to be aware of the allegations against the doctor so that they understand the reason why they have been asked to provide a testimonial. The author should also be aware that allegations have been referred to a tribunal and that their testimonial has been disclosed. The author should reflect this in the testimonial they provide.
- 13 This will apply in all cases, except where the allegation relates to the health of the doctor. As matters relating to health are treated as confidential, the author of the testimonial does not need to be aware of any health concerns.

### **When was the author last in contact with the doctor?**

- 14** The tribunal will want to see up-to-date information when reviewing testimonials. If the author has not been in contact with the doctor for some time, the information they provide may be less helpful to the tribunal.

### **What is the author's relationship with the doctor?**

- 15** If the author has had significant contact with the doctor in a setting where they are likely to have in depth knowledge of the doctor's health, conduct or performance, this is likely to be more useful to a tribunal.
- 16** The testimonial is less likely to be of assistance to the tribunal if the author is a distant contact of the doctor; the same if the author does not have real knowledge relevant to the matters being considered by the tribunal.
- 17** The tribunal will consider any comments made in the testimonial and whether the author is qualified to make those comments. To do this the tribunal will want to understand the relationship between the author and the doctor. For example, if the author has recently supervised the doctor, the tribunal is likely to place more reliance on the information they put forward about the doctor's clinical competence. However, if the testimonial is from a friend or family member who is not medically qualified, yet the testimonial comments upon the doctor's clinical practice, then the tribunal are less likely to attach as much weight to this.
- 18** However, in certain cases, it may assist the tribunal to receive testimonials from friends and family that demonstrate the doctor's good character. It is important that any comments made are explained fully.
- 19** There may also be occasions where the author's relationship to the doctor creates a conflict of interest. For example, if the author is supervised by the doctor under investigation. Another example may be that the author is the spouse of the doctor under investigation. In such scenarios, if the tribunal consider that the author has any conflicts of interest in relation to the doctor this will impact on how the tribunal view the statement. It is important that the author considers whether they have a conflict of interest, and if so, acknowledges this.

### **Any questions?**

If you want to know more about how the information you provide will be used, or what to include, you can contact [gmc@gmc-uk.org](mailto:gmc@gmc-uk.org).