

*To consider*

## **Report of the Chair of the Medical Practitioners Tribunal Service**

### **Issue**

- 1** Reviewing the work of the Medical Practitioners Tribunal Service (MPTS).
- 2** Council is asked to consider a summary report on:
  - a** Performance in previous twelve months and approach to quality assurance.
  - b** MPTS developments and further changes planned.
  - c** Recruitment of panellists.
  - d** Communication and engagement.

### **Recommendation**

- 3** Council is asked to consider the report on the activities of the MPTS in 2014 and since the previous report to Council in February 2014.

# Report of the Chair of the Medical Practitioners Tribunal Service

## Overview of developments

- 4 The MPTS marked its second anniversary as an operationally separate adjudication service in June 2014.
- 5 After two years of working to create a more efficient and effective tribunal service, we are delighted that the important legislative changes we have argued for have been the subject of a Department of Health (England) (DH (E)) consultation.

### *Section 60 changes*

- 6 The DH(E) consultation closed on 25 September 2014 and we hope to see legislation put before Parliament before the General Election, including changes to the Medical Act that will:
  - a Give the MPTS a statutory basis with direct accountability to Parliament.
  - b Give the GMC a right of appeal against MPTS panel decisions.
  - c Create a cost regime to underpin case management decisions.
  - d Make the use of legal assessors in hearings discretionary.
- 7 These changes still require Parliamentary approval, but work has begun on planning for their implementation. A consultation on changes to the Fitness to Practise Rules will be undertaken by the GMC, with MPTS involvement.

### *Indicative Sanctions Guidance*

- 8 David Pearl has chaired the Indicative Sanctions Guidance Working Group, which has developed the current public consultation. David Pearl and senior GMC colleagues met key stakeholders at events around the UK between September and October 2014.

### *Adjudication reform*

- 9 The MPTS Change Board, chaired by David Pearl, is focussing on operational changes to ensure the MPTS presents itself as an effective tribunal. A revised 'Record of Determination' format, drawing on best practice in other jurisdictions, was introduced in August 2014 to improve public understanding of MPTS decisions. Work is underway to improve the service the MPTS offers to doctors appearing before hearings without legal representation. The

improvement of internal communications to panellists is a priority with requirements for a panellists' intranet well developed.

### *MPTS User Group*

- 10** The MPTS User Group met in March and October 2014. It is a forum for medical defence organisations, legal firms and the GMC to raise operational issues with senior MPTS staff. Attendees were updated on the proposed legislative changes and consulted on the new Record of Determinations format.

### *Case Management Working Group*

- 11** A Case Management Working Group was established in 2013 to facilitate discussion on ensuring hearings are ready to begin on time, without being diverted into matters which could be dealt with by pre-hearing case management. A new protocol for expert witnesses was discussed by the Group and implemented in October 2014. In November, the Group began to consider the case management implications of proposed Section 60 changes.

### *MPTS Advisory Committee*

- 12** The MPTS Advisory Committee continues to meet four times a year.
- 13** At its third meeting on 7 May 2014, in addition to the regular reports from the Chair and the Tribunal Clerk, the Committee received updates on progress made by the Unrepresented Doctor Project Team, progress of the panellist appraisal pilot and the revised timescale for full implementation; and the review of the Indicative Sanctions Guidance and the role of warnings and apologies in our fitness to practise procedures.
- 14** At its meeting on 9 September 2014 the Committee received regular reports from the Chair and Tribunal Clerk and an update on the Chair's external engagement activity, and the work of the Case Management Working Group. The Committee also considered the Department of Health (England) adjudication S60 Order consultation and the Indicative Sanctions Guidance consultation.
- 15** The Committee met on 18 November 2014 to discuss progress on the S60 Order consultation, the Indicative Sanctions Guidance consultation and the recruitment of medical panellists.

### *Panellist recruitment*

- 16** 68 new lay panellists appointed following our October 2013 recruitment campaign have been trained and are now sitting on hearings. We advertised for

new medical panellists in October 2014, receiving over 250 applications, and we will be making appointments in early 2015.

## **Performance July 2013 to June 2014**

### *Interim Order Panels*

- 17** The MPTS service target is to hold 100% of Interim Orders Panel (IOP) new hearings within three weeks of a referral from the GMC. We have successfully met this target every month in the last twelve months.
- 18** The GMC referred 637 cases to an Interim Orders Panel in July 2013 to June 2014.
- 19** In July 2013 to June 2014 the MPTS started and completed 598 IOP new hearings and 1488 IOP review hearings. In new hearings, IOPs made no orders in 18.1% of hearings, placed conditions on a doctor's registration in 63% of hearings and suspended a doctor's registration in 18.9% of hearings.
- 20** By way of comparison, in the preceding twelve months the GMC referred 709 to an IOP, and the MPTS started and completed 668 IOP new hearings and 1429 IOP review hearings. In new hearings, IOPs made no orders in 27.4% of hearings, placed conditions on a doctor's registration in 50.1% of hearings and suspended a doctor's registration in 22.5% of hearings.

### *Fitness to Practise Panels*

- 21** The MPTS has a service target for 90% of hearings to commence within nine months of a referral from the GMC. We have successfully met this target every month in this period.
- 22** The GMC made 499 referrals to the Fitness to Practise (FtP) Panel in July 2013 to June 2014, compared to 441 in the same period 2012-13.
- 23** In July 2013 to June 2014 the MPTS started and completed 243 FtP Panel new hearings, 124 review hearings and 11 hearings that dealt with both review and new allegations.
- 24** In new hearings in that period, FtP Panels erased a doctor's name from the medical register in 26.1% of cases, suspended a doctor from the register in 39.5% of cases, and placed conditions on a doctor's registration in 8.3% of cases. In 16.2% of cases, FtP Panels found that the doctor's fitness to practise was not impaired and made no order. A further 4.3% found no impairment but issued a warning. 2.4% found impairment but took no action. In 2.8% of cases Voluntary Erasure was granted, and 0.4% resulted in Undertakings.

**25** By way of comparison, in the preceding twelve months the MPTS started and completed 213 FtP Panel new hearings, and 141 review hearings. Outcomes in new hearings in that period were erasure 27.2%; suspension 31%; condition 12.7; Not impaired, no order 22.5%; Not impaired, warning 4.2%, Impaired, no action 1.9; Voluntary Erasure 0%; Undertakings 0.5%.

### *Efficiency*

**26** Council considered the outline business plan and broad financial plans for 2015 in closed session on 25 September 2014.

**27** The number of hearing days this year has been higher than the forecast figure. This was because, in previous years, adjourned hearings did not have all their separate hearing days included in the calculation. The system has now been amended and the 2015 forecast now takes account of adjourned hearings.

**28** The MPTS is currently on target to make £190,000 of efficiency savings in calendar year 2014. We intend to achieve a significant proportion of these savings by introducing paperless Interim Orders Panel hearings. IOP hearings currently use over 7 million sides of A4 paper a year.

**29** We have agreed with the Solicitors Regulatory Authority that Continuous Professional Development points will be offered to legal assessors for undertaking our annual training. This has enabled us to reduce the fee we offer for attending training.

**30** Other local changes have included further reductions in paper production, rationalisation of temporary staff and a reduction in the cost of the annual MPTS staff meeting.

### *Hearing room utilisation*

**31** The MPTS aims to utilise its hearing rooms at a rate of 80%. In the first six months of 2014 utilisation was 85% overall, with several days reaching 100%, as a peak of referrals from 2013 was dealt with.

**32** August and September were lighter in demand. In August we hired out a hearing room to the General Osteopathic Council for a three day hearing. Utilisation increased to 82% in October is expected to remain high in November and December. We have forecast increased hearing capacity for 2015.

### **Quality assurance**

**33** The Quality Assurance Group (QAG), chaired by David Pearl, meets monthly to review panel determinations, provide feedback and identify best practice.

- 34** Exemplary determinations identified during the QAG process are now included in panellists' annual training sessions, which has been well received.
- 35** Panel chairs have an opportunity to input their own feedback to the QAG process. QAG also considers feedback from the GMC and the Professional Standards Authority.

## **Equality and diversity**

### *Panel diversity*

- 36** The MPTS is committed to promoting and supporting equality and diversity. When advertising for new medical panellists in October 2014, the MPTS again actively encouraged applications from BME communities. We worked with the GMC's Equality and Diversity team to ensure we appropriately targeted our advertising to encourage a diverse range of applicants.
- 37** A briefing note on panel diversity was provided with the MPTS Chair's report to Council in February 2014. An updated note will be provided when the current round of medical panellist recruitment has concluded.

## **Communication and engagement**

- 38** To promote the work of the MPTS and make the case for adjudication reform, David Pearl regularly speaks at events and meets key stakeholders.
- 39** David Pearl gave the key note speech at a Legal Disciplinary Tribunals Conference in London in July 2014. During 2014 he has also spoken to legal chambers, local medical committees and the conference of the Royal College of Physicians Faculty of Forensic and Legal Medicine.
- 40** In addition to the regular engagement with stakeholders attending the User Group and Case Management Group, David Pearl spoke at events around the UK as part of the Indicative Sanctions Guidance consultation. He has also spoken to groups of medical and legal students, including some groups who have visited the MPTS to observe hearings.
- 41** A weekly update on forthcoming hearings is published online and circulated to over 300 national and regional journalists. Forthcoming hearings are added to MPTS website calendar on a daily basis.
- 42** Internally, quarterly staff meetings have been established with hearings starting an hour later to enable all staff to attend.

## Supporting Information

### How this issue relates to the corporate strategy and business plan

- 43** Strategic Aim Three of the Business Plan 2014 is to improve the level of engagement and efficiency in the handling of complaints and concerns about patient safety. A key component of this strategic aim is that the MPTS will continue to reform and deliver an efficient and effective adjudication service and implement the adjudication reform programme arising from the Department of Health's adjudication S60 Order.

### Other relevant background information

- 44** The MPTS began operation on 11 June 2012, the most significant change to fitness to practise adjudication since 1858. The MPTS aims to ensure that it provides a hearings service that is efficient, effective and clearly separate from the GMC's investigatory role.
- 45** The statement of purpose of the MPTS includes a requirement for the Chair of the MPTS to report on its activities to Council at least twice yearly. This is the fourth of the regular six monthly reports to GMC Council, which will be presented to Council at its meeting on 10 December 2014.

**If you have any questions about this paper please contact:  
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