25 February 2014

Council

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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 MPTS approach and further changes planned.

b Performance in 2013 and approach to quality assurance.

c Recruitment of panellists.

d Communication and engagement.

Recommendation

3 Council is asked to consider the report on the activities of the MPTS in 2013 and since the previous report to Council in September 2013.

Report of the Chair of the Medical Practitioners Tribunal Service

Overview of approach

4 The MPTS has now been in operation for over 18 months. His Honour David Pearl has continued to pursue a programme of reform to create a modern, efficient adjudication service.

5 The changes to the Fitness to Practise Rules enacted in May 2013 are now embedded. Witness statements are accepted as 'evidence-in-chief' in most cases, we have a simpler process for agreeing the use of video evidence, the empanelment of chairs and lay and medical panellists has been clarified, as has the substitution of panellists. Allegations are no longer routinely read out and case management processes have been strengthened.

6 The Department of Health (England) informed the GMC in December 2013 that it will not be pursuing Section 60 changes to the Medical Act prior to the proposed Law Commission Bill. We expect further information about the proposed Bill to be made available shortly, including confirmation whether it will be included in the programme for the next session of Parliament. Along with GMC colleagues we will continue to discuss proposed legislative changes with the DH(E), including a costs regime to underpin case management and a right of appeal for the GMC which we see as key to the next stage of development of the MPTS.

7 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, will be introduced to improve public understanding of MPTS decisions.

8 A recruitment campaign for new lay panellists was launched in October 2013. We received over 800 applications and interviews are taking place throughout January and February 2014.

9 The MPTS User Group continues to meet twice a year. It is a forum for medical defence organisations, legal firms and the GMC to raise operational issues with senior MPTS staff.

10 A Case Management 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 and will meet three times in 2104.

11 The new MPTS Advisory Committee has been appointed and meets four times a year. Its role is to advise the MPTS Chair on:

a The approach to improving the quality of decision making by panellists.

b The development of the quality and timeliness of the service provided by the MPTS.

c The approach to the recruitment, training, performance management and continuous professional development of panellists, case managers, and legal assessors.

d Other general matters relevant to the MPTS as may be directed by the MPTS Chair.

12 To support the induction of the new Advisory Committee members, two induction meetings were held on 6 November 2013 and 6 January 2014. Committee members were also invited to attend a meeting of the GMC/MPTS Liaison Group on 11 November 2013 to support their understanding of how the GMC and MPTS ensure that working arrangements are established and operate effectively.

13 At its first meeting on 11 November 2013 the Committee received a regular report from the Tribunal Clerk and an update on the Section 60 Order. The Committee also considered its meeting schedule and work programme, and provided advice to the Chair of the MPTS in relation to the attendance at hearings of unrepresented doctors.

14 At its second meeting on 28 January 2014, in addition to the regular reports from the Chair and the Tribunal Clerk, the Committee received updates on fitness to practise estimated case volumes for 2014, the panellist appraisal pilot, and the Law Commission Bill. The Committee will meet next on 7 May 2014.

Performance to date

Interim Order Panels

15 The MPTS service target is to hold 100% of Interim Order Panel (IOP) new hearings within three weeks of a referral from the GMC. We have successfully met this target every month.

16 The GMC referred 699 cases to an Interim Orders Panel in 2013. These referrals related to 674 doctors.

17 In 2013 the MPTS started and completed 633 IOP new hearings and 1480 IOP review hearings.

18 In that period, Interim Order Panels made no orders in 21% of hearings, placed conditions on a doctor's registration in 59% of hearings, and suspended a doctor's registration in 20% of hearings.

Fitness to Practise Panels

19 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.

20 The GMC made 335 referrals to the Fitness to Practise Panel (FTP) in 2013, relating to 317 unique doctors.

21 In 2013 the MPTS started and completed 222 FTP Panel hearings, 113 review hearings and there were five hearings that dealt both with review and new allegations.

22 In that period, FTP Panels erased a doctor's name from the medical register in 24% of cases, suspended a doctor from the register in 38% of cases, and placed conditions on a doctor's registration in 14% of cases. In 16% of cases, FTP Panels found that the doctor's fitness to practise was not impaired and made no order. A further 6% found no impairment but issued a warning. In 2% of cases Voluntary Erasure was granted. No cases resulted in Undertakings and fewer than 1% found impairment but took no action.

23 By way of comparison, between June and December 2012, FTP Panels erased a doctor's name from the medical register in 29% of cases, suspended a doctor from the register in 27% of cases, and placed conditions on a doctor's registration in 10% of cases. In 25% of cases, FTP Panels found that the doctor's fitness to practise was not impaired and made no order. A further 4% found no impairment but issued a warning. 3% found impairment but took no action. The remaining 2% comprises Voluntary Erasure and Undertakings.

Efficiency

24 In 2013 the MPTS took part in a LEAN process review, alongside colleagues in the GMC Fitness to Practise directorate. The LEAN review aimed to streamline our entire adjudication processes, from complaint through to hearing.

25 Within the MPTS, we reviewed our case management process. This resulted in a number of changes, including in a reduction in the number of standard letters we use.

26 In 2013 the MPTS delivered £359,511 of efficiency savings against a target of £336,000.

27 The MPTS continues to deliver against the GMC-wide efficiency target of 3%.

Hearing room utilisation

28 The MPTS aims to utilise its hearing rooms at a rate of 80%. Lower than expected referrals were received at the latter end of 2012 and at the start of 2013 which led to the average utilisation for the first 6 months of 2013 being 75%.

29 July and August are normally low months but September to December 2013 were extremely busy with December seeing 96% utilisation.

30 The overall figure for 2013 was 74 % and the first quarter of 2014 is currently over-listed.

Quality assurance

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

32 The QAG reviewed 654 cases in 2013.

33 Exemplary determinations identified during the QAG process are now included in panellists' annual training sessions. This has been well received by panellists.

34 Panel chairs have an opportunity to input their own feedback to the QAG process. QAG also considers feedback from the GMC and Professional Standards Authority.

Equality and diversity

Panel diversity

35 Data on panel diversity is at Annex A.

36 The availability of panellists is the determining factor in achievement rates and the empanelment process ensures that the diversity of any panel is a key requirement.

37 Targeting panellist recruitment campaigns increases the diversity of applicants and subsequent appointments, as demonstrated by the medical recruitment exercise in 2012 and continued with the lay panellist recruitment campaign in 2013/14.

Panellist recruitment

38 The MPTS is committed to promoting and supporting equality and diversity. When advertising for new lay panellists in October 2013, the MPTS again actively encouraged applications from BME communities.

39 We worked with the GMC's Equality and Diversity team to ensure we appropriately target our advertising to encourage a diverse range of applicants.

40 Equality and Diversity training is mandatory for all panellists as part of their annual MPTS training.

Communication and engagement

41 To promote the work of the MPTS and make the case for adjudication reform, David Pearl regularly speaks at events and meets with key individuals. In 2013 he gave keynote speeches to two Lexis Nexis legal conferences, spoke at events organised by various legal chambers and met with organisations representing both patients and doctors.

42 During 2013, David Pearl was interviewed by publications produced by all three medical defence organisations: *MDU Journal* (April 2013), *MDDUS Summons* (April 2013) and *MPS Casebook* (Sept 2013).

43 David Pearl gave evidence to the Health Select Committee in December 2013, alongside GMC colleagues Professor Sir Peter Rubin, Niall Dickson, and Una Lane. MPs on the Committee were interested in the consistency of MPTS decision-making and the proposal for a right of appeal for the GMC.

44 The MPTS User Group met in April and November. As well as discussing operational matters, attendees were updated on the changes to the Fitness to Practise Rules enacted in May, and proposed changes to the Medical Act.

45 A Case Management Group was established and met in July and November. The meetings have discussed the impact of the May 2013 rule changes, including the use of written witness statements, and the role of expert reports.

46 The MPTS communications team provide support and advice to media wishing to cover public hearings, and monitor coverage to ensure accurate reporting of MPTS panels' decisions. Online corrections are sought to any inaccurate copy. There were 715 mentions of the MPTS in all media in 2013.

47 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.

Supporting Information

How this issue relates to the corporate strategy and business plan

48 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.

Other relevant background information

49 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.

50 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 third of the regular six monthly reports to GMC Council, which will be presented to Council at its meeting on 25 February 2014.

If you have any questions about this paper please contact:
Howard Matthews, Tribunal Clerk, hmatthews@mpts-uk.org,
0161 240 7106.

Annex A

Panel Diversity Achievement Rate 2013

FTP Panel

Panel Diversity Achievement Rate 2013

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Total 2013
1.	Actual hearing days	497	463	454	548	**1962**
2.	Diverse panel hearing days	192	145	206	179	**722**
3.	Panel diversity achievement rate %	39%	31%	45%	33%	**37%**
4.	Non-diverse panel hearing days (and cases)	305 (64)	318 (77)	248 (65)	369 (80)	**1240 (286)**
5.	Non-diverse panel category 1: No BME - days (and %)	238 (48%)	281 (61%)	198 (44%)	311 (57%)	**1028 (52%)**
6.	Non-diverse panel category 2. Single-sex - days (and %)	35 (7%)	16 (3%)	24 (5%)	27 (5%)	**102 (5%)**
7.	Non-diverse panel category 3: No BME panellist and single-sex - days (and %)	32 (6%)	21 (5%)	26 (6%)	31 (6%)	**110 (6%)**
8.	Non-diverse panel reason 1: Panellist unavailability - days (and %)	304 (61%)	318 (69%)	234 (52%)	358 (65%)	**1214 (62%)**
9.	Non-diverse panel reason 2: Panellist withdrawal - days (and %)	0 (0%)	0 (0%)	7 (1.5%)	11 (2%)	**18 (1%)**
10.	**Non-diverse panel reason 3: Other - days (and %)**	**^1 (<1%)**	**0 (0%)**	**7 (1.5%)**	**0 (0%)**	**8 (<1%)**

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Panel Diversity Achievement Rate 2013

Interim Orders Panel

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Total 2013
1.	Actual hearing days	126	135	139	126	**526**
2.	Diverse panel hearing days	63	60	64	48	**235**
3.	Diversity achievement rate %	50%	44%	46%	38%	**45%**
4.	Non-diverse panel hearing days	63	75	75	78	**291**
5.	Non-diverse panel category 1: No BME - days (and %)	50 (40%)	51* (38%)	55 (40%)	65 (52%)	**221 (42%)**
6.	Non-diverse panel category 2: Single-sex - days (and %)	6 (5%)	13 (10%)	11 (8%)	4 (3%)	**34 (6%)**
7.	Non-diverse panel category 3: No BME and single-sex - days (and %)	7 (6%)	11 (8%)	9 (6%)	9 (7%)	**36 (7%)**
8.	Non-diverse panel reason 1: Panellist unavailability - days (and %)	35 (28%)	46 (34%)	51 (37%)	59 (47%)	**191 (36%)**
9.	Non-diverse panel reason 2: Panellist withdrawal - days (and %)	23 (18%)	20 (15%)	20 (14%)	19 (15%)	**82 (16%)**
10.	**Non-diverse panel reason 3: Other - days (and %)**	**5^ (4%)**	**9^ (7%)**	**4^ (3%)**	**0 (0%)**	**18 (3%)**

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