

To note

Changes to the proposed statutory basis for the Medical Practitioners Tribunal Service

Issue

1. Changing the proposed statutory basis for the Medical Practitioners Tribunal Service.

Recommendation

2. Council is asked to note that we intend to seek amendments to the draft Section 60 Order to vest the statutory basis for the Medical Practitioners Tribunal Service in the Medical Practitioners Tribunal Service Chair.

Issue

3. When we developed the framework for the establishment of the Medical Practitioners Tribunal Service we proposed that the MPTS should be established as a statutory committee of the GMC. We publicly consulted on those proposals in early 2011 and they were generally supported by those who responded.
4. At that time we thought that the most effective mechanism for supporting the MPTS Chair would be to create a statutory committee of Council.
5. We now have experience of working with the MPTS as a general committee of the GMC since it was established in shadow form in June 2011. The Committee is made up of three members: two former panellists (one medical and one lay) and the MPTS Chair, David Pearl. The lay member position has recently become vacant.
6. The MPTS Committee is currently incorporated into our governance arrangements through a Statement of Purpose which forms part of the Governance Handbook.
7. In the meantime we are working closely with the Department of Health to draft a Section 60 Order to introduce the necessary changes to the Medical Act. The current best estimate for introducing the legislative changes that will establish the MPTS in statute is mid 2014.
8. Prior to introducing the legislative changes the Department of Health will have to consult on the Section 60 Order. As well as establishing the MPTS in statute the Order will introduce a right of appeal for the GMC against MPTS decisions and introduce a power for panels to award costs. It is expected that the DH will consult towards the second half of this year.

Our experience of the MPTS operating in shadow form

9. The MPTS model has proved to be successful since it was established in shadow form. The transition was smooth and since its inception its panels have made 1681 interim decisions and 292 substantive decisions.
10. However, the committee structure has proved to be the least successful aspect of the new arrangements. It is the Chair of the MPTS who reports to Council and who will be obliged to report to Parliament on an annual basis. As the service is primarily concerned with the day to day running of adjudication, there is actually little corporate governance for the Committee to deal with. The budget is set by Council and monitored through executive line management arrangements, as are issues such as risk management which is dealt with by our internal audit programme and reported to the Audit and Risk Committee.
11. The Chair however, does have a very substantive role in overseeing the quality of MPTS decisions, performance managing panellists and legal assessors and in implementing proposals to improve how the MPTS adjudicates in relation to the fitness to practise of doctors. We have therefore concluded that this Committee does

not have a corporate governance role. This is vested in Council and is achieved through regular reports by the Chair to Council and, in future, an obligation for the Chair to report to Parliament

12. The Committee is currently considering its Statement of Purpose and any changes will be discussed with the GMC/MPTS Liaison Group prior to any amendments for Council's consideration.

Proposed way forward

13. Were we to establish a statutory committee, the structure and functions of the committee would be closely defined in rules and would lack flexibility. Our experience so far has shown that this may not be the most effective way to support the Chair of the MPTS in the running of the service.

14. In view of this we propose to discuss making amendments to the draft Section 60 Order with the Department of Health so that the statutory basis of the MPTS would vest in the role of the MPTS Chair as the adjudicator. It would of course still be open to the Chair to have a committee to support him but, if needed, the structure and function of that committee would be flexible and could respond to any changing requirements over time. The Chair of the MPTS, David Pearl, and the MPTS Committee support the proposed amendment.

15. This change would have minimal resource implications and we have identified no equality and diversity issues arising from the proposal.

16. The issue was discussed at the Strategy and Policy Board on 18 March 2013 and the proposal was agreed subject to approval from Council. As work on the Section 60 Order is well advanced, in order to pursue the proposed change, it was important that we communicated it to the Department of Health as soon as possible. For this reason, following the Board meeting, Council's approval was sought through circulation of the Board paper and members were asked to indicate if they were content or considered a discussion at Council necessary. The feedback received confirmed that members were content with the proposed amendment. We have therefore begun discussions with the Department of Health in England to explore this change in position.

Supporting information

How this issue relates to the Corporate Strategy and Business Plan

17. This issue relates to Strategic Aim 2: 'To give all our key interest groups confidence that doctors are fit to practise' and to the planning theme: 'To successfully implement the adjudication reforms'.

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