

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:
 - MPTS approach and further changes planned.
 - Performance to date and approach to quality assurance.
 - Recruitment of panellists.
 - Communication and engagement.

Recommendation

3. Council is asked to consider the report on the activities of the MPTS since its establishment in June 2012 and since the previous report to Council in February 2013.

Overview of approach

4. The MPTS has marked its first anniversary as an operationally separate adjudication service. By pursuing a programme of reform, the MPTS continues to work towards realising His Honour David Pearl's ambition to create a modern, efficient adjudication service.

5. The enactment of changes to the Fitness to Practise Rules in May 2013 was a significant milestone for the MPTS. The new Rules have allowed for significant improvements in the way hearings are run, including more developed case management. They include removing the need to read out the written allegations at the start of a hearing, improving arrangements for witnesses to submit evidence by video or telephone and ensuring witnesses are told in advance if they need to give evidence in person.

6. A number of changes have been made to the way the MPTS operates, to improve efficiency, for example appointing specialist or professional advisers only on an exception basis, and only producing transcripts on request. Digital recording has been introduced in all hearing rooms, replacing shorthand writers.

7. The MPTS has recruited additional staff and opened two additional hearing rooms, in anticipation of an increase in referrals. The MPTS has also consolidated its hearing centre on two floors instead of three of St James's Building in Manchester.

8. 17 new panel chairs have been appointed and will all be trained during 2013. The MPTS also intends to recruit approximately 65 new lay panellists and will be advertising in autumn 2013.

9. The MPTS User Group meets twice a year, to allow medical defence organisations, legal firms and the GMC to raise operational issues with senior MPTS staff. A Case Management Group has also been established, to act as a forum to discuss how to ensure hearings are ready at the point of commencement and can progress efficiently, without being diverted into matters which could be dealt with by case management outside the hearing.

10. All MPTS staff took part in an Away Day in May 2013 to share ideas on how to improve our processes and procedures. These ideas have informed the work of our Change Management Board, which meets monthly to discuss progress on creating an efficient and effective tribunal.

Further changes planned to the adjudication process

11. The Department of Health proposes to consult later this year on changes to the Medical Act.

12. The changes that will be consulted upon will include:

- a. A costs regime for the MPTS. A power for panels to award against either party (GMC or doctor's defence) if they have behaved unreasonably in the conduct of proceedings, as is common in other tribunals.
- b. Power for the GMC to appeal decisions made by MPTS panels. At present a doctor can appeal against a MPTS decision, but there is no reciprocal right for the GMC.
- c. Removing the mandatory requirement for the appointment of Legal Assessors in every case. Some cases could be heard by an experienced panel without the need for specialist legal advice.
- d. Placing the MPTS on a statutory footing. Amending the Medical Act to establish the MPTS and provide for direct accountability to Parliament.

Performance to date

Interim Order Panels

13. 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.

14. The MPTS has seen a slight decline in IOP referrals. The GMC opened 2730 stream 1 or National Investigation Team (NIT) cases in 2012/2013. The average referral rate in July to June was 25% against an equivalent figure of 26% in 2011/2012.

15. Since its launch in June 2012, the MPTS has started and completed 653 IOP new hearings and 1426 IOP review hearings.

16. In that period, Interim Order Panels made no orders in 27.6% of hearings, placed conditions on a doctor's registration in 49.8% of hearings, and suspended a doctor's registration in 22.7% of hearings.

Fitness to Practise Panels

17. The MPTS has a service target for 90% of hearings to commence within 9 months of a referral from the GMC. We have successfully met this target every month.

18. The GMC made 230 referrals to the Fitness to Practise Panel (FTP) between July 2012 and June 2013. 235 referrals were made in the same period in 2011 - 2012.

19. Since its launch in June 2012, the MPTS has started and completed 218 FTP Panel new hearings and 141 FTP Panel review hearings.

20. In that period, FTP Panels have erased a doctor's name from the medical register in 27.5% of cases, suspended a doctor from the register in 30.7% of cases, and placed conditions on a doctor's registration in 12.8% of cases. In 22.5% of cases, FTP Panels found that the doctor's fitness to practise was not impaired and made no order. A further 3.7% found no impairment but issued a warning. 1.8% found impairment but took no action. The remaining 1% comprises voluntary erasure and undertakings.

21. By way of comparison, our previous report to Council stated that 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

22. The MPTS is taking part in a LEAN review of its processes, alongside colleagues in the GMC Fitness to Practise directorate. The LEAN review aims to streamline our adjudication processes from complaint through to hearing.

23. The MPTS continues to deliver against the GMC-wide efficiency target of 3-5%.

24. In the first six months of its existence in 2012 the MPTS delivered cashable efficiency gains of £0.4 million, and is on track to deliver £2.1 million by the end of 2013, bringing the total cashable efficiency gains to £2.5 million.

Hearing room utilisation

25. The MPTS aims to utilise its hearing rooms at a rate of 80%. With additional hearing rooms now on stream the average utilisation for the first 6 months of 2013 was 75%. July and August are normally low months but September to December 2013 are currently forecast at 80%.

Quality assurance

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

27. The QAG has reviewed 628 cases since July 2012.

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

29. 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.

30. 28 appeals against decisions taken by Fitness to Practise Panels were registered at the High Court during the MPTS's first year of operation (some of which will be appeals against decisions taken before the establishment of the MPTS). Nine appeals were dismissed, three were withdrawn. In one case an appeal against a six month suspension was dismissed but the appeal against the immediate order was allowed and the immediate order quashed. We await the outcomes of the remaining 15 appeals.

Equality and diversity

Panel diversity

31. Further to a suggestion made by the Audit and Risk Committee, data on panel diversity is attached at Annex A. 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. Targeting panellist recruitment campaigns increases the diversity of applicants and subsequent appointments, as demonstrated by the recent medical recruitment exercise. This approach will be taken forward for the next round of lay panellist recruitment which starts in October 2013.

Panellist recruitment

32. The MPTS is committed to promoting and supporting equality and diversity. When recruiting new lay panellists later this year, the MPTS will again be actively encouraging applications from BME communities.

33. Of the 57 medical panellists the MPTS appointed in 2012, 24 declared themselves to be from BME communities.

34. We will be building on the lessons learned in that process, and working with the GMC's Equality and Diversity team to ensure we appropriately target our advertising to encourage a diverse range of applicants.

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

Communication and engagement

36. To promote the work of the MPTS to doctors, His Honour David Pearl has been interviewed by publications produced by each of the major medical defence organisations. A press release published to mark the first anniversary secured coverage in the British Medical Journal and Pulse magazine. An article in David Pearl's name has also appeared on the GMC's medical professionalism blog, reflecting on the first year of the MPTS's operation.

37. The second meeting of the MPTS User Group took place in April. Attendees were updated on the changes to fitness to practise rules which were enacted in May.
38. The first Case Management Group meeting took place in July. The impact of recent rule changes was discussed and an update provided on the appointment of the MPTS's own case managers.
39. To make the case for adjudication reform and promote our work to key stakeholders, David Pearl has spoken at events or met with key individuals on 18 occasions since the establishment of the MPTS. Most recently this included a keynote speech to the Lexis Nexis *Practice and Procedure in Disciplinary Tribunals* conference in July 2013.
40. 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. There have been 774 mentions of the MPTS in all media between July 2012 and June 2013. Online corrections are sought to any inaccurate copy.
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.

Supporting Information

How this issue relates to the Corporate Strategy and Business Plan

42. Strategic Aim Two of the Business Plan 2013 is to give all our key interest groups confidence that doctors are fit to practise. A component of this strategic aim is that the MPTS will implement the adjudication reform programme.

43. The MPTS Committee approved the work proposed in the 2013 Business Plan, with the proviso that it would be revisited if there were a significant variation in workload. Council approved the GMC's 2013 Business Plan at its December 2012 meeting.

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 MPTS Committee provides governance of the MPTS. It reviews the relevant sections of the Corporate Strategy, and contributes to the preparation of the business plan and budget for recommendation to the GMC/MPTS Liaison Group. Council has agreed that this will be replaced by the five-member MPTS Advisory Committee later in 2013.

46. 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 second of the regular six monthly reports to GMC Council.

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

Panel diversity achievement rate 2013

Fitness to Practise Panel

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Total 2013
1.	Actual hearing days	497	463			
2.	Diverse panel hearing days	192	145			
3.	Panel diversity achievement rate %	39%	31%			
4.	Non-diverse panel hearing days (and cases)	305 (61%)	318 (69%)			

5.	<i>Non-diverse panel category 1: No BME - days (and %)</i>	238 (48%)	281 (61%)			
6.	<i>Non-diverse panel category 2. Single-sex - days (and %)</i>	35 (7%)	16 (3%)			
7.	<i>Non-diverse panel category 3: No BME panellist and single-sex - days (and %)</i>	32 (6%)	21 (5%)			
8.	<i>Non-diverse panel reason 1: Panellist unavailability - days (and %)</i>	304 (61%)	318 (69%)			
9.	<i>Non-diverse panel reason 2: Panellist withdrawal - days (and %)</i>	0 (0%)	0 (0%)			
10.	<i>Non-diverse panel reason 3: Other - days (and %)</i>	^1 (<1%)	0 (0%)			

^Female panellist recusal and no BME panellist available.

Interim Orders Panel

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Total 2013
1.	Actual hearing days	126	135			
2.	Diverse panel hearing days	63	60			
3.	Diversity achievement rate %	50%	44%			
4.	Non-diverse panel hearing days	63	75			
5.	<i>Non-diverse panel category 1: No BME - days (and %)</i>	50 (40%)	51* (38%)			
6.	<i>Non-diverse panel category 2: Single-sex - days (and %)</i>	6 (5%)	13 (7%)			
7.	<i>Non-diverse panel category 3: No BME and single-sex - days (and %)</i>	7 (6%)	11 (8%)			
8.	<i>Non-diverse panel reason 1: Panellist unavailability - days (and %)</i>	35 (28%)	46 (34%)			
9.	<i>Non-diverse panel reason 2: Panellist withdrawal - days (and %)</i>	23 (18%)	20 (15%)			
10.	<i>Non-diverse panel reason 3: Other - days (and %)</i>	5^ (4%)	9^ (7%)			

^Female/male or BME panellist withdrew and no BME / female panellist available.

* Includes one all-BME panel day