To consider

**Update on fitness to practise legislative change**

**Issue**

1. An update on the Section 60 Order and plans to publicly consult between March and May 2015 on amendments to the Rules, required to implement the Order.

**Recommendations**

2. Council is asked to:


   b. Approve the Keeling Schedule (a version of the rules showing the changes we are proposing, produced to assist in our consultation) at Annex B.

   c. Approve the draft Amendment Order at Annex C.

   d. Approve the draft Constitution of the Medical Practitioners Tribunal Service Rules at Annex D.

   e. Agree to delegate approval of the final version of the consultation document, the Keeling Schedule, draft Amendment Order, and draft Constitution of the Medical Practitioners Tribunal Service Rules, subject to minor amendments, to the Chair of Council.
Update on fitness to practise legislative change

Issue

4 This paper provides an update on the progress of the Section 60 Order and our plans to consult on the changes to our Rules to implement the provisions of the Order. We are seeking Council’s approval of the consultation document at Annex A, the Keeling Schedule at Annex B, the Amendment Order at Annex C, and the draft Constitution of the MPTS Rules at Annex D.

Section 60 Order update

5 The Section 60 Order amends the Medical Act to allow us to make or amend our Rules with provisions reforming the Medical Practitioners Tribunal Service (MPTS) and establishing the GMC’s right of appeal among other matters.

6 The Section 60 Order was laid before Parliament on 29 January 2015, and the Department of Health (England) is hoping to complete the Parliamentary approval process by the end of March 2015, with the Order due to be made on 26 March 2015.

Changes to the Rules

7 We plan to consult on proposed changes to the Rules between March and May 2015. A draft consultation document is at Annex A, the Keeling Schedule at Annex B, the draft Amendment Order at Annex C, and the draft Constitution of the MPTS Rules at Annex D.

8 In summary, our proposals will:

a Create the governance structure needed for the statutory MPTS Committee.

b Give the MPTS responsibility, in law, for appointing and maintaining lists of panellists and setting and publishing the criteria for the appointment of legally qualified chairs.

c Change the name of Fitness to Practise Panels to Medical Practitioners Tribunals and the name of Interim Orders Panels to Interim Orders Tribunals.

d Set out how costs sanctions will be applied to encourage compliance with case management where either party has failed to comply with a rule or direction and either party or their representatives have behaved unreasonably in the conduct of proceedings.

e Where both the GMC and doctor agree the appropriate outcome on a review, implement the power to allow either a panel Chair or a full panel to consider the information provided by both parties in writing, and to make a decision without
the parties having to attend a review hearing (either a fitness to practise panel or an Interim Order Panel).

f Implement the power giving the MPTS the flexibility to appoint either a legal assessor and/or a legally qualified chair and, in exceptional circumstances, both.

g Introduce a framework in the Rules for a new type of non-compliance hearing where a doctor has failed to comply with a reasonable request for information or with a direction to undergo a performance, health or language assessment.

h Allow greater flexibility and consistency in carrying out assessments of clinical performance, for example, providing for the Registrar to define the area of a doctor’s practice that should be assessed.

Public consultation

9 We plan to consult on these rule changes between 20 March and 15 May 2015. We would normally consult for 12 weeks, but this shorter eight week period is necessary if we are to meet the Department of Health (England) deadline to implement the changes by December 2015.

10 We have considered the impact of consulting for an eight week period and during the pre-election period. Given we have run two previous consultations (on the principles of separation and the first round of rule changes to modernise adjudication; and the Department of Health (England) consultation on the changes to the Medical Act to establish the MPTS in statute between August and September 2014), we have concluded a slightly shorter consultation period is sufficient. Given the tight timetable for implementation, the technical nature of these changes and the fact that our proposals are not linked to political priorities of the Government or the Opposition, and the Department of Health (England) are content, we have concluded it is necessary and proper to consult during the pre-election period.

Next steps

11 Following consideration by Council, the consultation document will be updated as required, and it is proposed that the Chair of Council should be delegated authority to approve the final version.
Supporting information

How this issue relates to the corporate strategy and business plan

12 Strategic aim three: to improve the level of engagement and efficiency in the handling of complaints and concerns about patient safety.

How the issues support the principles of better regulation

13 The consultation on changes to the Rules is the final stage in completing our reforms programme to achieve enhanced operational separation of the GMC’s adjudication and investigation functions. This will support regulation that is accountable, transparent and targeted.

What engagement approach has been used to inform the work (and what further communication and engagement is needed)

14 In 2011, we conducted a public consultation on the principle of operational separation between our investigation and adjudication functions. The Department of Health has conducted a public consultation on the changes necessary to primary legislation to achieve this. We will seek to engage the public, patient groups and medical defence organisations through our consultation.

What equality and diversity considerations relate to this issue

15 We are developing an equality and diversity analysis of the proposals contained in the draft consultation document and will seek views from a range of interested groups through the consultation process to inform the analysis.

If you have any questions about this paper please contact: Anna Rowland, Assistant Director - Policy, Business Transformation and Safeguarding, arowland@gmc-uk.org, 020 7189 5077.
7 - Update on fitness to practise legislative change

Draft consultation document
Reforming our fitness to practise investigation and adjudication processes: a public consultation on changes to our rules [H1]
Foreword

This consultation marks the next stage of our work to improve and modernise how we carry out investigations into a doctor’s fitness to practise and how cases are heard by panels.

We receive almost 9,000 complaints a year and continually look at ways we can improve our processes for the benefit of patients, doctors and all other stakeholders who work with us.

One of our most fundamental reforms over the past few years was the establishment of the Medical Practitioners Tribunal Service (MPTS) in 2012. We did this to increase confidence in the independence of decisions made by panels by separating our role in investigating concerns about doctors from our role in running and making decisions at hearings.

Changes to primary legislation required to establish the MPTS in statute and other important reforms are due to be approved by Parliament at the end of March. This consultation is about the new and amended rules that will be needed to implement these legislative powers. Other proposed changes will help us streamline our systems and procedures so they are as efficient, fair and as clear as possible, allowing us to do more to protect patients.

His Honour David Pearl, Chair of MPTS, chaired the reform programme board. Staff across the MPTS and the GMC’s fitness to practise directorate have worked together to develop this consultation document.

After full consultation, a revised version of the GMC’s Fitness to Practise Rules will be presented to Parliament for approval. We expect the revised rules to be implemented within the next 12 months.

Professor Terence Stephenson
Chair, General Medical Council
About this consultation [H2]

We are consulting on changes to the rules\(^1\) we follow when investigating and acting on concerns about doctors. These changes will make our investigation process simpler and more effective, and will increase public confidence that hearings are impartial.

We set up the Medical Practitioners Tribunal Service (MPTS) in shadow form in June 2012 to run hearings at which decisions are made about serious concerns about doctors. This was to make sure this function (known as adjudication) is separate from our function in investigating complaints about doctors.

The Department of Health is now taking forward changes to the Medical Act 1983 to establish the MPTS in law, which means Parliament must approve any fundamental changes that we want to make to the MPTS in future. The MPTS will be directly accountable to Parliament and will submit annual reports to the Privy Council.

The changes to the Medical Act 1983 also include a new right of appeal for the GMC. Doctors are already able to appeal decisions made by the MPTS. In future, the GMC, as a party to the hearing before the MPTS, will also be able to appeal the MPTS’s decisions.

The Department of Health conducted a public consultation about these changes in 2014 and is implementing the changes by way of a Section 60 Order. The Order is currently going through the Parliamentary process, and is due to be approved by the Privy Council at the end of March 2015. Some of the changes to our rules we are proposing in this consultation are dependent on the changes to the Medical Act 1983 included in the Section 60 Order and subject to Privy Council approval.

Responses to this consultation will help us to understand the impact our proposals could have on groups who are protected under the Equality Act 2010.\(^2\) We will use the responses to inform an equality analysis, which we will publish before our Council decides which changes we make to our rules.

Our proposed changes [H3]

- Creating the governance structure needed for the MPTS.
- Changing the name of fitness to practise panels to medical practitioners tribunals and interim orders panels to interim orders tribunals

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\(^1\) Our rules are the General Medical Council (Fitness to Practise) Rules 2004 (the Fitness to Practise Rules), the General Medical Council (Constitution of Panels and Investigation Committee) Rules 2004 (the Panel Rules), and the General Medical Council (Legal Assessors) Rules 2004 (the Legal Assessors’ Rules).

\(^2\) The Equality Act 2010 specifies nine protected characteristics that cannot be used as a reason to treat people unfairly: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
• Giving the MPTS responsibility, in law, for:
  o appointing and maintaining lists of panellists
  o setting and publishing the criteria that a person must satisfy to be a chair or a legally qualified chair of a fitness to practise or interim orders panel.

• Giving the MPTS more flexible powers to appoint a legal assessor or a legally qualified chair, or both, in hearings.

• Introducing new rules so that case management decisions will be binding on the parties save in exceptional circumstances to make managing hearings more effective.

• To further improve how hearings are managed, giving panels the powers to deal with a situation where the doctor or the GMC has breached the procedural rules or case management decisions. These powers may include awarding costs against either party where the doctor, GMC or representatives of either party, have behaved unreasonably.

• When sanctions previously imposed on a doctor are being reviewed and both the GMC and doctor agree on what action is needed, panel Chairs or panels will be able to consider all the information provided by both parties in writing, and decide whether to:
  o approve the outcome agreed between the parties without them having to attend a review hearing or
  o decide to hold a hearing.

• Introducing a new power to require doctors to cooperate with an investigation into serious concerns by sharing key information with us on request. If a doctor failed to respond to a reasonable request for information under this new power, or refused to undergo a performance, health or language assessment, we would be able to refer the doctor to the MPTS for a hearing to assess the seriousness of the concerns and any risks to patients.

**How to take part [H3]**

Answer the questions online on our consultation website: [www.gmc-uk.org/ftpreform_consultation](http://www.gmc-uk.org/ftpreform_consultation).

Alternatively you can answer the questions using the text boxes on pages [ ] to [ ] of this consultation document and either email your completed response to us at ftpconsultation@gmc-uk.org or post it to us at:

Fitness to Practise Policy team
General Medical Council
This consultation runs from 20 March to 15 May 2015.

When the consultation has ended, we will report the outcome to our Council and then ask the Privy Council to approve a change to our rules by submitting an order to amend our rules.

We expect the changes to our existing rules and the new rules to establish the MPTS Committee will come into force by the end of 2015.
How do our fitness to practise processes work? [H2]

The General Medical Council (GMC) is an independent organisation that helps to protect patients and improve medical education and practice across the UK.

When a serious concern is raised about a doctor’s behaviour, health or performance, we investigate to see if the doctor is putting the safety of patients, or the public's confidence in doctors, at risk.

We collect and review evidence, such as witness statements and reports from experts in clinical matters. Following the investigation we may issue advice or a warning to the doctor, or we may agree with the doctor that he or she will restrict their practice, retrain or work under supervision.

In some cases, we will refer the case to the MPTS for a hearing. As well as agreeing restrictions with a doctor or issuing a warning, an MPTS panel can also impose restrictions on, suspend or remove a doctor’s right to work in the UK. If necessary, a panel can also temporarily suspend or restrict a doctor’s right to work while the investigation is conducted. We always inform other regulators around the world about any action taken on a doctor’s registration or warning.

For doctors with restrictions on their practice, we monitor whether the doctor is complying with the restrictions and regularly review whether the restrictions should be changed or removed. For sanctions imposed by a panel, the panel reviews whether the sanctions should be changed or removed.

Our fitness to practise processes are set out in law in the Medical Act 1983 and the Fitness to Practise Rules, the Constitution Rules and the Legal Assessors’ Rules. The Constitution Rules also cover the detailed working arrangements for panels.

[Insert graphic]
Why are we proposing to make changes to our fitness to practise processes? [H2]

These changes complete the reforms we started in 2011 to clearly separate two of our functions: investigating complaints and holding hearings. We started the reforms after the government decided not to establish an independent adjudication body – the Office of the Health Professions Adjudicator. As an alternative to an independent adjudicator, we consulted on and received widespread support from 76% of respondents to establish the MPTS.³

We also want to improve our investigation and adjudication processes. Although our adjudication process is effective,⁴ best practice in other jurisdictions has moved on since we introduced our rules in 2004 and we have identified several improvements we can make. We introduced some improvements in 2013 that did not require changes to the Medical Act 1983, but the remainder of improvements do. The Department of Health (England) and the Scottish Ministers⁵ consulted on a UK-wide basis for 8 weeks from 31 July 2014 to 25 September 2014. A full Government consultation response report has been published⁶.

Our proposed changes aim to:

- increase patients’, public and doctors’ confidence that MPTS hearings are impartial by formally separating our investigation and adjudication roles
- streamline and modernise our hearing process, and reduce unnecessary delays, by making it simpler and more effective
- make management of hearings more effective and improve compliance by both parties with case managers’ decisions
- remove the need for some review hearings where the parties have agreed the outcome
- make the assessment of whether a doctor is fit to practise more effective and improve compliance with it

⁵ This was a joint consultation with Scottish Ministers as it included proposals in respect of professions for whom responsibility is devolved to Scotland.
- make our investigation process simpler and more effective and improve a doctor's compliance with it.

The following six sections explain our proposed changes to our rules to achieve these aims.

We have prepared a Keeling Schedule (annex 1) to show how our rules will look if we make all our proposed changes. This version of our rules is to assist you in responding to our consultation and has not been endorsed by Parliament.

The draft amendment order making changes to our Fitness to Practise, Panel and Legal Assessors’ Rules is at annex 2. The draft General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules are at annex 3.
Section 1: Formally separating our investigation and adjudication functions by establishing the MPTS [H2]

Establishing the MPTS in law [H3]

Proposed changes to the Medical Act 1983 that are going through Parliament will establish the MPTS as a statutory committee of the GMC to run fitness to practise hearings. The MPTS committee will have an operational function in running hearings, including, for example, appointing and maintaining the lists of panellists. The legislation will allow for these powers to be delegated to the Chair of the MPTS to support operational effectiveness.

We propose to introduce new rules to govern the MPTS Committee – The General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules. These rules include:

- who will form the Committee – it will have five members, cannot include members of our Council, will have a maximum of two registrant members and three lay members (including the chair who could be either registrant or lay)
- who is not eligible to be a member of the Committee, for example:
  - anyone convicted of an offence involving dishonesty or deception
  - anyone included on a barred list held by the Disclosure and Barring Service
  - anyone who has been erased, suspended or had conditions imposed on their registration by a panel
- arrangements to appoint a deputy if the chair of the MPTS is absent for:
  - one meeting - Council may appoint a deputy from the MPTS Committee or may decide the meeting will not go ahead
  - more than one meeting – the Chair of Council will decide on an appropriate deputy.

The draft General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules contains the new rules.

1 We have drafted rules to govern the MPTS Committee. Do you agree with the provisions in these rules?

Yes/No/Not sure

Do you have any comments?
Establishing the medical practitioners tribunals and interim orders tribunals [H3]

We propose changing the name of:

- fitness to practise panels to medical practitioners tribunals
- interim orders panels to interim orders tribunals
- panellists to tribunal members
- panel chairs to tribunal chairs.

These changes are intended to make clear that the tribunals and those delivering them are part of the MPTS, and separate from our role in investigating complaints.

The change in terminology will be reflected in amendments throughout the Fitness to Practise Rules and are shown in the Keeling Schedule.

In our existing rules, we are responsible for appointing and maintaining lists of panellists for both fitness to practise panels and interim orders panels. To clearly separate our investigation and adjudication roles, we want to change our rules to make the MPTS, not the GMC, responsible for these activities.

Rules x of the Keeling Schedule and paragraph x of the amendment order contain the proposed changes to the Panel Rules.

2 We propose changes to our terminology. Do you with agree?

Yes/No/Not sure

Do you have any comments?

3 Do you with agree the MPTS should be responsible for appointing and maintaining lists of panellists?

Yes/No/Not sure

Do you have any comments?
Setting out qualifications for and appointing legally qualified chairs [H3]

Every fitness to practise panel and interim orders panel has a chair. We believe that there is a strong case for appointing legally qualified chairs to panels in certain types of case.

We currently have competent chairs, some of whom are legally qualified. In certain types of cases, we believe legally qualified chairs may, because of their specific, legal experience, have the necessary skills to deal with cases involving complex legal issues or large amounts of complex information.

We propose amending the Panel Rules to allow the MPTS to set and publish criteria for appointing panel chairs, which would include chairs in certain types of cases being legally qualified. The criteria will set out the minimum qualifications, experience, competencies and any other requirements.

In light of our proposal to appoint legally qualified chairs in some hearings, we are also proposing to introduce flexibility as to when we may appoint a legal assessor. Currently, we must appoint a legal assessor in every hearing. They act as a legal adviser to the panel.

To make sure that we keep an appropriate element of legal expertise, we are proposing that there will be either a legally qualified chair or a legal assessor, or both, in each hearing. To make sure hearings are fair, where a legally qualified chair is appointed and there is no legal assessor, the legally qualified chair will repeat any legal advice they give to the panel to the parties.

Rules x of the Keeling Schedule and paragraph x of the amendment order contain the proposed changes to the Legal Assessors’ Rules.

**4** We propose appointing a legally qualified chair or a legal assessor, or both in hearings. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?
Separating the notice of the allegation from the notice of the hearing [H3]

According to our existing rules, the registrar of the GMC has to send doctors the notice of the hearing, which includes the allegation on which the hearing is based. In practice, since the MPTS was established, it has taken on responsibility for sending the notice, including all of this information, 28 days before the hearing.

To more clearly separate our investigation and adjudication roles, we propose that:

- the GMC, as a party to the hearing, sends the notice of the allegation against the doctor and any information gathered during the investigation

- the MPTS sends the notice of the hearing, containing the date, time, venue and other information about the hearing.

Our existing rules say that no less than seven days notice has to be given for the precise time and venue. We currently give at least 28 days notice and propose that the rule be changed to reflect this.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to the rules 15, 20, 23 and 26.

5 Do you agree the MPTS should send the notice of the hearing and the GMC should send the notice of the allegation?

Yes/No/Not sure

Do you have any comments on the proposal?

Allowing email service of notices of hearing [H4]

Proposed changes to the Medical Act 1983 will allow us to serve notices of hearing by email where we have received an email address for that purpose. For service to be effective, the recipient must send a read receipt or otherwise acknowledge the email.

Though this change does not require a specific amendment, the interpretation of rule 40 will change so it is in line with the amended provision in the Medical Act 1983.
Removing the need for the MPTS to refer cases to the GMC where an interim order is set to expire [H3]

Under the Medical Act 1983, an interim order can be imposed for a maximum period of 18 months, after which we have to apply to the High Court for an extension. When an interim orders panel is reviewing an interim order and the hearing is likely to be the last before the order expires, rule 27(6) of the Fitness to Practise Rules says that the panel may tell the GMC to apply to the relevant Court for an extension. The GMC decides whether to apply for this extension.

We believe that following the separation between the GMC and MPTS, it will no longer be appropriate or necessary for the MPTS to provide notification of when an interim order is due to expire. In future, the GMC will be responsible for identifying when an interim order is due to expire and applying to the High Court for an extension.

The Keeling Schedule and paragraph x of the amendment order contain the proposed removal of rule 27(6).

6 We propose removing the requirement for the MPTS to tell the GMC when an interim order is due to expire. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?

Specialist advisers [H3]

Our rules allow the registrar to appoint specialist advisers to give fitness to practise panels advice on medical issues that affect a doctor’s health or performance. But, in practice, specialist advisers are no longer used. We propose removing the reference in the rules to the registrar appointing or a panel directing the appointment of specialist advisers.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rules 2, 3(2)-(6), 14, 17(4)(a) and 35(2)(d).
Section 2: Streamlining and modernising our hearing process [H2]

We are proposing several changes to make our rules clearer, remove ambiguity, and introduce greater flexibility.

Clarifying our use of undertakings [H3]

At the end of an investigation, we can agree undertakings with a doctor if they are prepared to voluntarily accept restrictions on their practice (referred to as case examiner undertakings). At a hearing where a doctor’s fitness to practise is found impaired, our existing rules also allow a panel to agree undertakings with a doctor as an alternative to imposing another type of restriction (panel undertakings).

To increase separation between our investigative and adjudication roles, we propose any undertakings agreed with a doctor, including after their fitness to practise is found impaired at a hearing, will be between the doctor and the GMC. The panel’s role, as the adjudication tribunal, will be to take into account any undertakings agreed and to consider if they are sufficient. We propose making the same changes to the process for agreeing undertakings at review hearings.

The Keeling Schedule and paragraph x of the amendment order contain proposed changes to 17(m) and 22(h), and new rules 17(ma) and 22(ha).

We propose making it clear in our rules that a case involving panel undertakings may be referred for a review hearing:

- where we have varied the undertakings and the doctor does not agree with the variation (this brings rule 37A in line with rule 10)
- if a doctor breaches the undertakings or their health or performance deteriorates, or gives rise to further fitness to practise concerns.

We also propose dealing with cases involving undertakings where a doctor’s language deteriorates, or gives rise to further fitness to practise concerns. For case examiner undertakings cases, we would refer to panel for a first hearing and for panel undertakings, we would refer to panel for a review hearing.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rules 10(8), 18 and 37A.

7 Do you agree with our proposals to clarify how we agree undertakings with doctors after a finding of impairment is made?

Yes/No/Not sure

Do you have any comments on the proposal?
We propose clarifying the circumstances in which we can refer a panel undertakings case for a review where a doctor does not agree to a variation, breaches the undertakings, or their performance or health either deteriorates or gives rise to further concerns. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?

We propose including cases where a doctor’s language either deteriorates or gives rise to further concerns in the undertakings cases that can be referred to a panel. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?

Streamlining our hearing process [H3]

Rule 17 sets out the process to be followed at a panel hearing. We propose making the following changes to this rule (and associated rules) to streamline hearings, making them easier for parties to follow.

Identifying a doctor before hearing the legal argument [H4]

Our existing rules say the preliminary legal argument has to be heard before a doctor is identified. We propose changing our rules to give the hearing a more logical order. Doctors will be correctly identified and the hearing started, before any legal argument is heard.
The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rules 17(2), 22, 24 and 27.

**Making submissions and giving the reasons for a fitness to practise panel’s decision at the fact-finding stage of a hearing [H4]**

At the second and third stages of a hearing when a panel decides whether a doctor’s fitness to practise is impaired and, if so, what sanction to impose - both parties can make submissions and the panel must give reasons for its findings. But the rules do not allow for equivalent activities at the first stage when the panel decides which of the facts are true.

We propose changing the rules to make it clear that both parties can make submissions on the facts before the panel decides which facts are true, and that the panel must give its reasons for these decisions.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rule 17(2).

**Removing the need to refer to transcripts in review and restoration hearings [H4]**

At review and restoration hearings, the rules say we have to direct the panel to any relevant evidence, including transcripts of previous hearings. This is done before the panel goes on to consider any new evidence and submissions from the parties at these hearings.

The panel already has the record of the final decision by a panel from previous hearings, which are announced and made available in written form. It is not therefore necessary for panels to refer to full transcripts of previous hearings.

We propose changing our rules to remove the references to ‘transcripts of previous hearings’. Parties can still reference transcripts of previous hearings where necessary. The change aims to make hearings more flexible and to reduce the unnecessary administrative costs of a full transcript when it is not needed.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rules 22(c)(ii) and 24(2)(c)(ii).

10 We propose streamlining our rules, in particular, to remove the need to refer to transcripts of previous hearings in review and restoration hearings unless this is necessary. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?
Clarifying the type of record of a hearing that we can supply [H4]

If asked, we must give a record of a hearing to a party. We want to clarify that we can give a written record - ie a transcript of a hearing.

The Keeling Schedule and paragraph [x] of the amendment order contain the proposed change to rule 39(2).

11 Do you agree with our proposal to clarify that we will provide a written record of a hearing?

Yes/No/Not sure

Do you have any comments on the proposal?

Clarifying terminology [H4]

We want to introduce a definition of witnesses. This will make clear that references to witnesses in the rules include the doctor and all other witnesses for both parties. For example, rule 34(11) which requires a signed witness statement as evidence-in-chief.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rule 2.

We also want to change the terminology we use when talking about the GMC as a party in the hearing. In our rules, the GMC's representative is referred to as the presenting officer. We would like to change this to representative, defined as a barrister, solicitor or other legal representative.

Paragraph x of the amendment order contains the proposed changes to rules 2, 11(7), 17, 22, 24, 27 and 33.

12 We propose clarifying the terminology we use, in particular what we mean by witness. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?


**Adjourning hearings [H3]**

*Extending the case manager’s powers to adjourn hearings [H4]*

We changed our rules in May 2013 to transfer the power to postpone hearings as part of our investigative role to MPTS case managers. This change reflected the operational separation between our investigative and adjudication roles, and has increased flexibility and saved time by avoiding the need for a panel to make this decision.

However, under our existing rules, the case manager can postpone a hearing only before it has begun. Once a hearing has begun, only the panel can adjourn the hearing. This means that when a panel adjourns a hearing to another date that then turns out to be unsuitable, another hearing must be held to fix another date even when all parties agree on the new date. This wastes considerable time and can cause inconvenience to those who have to attend.

We propose that case managers should be given the power to further adjourn cases that are part heard, without going before a panel, where it is clear that the date scheduled is not suitable. As is the case now, the case manager would only be able to do so when both parties have had a reasonable opportunity to give their view and agree on a new date. They could give their views in writing to avoid unnecessary further hearings.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rule 27(2).

13 We propose allowing case managers to adjourn hearings that are part heard when both parties agree. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?

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*Extending a sanction where a review hearing is adjourned [H4]*

We want to make sure the public is protected where a hearing to review the restrictions on a doctor’s registration has begun, but has been adjourned before the panel has decided whether the doctor’s fitness to practise is still impaired. The rules do not allow us to extend the restrictions until the hearing can recommence.
To make sure patients are protected, we propose changing our rules to allow us to extend sanctions when a review hearing is adjourned before a finding of impairment has been made.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rules 21A and 22(2).

14 We propose that, to protect the public, a panel should be allowed to extend a sanction when the panel has adjourned a review hearing before it has made a finding of impairment. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?
Section 3: Making case management more effective [H2]

Case management refers to the steps that need to be taken before a hearing to make sure that the hearing runs effectively. This involves the case manager meeting with the GMC and the doctor or their legal representative, usually by teleconference, to discuss issues including:

- sharing documents and information that will be relied on in the hearing
- discussing or reviewing what evidence each party will present
- identifying which issues are agreed or in dispute
- alternative ways for witnesses to give evidence
- other steps that need to be taken before the hearing.

Following our 2011 consultation, changes to the Medical Act 1983 have given us more powers to enforce directions to make sure parties comply with our rules for case management. Currently, panels can draw inferences that it considers are appropriate, for example, by placing less weight on evidence that is presented late.

Failure to comply with case management decisions can cause substantial delays to the hearing. It increases stress and inconvenience for all those involved and wastes money. More effective enforcement of decisions is therefore intended to shorten hearings and resolve cases more quickly.

Making case management decisions binding [H3]

75% of respondents to our 2011 consultation supported having a way to enforce case management decisions.

We propose changing rule 16 so that case management decisions will be binding on the parties unless it is in the interests of justice for the panel to reconsider the decisions (for example, because circumstances have changed), and it is also in line with the overriding objective to deal with cases fairly and justly.

Case managers will deal with all case management issues. But a fitness to practise panel will still hear preliminary legal arguments (for example, that the hearing is an abuse of process).

Our aim is to make sure all parties comply with case management directions, sharing evidence and preparing their cases ahead of the full hearing. This aims to help us to shorten hearings and make our processes more efficient.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rule 16(1), (1A) and (6).

15 Do you agree that case management decisions should be binding?
Yes/No/Not sure

Do you have any comments on the proposal?

**Awarding costs [H3]**

If a party does not comply with a case management decision or with the procedural rules, we propose that the panel should be able to do one of a number of things depending on the particular circumstances of the case:

- draw adverse inferences
- exclude evidence
- make the non-complying party pay costs.

Changes to the *Medical Act 1983* have given fitness to practise panels the powers to order one party (the paying party or its legal representative) to pay limited costs to the other party (the receiving party). The panel can do this when:

- the paying party has not complied with a case management direction or a rule; and
- the paying party or its legal representative has acted unreasonably.

Costs are already widely used in civil and criminal proceedings, as well as in other regulatory proceedings (eg the Solicitors Disciplinary Tribunal).

We are aware that costs are rarely awarded in other jurisdictions by tribunals making the first decision on a case. However, this power means there are consequences for parties failing to comply with case management decisions and rules that are not directly linked to the outcome of the case (eg such as refusing to hear evidence presented late), and so we believe it will encourage all parties to comply with the case management process.

Costs will be paid by the paying party to the receiving party and will be calculated based on the amount of the receiving party’s time that was wasted by the paying party’s failure to comply and unreasonable conduct. Any costs incurred by the panel itself will not be included.
Making a decision about costs [H4]

We believe it is important that awarding costs does not add complexity to the hearing or unduly delay the hearing. For this reason, we propose that costs should be dealt with at the end of the hearing, following an application from either party (although the panel could consider awarding costs at its own discretion).

Assessing the amount of costs to be paid [H4]

Where a costs award has been made by a panel, a case manager will decide the amount of costs to be paid on the basis of information provided by the parties, when the hearing has ended. They will do so within the timeframes we have specified in the draft rules and taking into consideration ability to pay. We will develop appropriate guidelines to make sure that any costs orders are simple to understand and proportionate.

Enforcing costs awards [H4]

We propose that a receiving party will be able to enforce an award of costs in the same way as an order of the County Court.

The Keeling Schedule and paragraph x of the amendment order contain the proposed new rules 16A and 17(2)(q).

16 Do you agree with our proposals for awarding costs, as outlined in the draft rules?

Yes/No/Not sure

Do you have any comments on the proposal?

Excluding evidence and drawing adverse inferences [H3]

Excluding evidence [H4]

In our 2011 consultation, 73% of respondents supported the proposal that fitness to practise panels should have the power to exclude evidence when parties seek to introduce evidence in breach of directions and do not give a good reason for doing so. Some of those objecting to this power argued that it would not be in the public interest to prevent the GMC or a doctor from giving evidence, and some recommended introducing a system to award costs as an alternative.
We propose introducing this power alongside the power to award costs and to draw adverse inferences when parties have failed to comply with case management directions or rules in submitting evidence. We believe that this will give panels the flexibility to respond appropriately in the individual circumstances of the case.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to rule 16(8).

**Drawing adverse inferences [H4]**

If a party fails to comply with a case management decision, a panel can draw inferences that it considers are appropriate, such as discounting one party’s version of events if that party refuses to disclose supporting documentary evidence that is known to exist.

We are amending this rule to confirm that when a party fails to comply, the panel can draw an adverse inference that it considers is appropriate. We further propose amending the rule to allow the panel to draw adverse inferences when a party fails to comply not just with case management directions (which is the current position) but also with the rules.

The Keeling Schedule and paragraph x of the amendment order contains the proposed changes to rule 16(8).

17 We propose clarifying that panels can exclude evidence and draw adverse inferences when parties fail to comply with case management directions or rules in certain circumstances. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?

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Section 4: Removing the need for review hearings where the parties have agreed the outcome [H2]

Hearings are stressful for all involved. We want to make sure that we only hold hearings when they are needed because we are:

- considering imposing a sanction for the first time
- reviewing a sanction and the parties cannot agree an outcome.

When panels are reviewing an existing restriction on a doctor, we propose that if the parties agree on the outcome – ie to extend, change or remove an existing restriction – the panel Chair or a full panel can review the information provided by both parties in writing and make a decision without the parties attending a hearing.

These changes will apply to a review of a sanction or an interim order. The review will be considered by either a panel chair or a full panel. If the chair or the panel do not agree with the outcome reached between the parties, they can decide that a full hearing should be held with both parties attending.

The Keeling Schedule and paragraph [x] of the amendment order set out new rules 21B and 26A.

18 We propose that, where the parties agree, a panel chair or a full panel can, after considering all information in writing, review a sanction or an interim order. Do you agree??

Yes/No/Not sure

Do you have any comments on the proposal?
Section 5: Making the assessment of whether a doctor is fit to practise more effective and improving compliance with it [H2]

When we are concerned about a doctor’s fitness to practise because of their performance, health or knowledge of English, we can carry out an assessment. The case is then considered by two senior GMC staff known as case examiners (one medical and one lay). The case examiners will use evidence gathered from the assessments and other sources to help them decide whether the case should be referred to a fitness to practise panel.

It is essential that we can gather information about a doctor’s fitness to practise in an efficient and timely manner to protect the public. The proposals in this section are designed to improve how we gather information by making assessments more flexible and giving us greater powers to deal with parties that do not comply.

Increasing the flexibility of how we assess clinical performance[H3]

When we assess a doctor’s clinical performance, our rules say that we have to assess the whole of their practice. This is not always necessary - for example, when we have previously assessed the doctor’s performance and found that the concerns relate to only one or a few issues. Additionally, our existing rules say we can require an assessment in some circumstances but not in other circumstances, which means there are gaps in our ability to protect the public.

We propose changing our rules to allow greater flexibility and greater consistency in carrying out assessments, so that the registrar is able to:

- require an assessment in all types of cases where doing so is fair and proportionate
- define the area of a doctor’s practice that should be assessed
- define the form and content of the assessment
- specify the person or team who will carry out the assessment, with the minimum requirement that at least one assessor is medically trained.

The Keeling Schedule and paragraph x of the amendment order contain the proposed changes to schedules 1 and 2 of our Fitness to Practise rules.

19 We propose to allowing greater flexibility and consistency in how we assess a doctor’s fitness to practise. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?
Improving powers to deal with a doctor’s failure to comply with health, performance and language assessments [H3]

If a doctor fails to comply with an assessment of their health, performance or knowledge of English, we can refer them to a fitness to practise panel. In some circumstances, a panel can take action based on the doctor failing to comply but, in other circumstances, a panel can take action only if it finds that the doctor’s fitness to practise is impaired. When a doctor refuses to cooperate with an assessment, we may not have been able to gather the evidence needed for a panel to find the doctor’s fitness to practise impaired, and we believe this gap in our powers can put patient safety at risk.

To make sure we can deal with doctors failing to comply with assessments consistently in all cases, we propose changing our rules to allow panels to suspend doctors or impose conditions on their registration if evidence of the doctor’s failure to comply has been established. This would no longer be dependent on the panel first finding the doctor’s fitness to practise impaired. We would develop processes to make sure doctors are aware they are required to have an assessment and have been given a reasonable opportunity to comply before we take steps in relation to non-compliance.

We propose making clear in our rules that a referral made to the MPTS in relation to a non-compliance hearing could be cancelled if the doctor subsequently complied.

Panels would have the power to impose conditions on a doctor’s registration (for up to three years) or to suspend a doctor (for up to 12 months) until the doctor shows they have complied with the required assessment (demonstrated at an early review or review hearing). If a doctor continued to refuse to comply with an assessment after being suspended for two years, the panel would be able to suspend the doctor indefinitely.

The Keeling Schedule and paragraph x of the amendment order contain the new rules 17ZA and 22A and proposed changes to schedule 2.

20 We propose introducing powers to impose conditions or suspend all doctors who fail to comply with an assessment of health, performance or knowledge of English. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?
Section 6: Making our investigation processes simpler and more effective and improving compliance with it [H2]

Removing the need to tell employers about allegations against a doctor in some circumstances [H3]

We have to tell a doctor’s employer about any investigation into the doctor’s fitness to practise. The wording of our existing rules means we have to tell a doctor’s employer even when we are making provisional enquiries to decide whether there is an issue relating to a doctor’s fitness to practise that might need to be investigated.

This delays our carrying out these enquiries but can also damage a doctor’s reputation with their employers before it is clear whether there is even a concern that needs to be investigated.

In our view, we should not need to tell employers until we have decided that there is a real concern that needs investigation.

We propose to change rule 13 so that we do not have to tell a doctor’s employer about provisional enquiries. This would not prevent us from telling a doctor’s employer or responsible officer about provisional enquiries if we decided we needed to. Under the rules, if we decide to start an investigation, we will still have to tell the doctor’s employers immediately.

We believe that this will make our processes faster and more effective and be fairer to doctors.

The Keeling Schedule and paragraph [x] of the amendment order contain the proposed changes to rule 13.

21 When we make provisional enquiries to decide if we need to carry out an investigation, we propose removing the need to tell a doctor’s employer. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?

Changing the five-year rule [H3]

We do not investigate allegations about incidents that happened more than five years before we found out about the allegation, unless it is in the public interest and there are exceptional circumstances requiring us to investigate.
We are removing the exceptional circumstances element of the five year rule to bring it in line with changes to the *Medical Act 1983*, introduced through the Section 60 Order.

The Keeling Schedule and paragraph [x] of the amendment order contain changes to rule 4(5).

**Requiring disclosure of information from doctors and dealing with non-compliance [H3]**

Every year we deal with allegations about doctors who consistently refuse to engage with our investigation process. This causes delays to our investigation and can stop us taking appropriate action to minimise risk to patient safety.

We propose introducing powers, similar to those set out above for assessments, to deal with doctors who fail to comply without good reason with a reasonable request for factual information needed for our investigation (eg their employer’s details). As in the case of assessments, we would need to make sure the doctor was aware of the request for information and had been given a reasonable opportunity to comply. We would also make clear in our rules that the referral to the MPTS for a hearing could be cancelled if the doctor subsequently complied.

Fitness to practise panels would have the power to impose conditions on a doctor’s registration (for up to three years) or to suspend a doctor (for up to 12 months) until the doctor complied with the request for information.

If a doctor continued to refuse to comply after being suspended for two years, the panel would be able to suspend the doctor indefinitely. If the doctor subsequently complied, a panel would remove the restriction.

The Keeling Schedule and paragraph x of the amendment order contain the new rules 17ZA and 22A.

**22** We propose giving panels the powers to impose conditions or suspend doctors who fail to comply without good reason with a reasonable request for factual information needed for our investigation. Do you agree?

Yes/No/Not sure

Do you have any comments on the proposal?
Equality [H2]

The Equality Act 2010 identifies nine groups of people who share characteristics that are protected by the legislation: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. We have carefully considered the aims of the equality duty in developing our proposals.

23. Do you think any of our proposals will adversely affect people from the protected groups? This could include groups of doctors, patients and members of the public.

Yes/No/Not sure

If you answered ‘yes’ to the question above, please tell us which proposals and what you think the impact might be.
About you [H2]

Finally, we’d appreciate it if you could give some information about yourself to help us analyse our consultation responses.

[To be inserted: same text for this section as in the indicative sanctions guidance consultation document]
Keeling Schedule
KEELING SCHEDULE
The General Medical Council (Fitness to Practise) Rules 2004

Part 1

Preliminaries

Citation and commencement

1

These Rules may be cited as the General Medical Council (Fitness to Practise) Rules 2004, and shall come into force on 1st November 2004.

Interpretation

2

In these Rules—

“the Act” means the Medical Act 1983;

“allegation” means an allegation that the fitness to practise of a practitioner is impaired and includes an allegation treated as arising by virtue of section 35CC(3) of the Act and an allegation relating to a person whose registration is suspended;

“application” means, in Part 6 of these Rules, an application to restore a person's name to the register, and the applicant shall be construed accordingly;

“assessment of knowledge of English” means an assessment which is designed to evaluate whether the practitioner has the necessary knowledge of English;

“assessment report” means a report prepared following the assessment of a practitioner's performance or health in accordance with Schedule 1 or 2;

“Assessment Team” means a team of three or more performance assessors appointed by the Registrar in order to carry out the assessment of a practitioner's performance in accordance with Schedule 1;

“Case Examiner” means a medical or lay officer of the General Council appointed by the Registrar for the purposes of exercising the functions of the Committee, and “Case Examiners” means the medical and lay Case Examiners to whom an allegation is referred under rule 4(2), 5(2), 12(6)(b) or 28(3)(e)(2)(b) and includes any replacement Case Examiner appointed by the Registrar;

“Case Manager” means a legally qualified person appointed by the Registrar MPTS for the purposes of rule 16 and 29(1);
“the Committee” means the Investigation Committee;

“FTP Panel” means a Fitness to Practise Panel constituted under rules made under paragraph 19E of Schedule 1 to the Act;

“costs” includes fees, charges, disbursements or expenses;

“interim order” means an order made in accordance with section 41A of the Act (and includes an order made in accordance with section 41A and 41B of the Act prior to the coming into force of articles 13 and 14 of the Medical Act 1983 (Amendment) Order 2002);

“Interim Orders Panel” means an Interim Orders Panel constituted under paragraph 19A of Schedule 1 to the Act;

“Interim Orders Tribunal” means an Interim Orders Tribunal constituted under rules made under paragraph 19G of Schedule 1 to the Act;

“lay”, in relation to any person, means a person who is not and never has been provisionally registered or fully registered, was at no time registered with limited registration and does not hold qualifications which would entitle them to apply for provisional or full registration under the Act;

“Legal Assessor” means a person appointed under paragraph 7 of Schedule 4 to the Act;

“medical”, in relation to any person, means a registered medical practitioner;

“medical examiner” means a registered medical practitioner appointed by the Registrar under rule 3(1)(b) for the purposes of carrying out health assessments in accordance with Schedule 2;

“Panel” means a FTP Panel or an Interim Orders Panel;

“Medical Practitioners Tribunal” means a Medical Practitioners Tribunal constituted under rules made under paragraph 19G of Schedule 1 to the Act;

“MPTS” means the Medical Practitioners Tribunal Service constituted under rules made under paragraph 19F of Schedule 1 to the Act;

“panellist” means a person sitting on the Committee or a Panel;

“party” means the practitioner or the General Council (or their representatives), and references to “the parties” shall be construed accordingly;

“performance assessor” means a person appointed by the Registrar under rule 3(1)(a) for the purposes of carrying out performance assessments in accordance with Schedule 1;
“practitioner” means a person holding full or provisional registration under the Act (including any person whose registration is suspended) who is the subject of an allegation or in respect of whom a direction has been made under section 35D of the Act;

“the Presenting Officer” means the representative of the General Council instructed by the Registrar to present the case on behalf of the General Council at any hearing before a Panel or the Committee, and may include solicitor or counsel;

“private” means in the presence of the parties and their representatives but in the absence of the wider public;

“regulatory body” shall be construed in accordance with section 35C(9) of the Act;

“representative for the GMC” means a barrister, solicitor or other legal representative instructed by the Registrar to present the case on behalf of the General Council at any hearing before a Tribunal or Committee;

“specialist health adviser” means a registered medical practitioner appointed by the Registrar under rule 3(2) for the purposes of advising a FTP Panel in relation to medical issues regarding a practitioner's health;

“specialist performance adviser” means a registered medical practitioner appointed by the Registrar under rule 3(2) for the purposes of advising a FTP Panel in relation to medical issues regarding a practitioner's performance;

“specialty” shall be construed to include general medical practice; and

“Tribunal” means a Medical Practitioners Tribunal or an Interim Orders Tribunal

“warning” means a warning under section 35C(6) or section 35D(3) of the Act.

“witness” means any person, including the practitioner, on whose evidence (whether as to fact or opinion) either party intends to rely.

Appointment of panels of advisers, assessors and examiners

3

(1) The Registrar may appoint—

(a) a panel of medical and lay performance assessors for the purposes of carrying out performance assessments in accordance with Schedule 1; and

(b) a panel of medical examiners for the purposes of carrying out health assessments in accordance with Schedule 2.

(2) The Registrar may appoint—
(a) a panel of specialist health advisers for the purposes of advising a FTP Panel in relation to medical issues regarding a practitioner's health which may arise at a hearing before the FTP Panel; and

(b) a panel of specialist performance advisers for the purposes of advising a FTP Panel in relation to medical issues regarding a practitioner's performance which may arise at a hearing before the FTP Panel.

(3) Members of the General Council shall not be eligible for appointment to a panel under paragraph (1) or (2).

(4) In selecting a specialist health adviser in relation to a particular case, the Registrar—

(a) shall have regard to the physical or mental condition which is alleged to impair the practitioner's fitness to practise; and

(b) shall not select a person who has previously been selected to act as a medical examiner in relation to that case.

(5) In selecting a specialist performance adviser in relation to a particular case, the Registrar—

(a) shall have regard to the specialty to which the allegation relates; and

(b) shall not select a person who has previously been selected to act as a member of an Assessment Team in relation to that case.

(6) The advice of a specialist health adviser or a specialist performance adviser shall be given or repeated in the presence of the parties in attendance at the hearing.

(1) The Registrar may appoint—

(a) a panel of medical and lay performance assessors for the purposes of carrying out performance assessments in accordance with Schedule 1; and

(b) a panel of medical examiners for the purposes of carrying out health assessments in accordance with Schedule 2.

(2) Members of the General Council are not eligible for appointment to a panel under paragraph (1).

Part 2
Investigation of Allegations

Initial consideration and referral of allegations

4

(1) An allegation shall initially be considered by the Registrar.
(2) Subject to paragraphs (3) to (5) and rule 5, where the Registrar considers that the allegation falls within section 35C(2) of the Act, he shall refer the matter to a medical and a lay Case Examiner for consideration under rule 8.

(2A) Where the Registrar considers that an allegation does not fall within section 35C(2) of the Act the Registrar must notify the maker of the allegation (if any) accordingly.

(3) Where—

(a) . . .

(b) in the case of an allegation falling within paragraph (5), the Registrar does not consider it to be in the public interest for the allegation to proceed; or

(c) the Registrar considers that an allegation should not proceed on grounds that it is vexatious,

he shall notify the practitioner and the maker of the allegation (if any) accordingly.

(4) The Registrar may, before deciding whether to refer an allegation, carry out any investigations as in his opinion are appropriate to the consideration of—

(a) whether or not the allegation falls within section 35C(2) of the Act;

(b) the practitioner's fitness to practise; or

(c) the matters outlined within paragraph (5) below.

(5) No allegation shall proceed further if, at the time it is first made or first comes to the attention of the General Council, more than five years have elapsed since the most recent events giving rise to the allegation, unless the Registrar considers that it is in the public interest, in the exceptional circumstances of the case, for it to proceed.

Functions of the Registrar in relation to cautions, convictions and determinations

5

(1) Subject to rule 4(5), the Registrar shall refer an allegation falling within section 35C(2)(c) of the Act relating to a conviction resulting in the imposition of a custodial sentence, whether immediate or suspended, directly to a FTP Panel the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal.

(2) Subject to rule 4(5), the Registrar shall refer any other allegation falling within section 35C(2)(c) or (e), (e), (f) or (g) of the Act directly to a FTP Panel the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, unless he is of the opinion that it ought to be referred to a medical and a lay Case Examiner for consideration under rule 8.
Referral to Interim Orders Panel Interim Orders Tribunal

6

If, at any stage, the Registrar is of the opinion that an Interim Orders Panel should consider making an interim order in relation to a practitioner, he shall refer the allegation to an Interim Orders Panel accordingly.

If, at any stage [under these Rules], the Registrar is of the opinion that an Interim Orders Tribunal should consider making an interim order in relation to a practitioner, he shall refer the allegation to the MPTS for them to arrange for it to be considered by an Interim Orders Tribunal accordingly.

Investigation of allegations

7

(1) As soon as is reasonably practicable after referral of an allegation for consideration under rule 8, the Registrar shall write to the practitioner—

   (a) informing him of the allegation and stating the matters which appear to raise a question as to whether his fitness to practise is impaired;

   (b) providing him with copies of any documents received by the General Council in support of the allegation;

   (c) inviting him to respond to the allegation with written representations within the period of 28 days from the date of the letter; and

   (d) informing him that representations received from him will be disclosed, where appropriate, to the maker of the allegation (if any) for comment.

(2) The Registrar shall carry out any investigations, whether or not any have been carried out under rule 4(4), as in his opinion are appropriate to the consideration of the allegation under rule 8.

(3) The Registrar may direct that an assessment of the practitioner's performance or health be carried out in accordance with Schedule 1 or 2.

(3A) The Registrar may direct that the practitioner undertake an assessment of knowledge of English in accordance with Schedule 3.

(4) Where an assessment has been carried out in accordance with Schedule 1 or 2, the Registrar shall send a copy of the assessment report to the practitioner.

(5) Where an assessment has been carried out in accordance with Schedule 1, the Registrar shall send a copy of the assessment report to any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so.

[(6) Where the Registrar receives information that—]
(a) the practitioner has failed to submit to, or comply with, an assessment under Schedule 1 or 2;

(b) having submitted to an assessment under Schedule 1, the practitioner has failed to comply with reasonable requirements imposed by the Assessment Team; or

(c) the practitioner has failed to undertake an assessment of knowledge of English in accordance with Schedule 3 or has undertaken such an assessment but has failed to provide the information requested in accordance with that Schedule,

the Registrar may—

(i) refer the allegation for determination by a FTP Panel,

(ii) in a case falling within sub-paragraph (b), refer the practitioner to a FTP Panel for the purposes of making a direction under paragraph 5A(3) of Schedule 4 to the Act, or

(iii) in a case falling within sub-paragraph (c), refer the practitioner to a FTP Panel for the purposes of making a direction, if they think fit, under paragraph 5C(4) of Schedule 4 to the Act.

Consideration by Case Examiners

8

(1) An allegation referred by the Registrar [under rule 4(2), 5(2), 12(6)(b) or 28(3)(c)] shall be considered by the Case Examiners.

(2) Upon consideration of an allegation, the Case Examiners may unanimously decide—

(a) that the allegation should not proceed further;

(b) to issue a warning to the practitioner in accordance with rule 11(2);

(c) to refer the allegation to the Committee under rule 11(3) for determination under rule 11(6); or

(d) to refer the allegation for determination by a FTP Panel to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal.

(3) The Case Examiners may unanimously decide to recommend that the practitioner be invited to comply with undertakings in accordance with rule 10(3) and, where they do so and the practitioner confirms he is prepared to comply with such undertakings in accordance with rule 10(4), they shall make no decision under paragraph (2) accordingly.

(4) As soon as reasonably practicable, the Case Examiners shall inform the Registrar of their decision, together with the reasons for that decision, and the Registrar shall notify the practitioner and the maker of the allegation (if any), in writing, accordingly.
(5) If the Case Examiners fail to agree as to the disposal of an allegation under paragraph (2), or whether to recommend that the practitioner be invited to comply with undertakings under paragraph (3), they shall notify the Registrar accordingly, and the Registrar shall refer the allegation for consideration by the Committee under rule 9.

(6) If, at any stage, one of the Case Examiners is of the opinion that an Interim Orders Panel should consider making an interim order in relation to a practitioner, he shall direct the Registrar accordingly.

Consideration by the Committee

Upon consideration of an allegation referred under rule 8(5), the Committee may—

(a) determine that the allegation should not proceed further;

(b) dispose of the allegation by issuing a warning to the practitioner without an oral hearing in accordance with rules 11(2) to (4);

(c) determine that an oral hearing should be held for determination under rule 11(6);

(d) refer the allegation for determination by a FTP Panel to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal; or

(e) where the Case Examiners have failed to agree whether to recommend that the practitioner be invited to comply with undertakings in accordance with rule 10(3), determine that the practitioner be invited to comply with such undertakings as the Committee think fit and direct the Case Examiners to make no decision under rule 8(2) accordingly.

Undertakings

Where, before an allegation has been determined by the Case Examiners under rule 8(2), or referred to the Committee or a FTP Panel the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, the Registrar considers it appropriate to do so, the Registrar may refer the allegation to the Case Examiners for consideration under this rule.

(2) If after considering the allegation it appears to the Case Examiners that—

(a) the practitioner's fitness to practise is impaired; or

(b) the practitioner suffers from a continuing or episodic physical or mental condition which, although in remission at the time of the assessment, may be expected to cause a recurrence of impairment of the practitioner's fitness to practise,
they may recommend that the practitioner be invited to comply with such undertakings as they think fit (including any limitations on the practitioner's practice).

(3) Where the Case Examiners make a recommendation under paragraph (2), they shall inform the Registrar who shall write to the practitioner accordingly, inviting the practitioner to state within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) whether the practitioner is prepared to comply with such undertakings.

(4) If within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) the practitioner confirms in writing that he is prepared to comply with the undertakings recommended under paragraph (2), the Case Examiners shall cease consideration of the allegation and make no decision under rule 8(2), and the Registrar shall notify the practitioner and the maker of the allegation (if any) in writing accordingly.

(5) The Registrar shall not invite the practitioner to comply with any such undertakings where there is a realistic prospect that, if the allegation were referred to a FTP Panel the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, his name would be erased from the register.

(6) Where the Case Examiners have ceased consideration of an allegation in accordance with paragraph (4), the Registrar may carry out any investigations, which may include (but are not limited to) requesting the provision of reports or directing an assessment be carried out in accordance with Schedule 1 or 2 or directing that the practitioner undertake an assessment of knowledge of English in accordance with Schedule 3, that are, in the Registrar's opinion, appropriate to the consideration of—

(a) whether the practitioner has complied with any undertakings in place; or
(b) the practitioner's fitness to practise.

(7) Where, as a result of information received by the General Council, it appears to the Case Examiners that any undertakings the practitioner has agreed to comply with under this rule should be varied or cease to apply, they shall inform the Registrar accordingly and the Registrar shall—

(a) invite the practitioner to comply with such varied undertakings as appear to the Case Examiners to be appropriate; or
(b) direct that the undertakings should no longer apply and that the allegation should not be considered further.

(8) Where the Registrar receives information that—

(a) the practitioner has not within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) agreed to comply with the undertakings with which the practitioner was invited to comply under paragraph (3) or (7)(a);
(b) the practitioner has failed to observe an undertaking he has agreed to comply with under paragraph (4) or which has been varied following an invitation to comply with it under paragraph (7)(a); or

(c) the practitioner's health, performance or knowledge of English has deteriorated, or otherwise gives rise to further concern regarding his fitness to practise,

the Registrar may refer the allegation for determination by a FTP Panel to the MPTS for them to arrange for a determination by a Medical Practitioners Tribunal.

**Warnings**

11

(1) If it appears to one or both of the Case Examiners that an allegation is one with respect to which he or they may wish to give a warning, he or they shall inform the Registrar, and the Registrar shall write to the practitioner to inform him that he is entitled to make written representations within the period of 28 days from the date of the letter.

(2) Subject to paragraph (3), if the Case Examiners are satisfied that the allegation ought not to be considered by a FTP Panel referred to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal and—

(a) the practitioner has made no representations under this rule; or

(b) after considering any representations made, the practitioner has not contested the facts upon which the allegation is based,

they may if they think fit issue a warning to the practitioner.

(3) After considering any representations made by the practitioner, where—

(a) the practitioner has requested that the allegation be referred for an oral hearing before the Committee; or

(b) the Case Examiners otherwise consider it appropriate to do so,

the Case Examiners shall refer the allegation to the Committee for an oral hearing in accordance with this rule.

(4) Where the Committee—

(a) is considering an allegation under rule 9 which has been referred as a result of the failure of the Case Examiners to agree as to disposal under rule 8(2)(a) or (d); and

(b) considers that the allegation is one with respect to which it may wish to give a warning,
it shall inform the Registrar, and the Registrar shall write to the practitioner in accordance with paragraph (1), and paragraphs (2) and (3) shall apply as if references to the Case Examiners were references to the Committee.

(5) Where an allegation has been referred to the Committee for an oral hearing under paragraph (3) or (4), the Registrar shall give notice to the practitioner—

(a) particularising the allegation against the practitioner and the facts upon which it is based;

(b) specifying the date, time and venue of the hearing;

(c) informing him of his right to attend the hearing and to be represented at a hearing in accordance with rule 33;

(d) informing him of the power of the Committee to proceed in his absence under rule 31; and

(e) informing him of the Committee’s powers of disposal as set out in paragraph (6).

(6) The Committee shall consider any allegation referred to it under paragraph (3) or (4), and shall—

(a) determine that the matter should not proceed further;

(b) dispose of the allegation by issuing a warning; or

(c) where new information adduced into evidence at the hearing indicates that to do so would be appropriate, refer the allegation for determination by a FTP Panel to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal.

(7) Where an allegation has been referred for an oral hearing under paragraph (3) or (4), the order of proceedings before the Committee shall be as follows—

(a) the Presenting Officer representative for the GMC must outline the allegation and the facts upon which it is based and may adduce any relevant—

(i) documentary evidence, or

(ii) where the Committee considers such evidence is necessary to enable it to discharge its functions under paragraph (6), oral evidence; and

(b) the practitioner may respond to the allegation and may adduce any relevant—

(i) documentary evidence, or

(ii) where the Committee considers such evidence is necessary to enable it to discharge its functions under paragraph (6), oral evidence;

(c) the parties may make such further submissions as the Committee may allow;
(d) before making its decision, the Committee may adjourn for further investigations to be carried out, including an assessment of the practitioner's performance or health under Schedule 1 or 2 or an assessment of knowledge of English in accordance with Schedule 3; and

(e) the Committee shall announce its decision, and shall give its reasons for that decision.

(8) In making its decision, the Committee shall, where appropriate, take into account the practitioner's previous fitness to practise history with the General Council or any other regulatory body.

(9) The Registrar shall serve written notification of the Committee's decision upon the practitioner as soon as reasonably practicable.

(10) The notice of decision shall—

(a) where the Committee decides that the matter should be referred to a FTP Panel the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, particularise the allegation against the practitioner that is to be referred; and

(b) where the Committee decides that the matter should be disposed of by issuing a warning, particularise the terms of the warning issued to the practitioner.

Review of decisions

12

(1) Subject to paragraph (2), the following decisions may be reviewed by the Registrar—

(a) a decision not to refer an allegation to a medical and a lay Case Examiner or, for any other reason, that an allegation should not proceed beyond rule 4;

(b) a decision not to refer an allegation to the Committee or a FTP Panel the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal;

(c) a decision to issue a warning in accordance with rule 11(2), (4) or (6); or

(d) a decision to cease consideration of an allegation upon receipt of undertakings from the practitioner in accordance with rule 10(4).

(2) The Registrar may review all or part of a decision specified in paragraph (1) on his own initiative or on the application of the practitioner, the maker of the allegation (if any) or any other person who, in the opinion of the Registrar, has an interest in the decision when the Registrar has reason to believe that—

(a) the decision may be materially flawed (for any reason) wholly or partly; or
(b) there is new information which may have led, wholly or partly, to a different decision,

but only if one or more of the grounds specified in paragraph (3) are also satisfied.

(3) Those grounds are that, in the opinion of the Registrar, a review is—

(a) necessary for the protection of the public;

(b) necessary for the prevention of injustice to the practitioner; or

(c) otherwise necessary in the public interest.

(4) The Registrar shall not, save in exceptional circumstances, commence a review of all or part of a decision specified in paragraph (1) more than two years after it was made.

(5) Where the Registrar decides to review all or part of a decision specified in paragraph (1), he shall in writing—

(a) notify the practitioner, the maker of the allegation (if any) and any other person who, in the opinion of the Registrar, has an interest in the decision of the decision to review and give reasons for that decision;

(b) notify the practitioner, the maker of the allegation (if any) and any other person who, in the opinion of the Registrar, has an interest in the decision of any new information and, where appropriate, provide them with that information; and

(c) seek representations from the practitioner, the maker of the allegation (if any) and any other person who, in the opinion of the Registrar, has an interest in the decision regarding the review of the decision,

and shall carry out any investigations which, in the opinion of the Registrar, are appropriate to facilitate the making of the decision under paragraph (6).

(6) Where the Registrar, taking account of all relevant material including that obtained under paragraph (5), concludes that all or part of a decision specified in paragraph (1) was materially flawed (for any reason) or that there is new information which would probably have led, wholly or partly, to a different decision and that a fresh decision is necessary on one or more of the grounds specified in paragraph (3), he may decide—

(a) to substitute for all or part of the original decision any decision which he could have made under Part 2 of these Rules; or

(b) that an allegation should be referred for reconsideration by the Case Examiners under rule 8, 10 or 11.

Otherwise, he must decide that the original decision should stand.

(7) Where the Registrar has reviewed all or part of a decision specified in paragraph (1), he shall notify—
(a) the practitioner;

(b) the maker of the allegation (if any); and

(c) any other person who, in the opinion of the Registrar, has an interest in receiving

the notification,

in writing, as soon as reasonably practicable, of the decision under paragraph (6) and the
reasons for that decision.

**Relevant date for the purpose of sections 35A and 35B of the Act**

13

For the purposes of sections 35A and 35B of the Act, the relevant date shall be the day on
which the earliest of the following occurs—

(a) the decision of the Registrar to carry out investigations under rule 4(4)(a) and (b)
or-7(2);

(b) the referral of an allegation to an Interim Orders Panel the MPTS for them to
arrange for it to be considered by an Interim Orders Tribunal;

(c) the referral of an allegation for consideration by the Case Examiners under rule 8;

(d) the referral of an allegation to a FTP Panel the MPTS for them to arrange for it to be
considered by a Medical Practitioners Tribunal; or

(e) the making of a direction that an assessment of the practitioner's performance or
health be carried out in accordance with Schedule 1 or 2 or that the practitioner
undertake an assessment of knowledge of English in accordance with Schedule 3.

**Part 3**

**Action Following Referral**

**Investigation following referral**

13A

After an allegation has been referred to a FTP Panel the MPTS for them to arrange for it to be
considered by a Medical Practitioners Tribunal, the Registrar may carry out such
investigations as the Registrar considers appropriate including directing that an assessment of
the practitioner's performance or health be carried out in accordance with Schedule 1 or 2 or
directing that the practitioner undertake an assessment of knowledge of English in accordance
with Schedule 3.

**Appointment of specialist advisers**

14
Before the opening of any hearing before a FTP Panel, the Registrar may in accordance with rules 3(4) and (5) select from the panels maintained for such purposes—

(a) one or more specialist health advisers;
(b) one or more specialist performance advisers; or
(c) one or more specialist health advisers and specialist performance advisers,
in order to advise the FTP Panel, as required, during the hearing.

Notice of hearing

15

(1) Subject to rule 16, as soon as reasonably practicable after an allegation has been referred to a FTP Panel the Registrar shall serve a notice of hearing on the practitioner.

(2) The notice of hearing shall—

(a) particularise the allegation against the practitioner and the facts upon which it is based;
(b) specify the date, time and venue of the hearing;
(c) inform the practitioner of his right to attend the hearing and to be represented at the hearing in accordance with rule 32;
(d) inform the practitioner of the power of the FTP Panel to proceed in his absence under rule 31;
(e) inform the practitioner of his right to adduce evidence in accordance with rule 34 and to call and cross-examine witnesses; and
(f) inform the practitioner of the FTP Panel's powers of disposal under section 35D, section 38 and section 41A of the Act.

(3) The Registrar shall give no less than 28 days' notice of the date and location of the hearing and no less than 7 days' notice of the precise time and venue of the hearing.

(4) The Registrar may give a shorter period of notice than that specified in paragraph (3) where the practitioner consents or the Registrar considers it reasonable in the public interest in the exceptional circumstances of the case.

(1) Subject to rule 16, after an allegation has been referred to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal—

(a) the Registrar must give notice to the practitioner of—

(i) the allegation against the practitioner and the facts upon which it is based; or
(ii) the matter which gave rise to the referral under [paragraph 5A(3)(a) or 
5C(3A)(a) of Schedule 4 to, or section 35A(6C) of, the Act]; and 

(b) the MPTS must by notice to the practitioner — 

(i) specify the date, time and venue of the hearing; 

(ii) inform the practitioner of his right to attend the hearing and to be 
represented at the hearing in accordance with rule 33; 

(iii) inform the practitioner of the power of the Medical Practitioners Tribunal to 
proceed in his absence under rule 31; 

(iv) inform the practitioner of his right to adduce evidence in accordance with 
rule 34 and to call and cross-examine witnesses; and 

(v) inform the practitioner of the Medical Practitioner Tribunal’s powers of 
disposal under section 35D (as appropriate), section 38 and section 41A of the Act.

(2) A notice referred to in paragraph (1) must be given by the Registrar or MPTS (as the case 
may be) at least 28 days before the hearing unless the practitioner consents or the Registrar or 
MPTS considers it in the public interest for less than 28 days’ notice to be given.

Case management

16

(1) The Registrar MPTS shall appoint one or more legally qualified Case Managers for the 
purposes of this rule.

(1A) The power to give directions under the provisions of this rule may also be exercised 
by—

(a) the chair of a Medical Practitioners Tribunal, where the chair is appointed as a 
case manager for proceedings before that Tribunal or 
(b) the Medical Practitioners Tribunal itself; 
and references to a Case Manager in these Rules are to be construed accordingly;”;

(2) Following the referral of a case to a FTP Panel for the MPTS for them to arrange for it to 
be considered by a Medical Practitioners Tribunal at —

(a) a hearing to consider an allegation in accordance with rule 17; 

(b) a review hearing to consider an allegation in accordance with rule 22; or

(c) consideration of an application for restoration in accordance with rule 24, 
the MPTS Registrar may list the matter for a case review before a Case Manager.

(3) Unless the parties agree otherwise, the practitioner shall be given no less than 14 days' 
notice of any case review.

(4) A case review may be conducted by telephone or by such other method as may be agreed 
between the parties or, where the parties fail to agree, as decided by the Case Manager.
(5) The Case Manager shall act independently of the parties and may give directions to secure the just, expeditious and effective running of proceedings before the FTP Panel.

(6) Directions issued by the Case Manager may include, but are not limited to, such of the following as he considers appropriate having regard to the nature of the allegation, any representations made by the parties and all other material factors—

(a) that each party disclose to the other in advance of the hearing —

   (i) any documentary evidence in their possession or power relating to the allegation,

   (ii) details of the witnesses (other than experts and including the practitioner) on whom they intend to rely and signed witness statements setting out the substance of their evidence,

   (iii) a curriculum vitae and an expert report in respect of any expert on whom they intend to rely, together with a written report setting out the substance of the evidence, and

   (iv) skeleton arguments;

(b) that each party provide an estimate as to the likely length of the hearing and the date or dates on which they propose that the hearing should take place;

(c) that the parties state whether or not the health of the practitioner is to be raised as an issue in the proceedings;

(d) that the practitioner indicates, so far as is practicable—

   (i) whether the allegation is admitted,

   (ii) which facts are admitted and which facts remain in dispute,

   (iii) which witness evidence is admitted and which witnesses are required for cross examination, and

   (iv) whether any preliminary legal arguments are to be made;

(e) where the allegation is admitted, a direction that the parties produce a statement of agreed facts;

(f) that a witness of fact is to give evidence-in-chief by way of oral evidence pursuant to rule 34(11);

(fa) that two or more allegations against the same practitioner or more than one practitioner are listed for consideration and determination together by the Panel Tribunal in accordance with rule 32;
(fb) where the parties agree, that the oral evidence of a witness is to be given by means of a video link or a telephone link;

(g) a direction that a particular witness of fact should be treated as a vulnerable witness, and directions as to how the evidence of such witness should be obtained or presented to the [FTP Panel Medical Practitioners Tribunal];

(h) a direction for an adjournment of the case review or an additional case review where the circumstances of the case require; and

(i) time limits for compliance with any of the directions listed above.

(j) a direction determining any preliminary legal argument (where the direction is given by the Tribunal itself);

(k) a direction that the Tribunal consider whether to admit such evidence as is specified in that direction.

(7) Within the period of 7 days beginning with the date of a case review, the Case Manager shall serve on the parties a record of the directions issued by him.

(7A) Directions issued by the Case Manager shall be binding on the parties and on any subsequent Tribunal considering the case, unless the Tribunal considers that—

(a) there has been a material change in circumstances and that it is in the interests of justice to reconsider the matter; or

(b) it is otherwise in the interests of justice to do so.

(8) A FTP Panel may draw such inferences as it considers appropriate in respect of the failure by a party to comply with directions issued by the Case Manager.

(8) A Medical Practitioners Tribunal may, in respect of the failure by a party to comply with these Rules or with directions issued by the Case Manager—

(a) draw adverse inferences;

(b) where the failure relates to the admissibility of evidence, refuse to admit the evidence; and

(c) award costs in accordance with rule [16A].

Costs

16A.

(1) A Medical Practitioners Tribunal may award costs under rule [16(8)(c)], following an application from either party or of its own initiative.
(2) A costs award made under [rule 16(8)(c)] is an order that one party or their representative (“the paying party”) pay the wasted costs of the other party (“the receiving party”), where the paying party’s conduct of the proceedings has been unreasonable.

(3) Before making a costs award, a Medical Practitioners Tribunal must receive any evidence and hear any submissions from the parties as to the costs award, in particular with regard to-

(a) the rule or case management direction which it is claimed the party has failed to comply with;

(b) the conduct which it is claimed is unreasonable;

(4) Where a Medical Practitioners Tribunal makes a costs award, it must consider and announce its decision and give its reasons for that decision.

(5) Where a costs award is made, a Case Manager shall assess the amount of costs which a paying party is liable to pay, following the conclusion of the proceedings.

(6) The amount of costs shall be assessed after-

(a) the receiving party has, within 28 days of the conclusion of the proceedings in which the costs award was made, served a schedule of costs on both –

(i) the Case Manager; and

(ii) the paying party;

(b) the paying party has, within 28 days of receipt of the receiving party’s schedule of costs, served their response in writing to that schedule and evidence of their ability to pay on both –

(i) the Case Manager; and

(ii) the receiving party;

(7) The assessment of costs under paragraph [(6)] includes the Case Manager having regard to the paying party’s ability to pay.

(8) A costs award shall be enforced in the same manner as if the award had been made by order of the county court (or, in Scotland, by decree of the sheriff court, or in Northern Ireland, by order of a county court).

Part 4
Procedure of a FTP Panel Medical Practitioners Tribunal
Procedure before a FTP Panel Medical Practitioners Tribunal

17

(1) A FTP Panel Medical Practitioners Tribunal shall consider any allegations referred to it in accordance with these Rules, and shall dispose of the case in accordance with sections 35D, 38 and 41A of the Act.

(2) The order of proceedings at the hearing shall be as follows—

   (a) the FTP Panel Medical Practitioners Tribunal shall hear and consider any preliminary legal arguments;

   (b) the Chairman of the FTP Panel Medical Practitioners Tribunal shall—

       (i) where the practitioner is present, require the practitioner to confirm his name and [GMC Reference Number], or

       (ii) otherwise, require the Presenting Officer to confirm the practitioner's name and [GMC Reference Number];

   (a) the Chair of the Medical Practitioners Tribunal must—

       (i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

       (ii) otherwise, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;

   (b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;

   (c) the Chair of the FTP Panel Medical Practitioners Tribunal must enquire whether the Presenting Officer representative for the GMC wishes to amend the particulars of the allegation, and if the Presenting Officer representative for the GMC so wishes the FTP Panel Medical Practitioners Tribunal must consider whether to amend the particulars under paragraph (3);

   (d) the Chairman of the FTP Panel Medical Practitioners Tribunal shall inquire whether the practitioner wishes to make any admissions;

   (e) where facts have been admitted, the Chairman of the FTP Panel Medical Practitioners Tribunal shall announce that such facts have been found proved;

   (f) where facts remain in dispute, the Presenting Officer representative for the GMC shall open the case for the General Council and may adduce evidence and call witnesses in support of it;
(g) the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the FTP Panel Medical Practitioners Tribunal must consider any such submissions and announce its decision as to whether they should be upheld;

(h) the practitioner may open his case and may adduce evidence and call witnesses in support of it;

(ha) the Medical Practitioners Tribunal must hear any submissions from the parties as to the facts to be found proven by the Medical Practitioners Tribunal in the light of the evidence adduced pursuant to sub-paragraphs (f) and (h);

(i) the FTP Panel Medical Practitioners Tribunal shall consider and announce its findings of fact and shall give its reasons for those findings;

(j) the FTP Panel Medical Practitioners Tribunal shall receive further evidence and hear any further submissions from the parties as to whether, on the basis of any facts found proved, the practitioner's fitness to practise is impaired;

(k) the FTP Panel Medical Practitioners Tribunal shall consider and announce its finding on the question of whether the fitness to practise of the practitioner is impaired, and shall give its reasons for that decision;

(l) the FTP Panel Medical Practitioners Tribunal may receive further evidence and hear any further submissions from the parties as to the appropriate sanction, if any, to be imposed or, where the practitioner's fitness to practise is not found to be impaired, the question of whether a warning should be imposed;

(m) [the FTP Panel Medical Practitioners Tribunal may agree as an alternative to imposing any sanction any written undertakings (including any limitations on his practice) offered by the practitioner]—

(i) which it considers to be sufficient to protect patients and protect the public interest, and

(ii) where the practitioner expressly agrees that the Registrar shall disclose details of any such undertakings (save those relating exclusively to the health of the practitioner) to—

(aa) any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;

(bb) any person from whom the practitioner is seeking such employment or such an arrangement; and

(cc) any enquirer;

(m) where a Medical Practitioners Tribunal finds that a practitioner’s fitness to practise is impaired, the General Council may agree with the practitioner that he will comply with
such written undertakings (including any limitations on his practice) as the General Council considers appropriate;

(ma) where undertakings are agreed between the General Council and the practitioner under paragraph (m), a Medical Practitioners Tribunal may take any such undertakings into account, where—

(i) the Medical Practitioners Tribunal considers such undertakings to be sufficient to protect patients and protect the public interest; and

(ii) the practitioner expressly agrees that the Registrar shall disclose details of the undertakings (save those relating exclusively to the health of the practitioner) to—

(aa) any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;

(bb) any person from whom the practitioner is seeking such employment or such an arrangement; and

(cc) any enquirer

(n) the FTP Panel Medical Practitioners Tribunal shall consider and announce its decision as to the sanction or warning, if any, to be imposed or undertakings to be taken into account and shall give its reasons for that decision;

(o) the FTP Panel Medical Practitioners Tribunal shall receive any further evidence and hear any further submissions from the parties as to whether an order for immediate suspension or immediate conditions should be imposed on the practitioner's registration, before considering and announcing whether it shall impose such an order and its reasons for that decision; and

(p) the FTP Panel Medical Practitioners Tribunal shall deal with any interim order in place in respect of the practitioner; and

(q) the Medical Practitioners Tribunal must deal with any consideration of a costs award in accordance with rule [16A].

(3) Where it appears to the FTP Panel Medical Practitioners Tribunal at any time that—

(a) the particulars of the allegation or the facts upon which it is based, of which notice has been given under rule 15, should be amended; and

(b) the amendment can be made without injustice,

it may, after hearing the parties, and consulting with the Legal Assessor, amend the particulars on appropriate terms, amend the allegation in appropriate terms.
(4) At any stage in the proceedings, before making a determination that a practitioner's fitness to practise is impaired, the FTP Panel Medical Practitioners Tribunal may, having regard to the nature of the allegation under consideration, adjourn and direct—

(a) that a specialist health adviser or specialist performance adviser be appointed to assist the FTP Panel Medical Practitioners Tribunal;

(b) that an assessment of the practitioner's performance or health be carried out in accordance with Schedule 1 or 2; or

(c) that the practitioner undertakes an assessment of knowledge of English in accordance with Schedule 3.

(5) On receipt of an assessment report produced further to a direction under paragraph (4)(b) or (c), the FTP Panel Medical Practitioners Tribunal may—

(a) proceed to consider and determine the allegation in accordance with paragraph (2); or

(b) refer the allegation to the Registrar for consideration by the Case Examiners in accordance with rule 10(2).

(6) When determining whether a practitioner's fitness to practise is impaired by reason of adverse physical or mental health, the FTP Panel Medical Practitioners Tribunal may take into account—

(a) the practitioner's current physical or mental condition;

(b) any continuing or episodic condition suffered by the practitioner; and

(c) a condition suffered by the practitioner which, although currently in remission, may be expected to cause a recurrence of impairment of the practitioner's fitness to practise.

(7) Where a practitioner has been referred under rule 7(6)(ii) for failure to comply with reasonable requirements imposed by an Assessment Team, the FTP Panel Medical Practitioners Tribunal may dispose of the case, where it considers it appropriate to do so, by suspending the practitioner's name from the register or imposing conditions on his registration in accordance with section 35D of the Act.

(7A) Where a practitioner has been referred under rule 7(6)(iii) for failure to undertake an assessment of knowledge of English, or for failure to provide the information requested in respect of that assessment the FTP Panel Medical Practitioners Tribunal may dispose of the case, where it considers it appropriate to do so, by suspending the practitioner's name from the register or imposing conditions on his registration in accordance with paragraph 5C(4) of Schedule 4 to the Act.
(8) Subject to paragraph (7) and (7A), where a practitioner has failed to submit to, or comply with, an assessment under Schedule 1 or 2, or has failed to undertake an assessment under Schedule 3 or has failed to provide the information requested in respect of that assessment, and—

(a) there is credible evidence before the FTP Panel Medical Practitioners Tribunal that the practitioner's fitness to practise is impaired;

(b) a reasonable request has been made by the Registrar to the practitioner that he undertake, submit to, or comply with the assessment, or provide information in accordance with Schedule 3 (as the case may be), and

(c) no reasonable excuse for such failure has been provided by the practitioner,

the FTP Panel Medical Practitioners Tribunal may take such failure into account in determining the question of whether the practitioner's fitness to practise is impaired.

(9) At any stage before making its decision as to sanction or warning, the FTP Panel Medical Practitioners Tribunal may adjourn for further information or reports to be obtained in order to assist it in exercising its functions.

17ZA. Procedure at a non-compliance hearing

(1) The order of proceedings at a hearing to consider a matter in accordance with [paragraph 5A(3B) or (3C) or 5C(3B) or (3C) of Schedule 4 to, or section 35A(6D) of, the Act], is to be as follows —

(a) the Chair of the Medical Practitioners Tribunal must—

(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;

(b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;

(c) the representative for the GMC must—

(i) inform the Medical Practitioners Tribunal of the background to the case,

(ii) direct the attention of the Medical Practitioners Tribunal to any relevant evidence, and may adduce evidence and call witnesses in relation to the question of whether—

(aa) the practitioner has failed to submit to, or comply with, an assessment under Schedule 1 or 2;
having submitted to an assessment under Schedule 1, the practitioner has failed to comply with requirements imposed in respect of that assessment; or

(cc) the practitioner has failed to undertake an assessment of knowledge of English in accordance with Schedule 3 or has undertaken such an assessment but has failed to provide the information requested in accordance with that Schedule; or

(dd) the practitioner has failed to provide information required from him under section 35A(1A) of the Act;

(d) the practitioner may, in response, adduce evidence and call witnesses in relation to the questions addressed by the representative for the GMC under paragraphs (c)(ii)(aa) to (dd) above;

(e) the Medical Practitioners Tribunal must consider and announce its findings on the questions addressed by the representative for the GMC under paragraph ©;

(f) the Medical Practitioners Tribunal may receive further evidence and hear any further submissions from the parties as to its decision whether to make a direction under paragraph 5A(3D) or 5C(4) of Schedule 4 to the Act;

(g) the Medical Practitioners Tribunal must consider and announce its decision as to the direction, if any, to be made and must give reasons for that decision;

(h) the Medical Practitioners Tribunal must receive any further evidence from the parties as to whether an order for immediate suspension or immediate conditions should be imposed on the practitioner’s registration, before considering and announcing whether it shall impose such an order and its reasons for that decision; and

(i) the Medical Practitioners Tribunal must deal with any interim order in place in respect of the practitioner.

Notification of determination of FTP Panel - Medical Practitioners Tribunal

17A

The Registrar shall serve notification of the determination of the FTP Panel, and the manner in which the FTP Panel has disposed of the case, on the maker of the allegation (if any).

The Registrar shall serve notification of the determination of the Medical Practitioners Tribunal, and the manner in which the Medical Practitioners Tribunal has disposed of the case, on the maker of the allegation (if any).
Part 5
Review Hearings

Application of Part 5

18

This Part shall apply to any hearing (a review hearing) at which an FTP Panel is to determine whether or not to make a direction under section 35D(5), (6), (8), (10) or (12) of the Act.

(1) This Part shall apply to any hearing (a review hearing) at which a Medical Practitioners Tribunal is to determine whether or not to make a direction—

(a) under section 35D(5), (6), (8), (10) or (12) of the Act; or

(b) under section 35D of the Act in respect of any matter referred to it under Rule 37A(3).

Functions of Registrar

19

Prior to the opening of a review hearing, the Registrar shall consider the directions made by a FTP Panel Medical Practitioners Tribunal in respect of the practitioner at any previous hearing, and may—

(a) make such inquiry or procure the production of such expert or other report as he considers necessary;

(b) invite the practitioner to undergo an assessment direct that the practitioner undergo an assessment of his performance or health in accordance with Schedule 1 or 2; or

(c) direct that the applicant undertake an assessment of knowledge of English in accordance with Schedule 3.

Notice of review hearing

20

(1) No later than 28 days before the hearing, the Registrar shall serve on the practitioner notice of the review hearing—

(a) particularising the direction made at the previous hearing and the grounds for the same;

(b) stating the matters set out at rule 15(2)(b) to (e);
(c) where an early review hearing is to be held, disclosing the information that makes such early review desirable;

(d) indicating the subsection of section 35D of the Act under which the FTP Panel is proposing to act, and the powers available to the FTP Panel under that provision;

(e) requesting the practitioner to notify the Registrar, within 14 days of the date of the notice, whether he wishes to attend the hearing; and

(f) inviting the practitioner, if he chooses not to attend the hearing, to make written representations to be received by the Registrar no later than 14 days before the hearing.

(1) No later than 28 days before the hearing -

(a) the MPTS shall give notice of the review hearing to the practitioner—

(i) specifying the direction made at the previous hearing and the grounds for the same;

(ii) stating the matters set out at rule 15(2)(b)(i) to (iv);

(iii) indicating the subsection of section 35D of the Act under which the Medical Practitioners Tribunal is proposing to act, and the powers available to the Medical Practitioners Tribunal under that provision;

(iv) requesting that the practitioner notify the MPTS, within 14 days of the date of the notice, whether he wishes to attend the hearing; and

(v) inviting the practitioner, if he chooses not to attend the hearing, to make written representations to be received by the MPTS no later than 14 days before the hearing; and

(b) the Registrar shall provide to the practitioner —

(i) a copy of any statement, report or other document which—

(aa) has not previously been sent to the practitioner or his representative; and

(bb) is relevant to the question whether a direction should be made under this Part or the terms on which it should be made;
(ii) where an early review hearing is to be held, the information that makes such an early review desirable.

(2) The notice under paragraph (1) shall be accompanied by a copy of any statement, report or other document which—

(a) has not previously been sent to the practitioner or his representative; and

(b) is relevant to the question whether a direction should be made under this Part or the terms on which it should be made.

(3) If any statement, report or other document is subsequently obtained by the General Council which is relevant to the question whether a direction should be made under this Part or the terms on which it should be made, the practitioner shall be given a reasonable opportunity of responding before the FTP Panel Medical Practitioners Tribunal makes such direction.

Early review hearing

21

The Registrar may refer a case to a FTP Panel Medical Practitioners Tribunal for an early review hearing under rule 22 or [22A], where information is received that, in the opinion of the Registrar, makes an early review hearing desirable.

Procedure following referral of a new allegation

21A

(1) If, since the previous hearing, a new allegation against the practitioner has been referred to the FTP Panel, it MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, the Tribunal shall first proceed with that allegation in accordance with rule 17(2)(a) to (i).

(2) The FTP Panel Medical Practitioners Tribunal shall thereafter proceed in accordance with rule 22 except that, when determining whether the fitness to practise of the practitioner is impaired and what direction (if any) to impose under section 35D(5), (6), (8) or (12) of the Act, it shall additionally have regard to its findings in relation to the new allegation.

Review on the papers

21B

(1) A matter which has been referred to a Medical Practitioners Tribunal for a review hearing must be considered on the papers, where the MPTS receives confirmation in writing from the practitioner and the Registrar that the parties have agreed the terms of a direction, revocation or variation which could be made under section 35D(5), (6), (8), (10) or (12) of the Act.
(2) Consideration on the papers under paragraph (1) may be carried out by the chair of the Medical Practitioners Tribunal, or the Tribunal itself.

(3) Where the chair of the Medical Practitioners Tribunal or the Tribunal itself determines that the Tribunal should hold a hearing to consider the matter and the MPTS arrange a hearing for that purpose in accordance with section 35D(13), the other provisions of this Part are to apply for the purposes of that hearing.

**Procedure at a review hearing**

22

The order of proceedings at a review hearing shall be as follows—

(a) the FTP Panel shall hear and consider any preliminary legal arguments;

(b) the Chairman of the FTP Panel shall—

(i) where the practitioner is present, require the practitioner to confirm his name and [GMC Reference Number], or

(ii) otherwise, require the Presenting Officer to confirm the practitioner's name and [GMC Reference Number];

(a) the Chair of the Medical Practitioners Tribunal must—

(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;

(b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;

(c) the Presenting Officer representative for the GMC shall—

(i) inform the FTP Panel Medical Practitioners Tribunal of the background to the case, and the sanction previously imposed,

(ii) direct the attention of the FTP Panel Medical Practitioners Tribunal to any relevant evidence, including transcripts of previous hearings, and may adduce evidence and call witnesses in relation to the practitioner's fitness to practise or his failure to comply with any requirement imposed upon him as a condition of registration;
(d) the practitioner may present his case and may adduce evidence and call witnesses in support of it;

(e) the **FTP Panel Medical Practitioners Tribunal** shall receive further evidence and hear any further submissions from the parties as to whether the fitness to practise of the practitioner is impaired or whether the practitioner has failed to comply with any requirement imposed upon him as a condition of registration;

(f) the **FTP Panel Medical Practitioners Tribunal** shall consider and announce its finding on the question of whether the fitness to practise of the practitioner is impaired or whether the practitioner has failed to comply with any requirement imposed upon him as a condition of registration, and shall give its reasons for that decision;

(g) the FTP Panel may receive further evidence and hear any further submissions from the parties as to its decision whether to make a direction under section 35D(5), (6), (8), (10) or (12) of the Act;

(h) the FTP Panel may agree as an alternative to imposing any sanction any written undertakings (including any limitations on his practice) offered by the practitioner—

(i) which it considers to be sufficient to protect patients and protect the public interest, and

(ii) where the practitioner expressly agrees that the Registrar shall disclose details of any such undertakings (save those relating exclusively to the health of the practitioner) to—

(aa) any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;

(bb) any person from whom the practitioner is seeking such employment or such an arrangement; and

(cc) any enquirer; and

(h) where a Medical Practitioners Tribunal finds that a practitioner’s fitness to practise is impaired, the General Council may agree with the practitioner that he will comply with such written undertakings (including any limitations on his practice) as the General Council considers appropriate;

(ha) where undertakings are agreed between the General Council and the practitioner under paragraph (m), a Medical Practitioners Tribunal may take any such undertakings into account, where—

(i) the Medical Practitioners Tribunal considers such undertakings to be sufficient to protect patients and protect the public interest, and
(ii) the practitioner expressly agrees that the Registrar shall disclose details of the undertakings (save those relating exclusively to the health of the practitioner) to–

(aa) any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;

(bb) any person from whom the practitioner is seeking such employment or such an arrangement; and

(cc) any enquirer;

(i) the FTP Panel Medical Practitioners Tribunal shall consider and announce its decision as to the direction, if any, to be made or undertakings to be taken into account and shall give its reasons for that decision.

(j) the Medical Practitioners Tribunal must deal with any consideration of a costs award in accordance with rule [16A].”;

(4) Where a review hearing is adjourned [under rule 29(2)], prior to the Medical Practitioners Tribunal making a finding under [rule 22(f)], the Medical Practitioners Tribunal must consider whether to may make a direction [extending the existing order] under section 35D(5)(a), (8)(a), or (12)(c) of the Act or to impose an interim order under section 41A (as appropriate) to be effective during the period before the final outcome of the review hearing has effect.

Procedure at a non-compliance review hearing

22A.

(1) The order of proceedings at a review hearing to consider a direction made under [rule 17ZA(1)(g)] is to be as follows–

(a) the Chair of the Medical Practitioners Tribunal must–

(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;

(b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;
(c) the representative for the GMC must—

(i) inform the Medical Practitioners Tribunal of the background to the case, and the sanction previously imposed;

(ii) direct the attention of the Medical Practitioners Tribunal to any relevant evidence and may adduce evidence and call witnesses in relation to the practitioner's failure [or otherwise] to submit to or comply with an assessment under Schedule 1, 2 or 3, or a request for information under Schedule 3 or section 35A(1A) of the Act (as the case may be);

(d) the practitioner may, in response, adduce evidence and call witnesses in relation to the questions addressed by the representative for the GMC under paragraph (c);

(e) the Medical Practitioners Tribunal must receive further evidence and hear any further submissions from the parties in relation to the questions addressed by the representative for the GMC under paragraphs (c)(i) and (ii);

(f) the Medical Practitioners Tribunal must consider and announce its finding on the questions addressed by the representative for the GMC under paragraphs (c)(i) and (ii) and shall give its reasons for that decision;

(g) the Medical Practitioners Tribunal may receive further evidence and hear any further submissions from the parties as to its decision whether to make a direction under section 35D(5), (6), (10) or (12) of the Act;

(h) the Medical Practitioners Tribunal must consider and announce its decision as to the direction, if any, to be made and must give reasons for that decision; and (i) where the decision under paragraph [(g)] is not to make a direction under section 35D(5), (6), (10) or (12) the Medical Practitioners Tribunal [must/may] consider whether to impose an interim order.

Part 6

Restoration to the Register

Action on receipt of a restoration application

23

(1) Upon receipt of an application for restoration made under section 41 of the Act, the Registrar may—
(a) make such investigations, and obtain such information, documents or reports as he considers appropriate; ——

(b) direct the applicant to undergo an assessment of his performance or health in accordance with Schedule 1 or 2; or

(c) direct that the applicant undertake an assessment of knowledge of English in accordance with Schedule 3.

(2) No later than 28 days before the hearing before a FTP Panel to consider his application, the Registrar shall serve on the applicant notice of the hearing—

(a) stating the matters set out at rule 15(2)(b) to (e);

(b) requesting the applicant to notify the Registrar, within 14 days of the date of the notice, whether he wishes to attend the hearing; and

(c) inviting the applicant, if he chooses not to attend the hearing, to make written representations to be received by the Registrar no later than 14 days before the hearing;

(d) where the applicant has made a previous unsuccessful application, informing him of the FTP Panel’s power to suspend indefinitely his right to make further applications for restoration under section 41(9) of the Act; and

(e) where the applicant has made a previous unsuccessful application and chooses not to attend the hearing, inviting him to make written representations on the issue of indefinite suspension of his right to make further applications, to be received by the Registrar no later than 14 days before the hearing.

(3) The notice under paragraph (2) shall be accompanied by a copy of any statement, report or other document which—

(a) has not previously been sent to the applicant or his representative; and

(b) is relevant to the question whether his name should be restored to the register.

(4) If any statement, report or other document is subsequently obtained by the General Council which is relevant to the FTP Panel’s decision whether to direct that the applicant’s name be restored to the register, the applicant shall be given a reasonable opportunity of responding before the FTP Panel makes its decision.

(1) Upon receipt of an application for restoration made under section 41 of the Act—,

(a) the Registrar must refer the matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and

(b) the Registrar may—

(i) make such investigations, and obtain such information, documents or reports as he considers appropriate;
(ii) direct that the applicant undergo an assessment of his performance or health in accordance with Schedule 1 or 2;

(iii) direct that the applicant undertake an assessment of knowledge of English in accordance with Schedule 3.

(2) At least 28 days before the hearing before a Medical Practitioners Tribunal to consider his application, the MPTS shall give the applicant a notice complying with paragraph (3).

(3) The notice referred to in paragraph (2) must—

(a) specify the matters set out at rule 15(2)(b)(i) to (iv);

(b) request that the applicant notify the MPTS, within 14 days of the date of the notice, whether he wishes to attend the hearing; and

(c) invite the applicant, if he chooses not to attend the hearing, to make written representations to be received by the MPTS no later than 14 days before the hearing;

(d) where the applicant has made a previous unsuccessful application, inform him of the Medical Practitioners Tribunal's power to suspend indefinitely his right to make further applications for restoration under section 41(9) of the Act; and

(e) where the applicant has made a previous unsuccessful application and chooses not to attend the hearing, invite him to make written representations on the issue of indefinite suspension of his right to make further applications, to be received by the MPTS no later than 14 days before the hearing.

(4) The Registrar shall provide to the applicant a copy of any statement, report or other document he has obtained which has not previously been sent to the applicant or his representative and which is relevant to the question whether his name should be restored to the register.

(5) If any statement, report or other document is subsequently obtained by the General Council which is relevant to the Medical Practitioners Tribunal’s decision whether to direct that the applicant's name be restored to the register, the applicant shall be given a reasonable opportunity of responding before the Medical Practitioners Tribunal makes its decision.
Procedure at a restoration hearing

24

(1) The FTP Panel Medical Practitioners Tribunal shall consider an application in accordance with the procedure set out in this Rule.

(2) The order of proceedings at a hearing to determine an application shall be as follows—

(a) the FTP Panel shall hear and consider any preliminary legal arguments;

(b) the Chairman of the FTP Panel shall—

(i) where the applicant is present, require the applicant to confirm his name and [GMC Reference Number], or

(ii) otherwise, require the Presenting Officer to confirm the applicants name and [GMC Reference Number];

(a) the Chair of the Medical Practitioners Tribunal must—

(i) where the applicant is present, require the applicant to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the applicants name and GMC Reference Number;

(b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments

(c) the Presenting Officer representative for the GMC shall—

(i) address the FTP Panel Medical Practitioners Tribunal as to the background to the case and the circumstances in which the applicant's name was erased from the register,

(ii) direct the attention of the FTP Panel Medical Practitioners Tribunal to any relevant evidence, including transcripts of previous hearings, and may adduce evidence and call witnesses in relation to the practitioner's fitness to practise;

(d) the applicant may address the FTP Panel Medical Practitioners Tribunal and adduce evidence and call witnesses in relation to any relevant matter, including his suitability for restoration to the register;

(e) the FTP Panel Medical Practitioners Tribunal may receive further evidence and hear any further submissions from the parties as to its decision whether to grant or refuse the application;
(f) the **FTP Panel Medical Practitioners Tribunal** shall then consider and announce whether to grant or refuse the application, and shall give its reasons for that decision;

(g) before reaching a decision under sub-paragraph (f), the **FTP Panel Medical Practitioners Tribunal** may adjourn and give such directions as it sees fit, including that the applicant should undergo (at his own cost) an assessment of his performance or health in accordance with Schedule 1 or 2 or undertake an assessment of knowledge of English in accordance with Schedule 3;

(h) where the **FTP Panel Medical Practitioners Tribunal** adjourns under sub-paragraph (g), it shall—

   (i) consider any assessment reports produced further to a direction under sub-paragraph (g), together with any other relevant evidence and reports, and

   (ii) invite further representations and evidence from the parties,

before reaching a decision as to whether the applicant should be restored to the register; and

(i) before deciding whether or not to make a direction to suspend indefinitely the applicant's right to make further applications for restoration under section 41(9) of the Act, the **FTP Panel Medical Practitioners Tribunal** shall—

   (i) consider any representations made and evidence received, and

   (ii) where the applicant is present, invite further representations and evidence from him specifically upon this issue.

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**Part 7**

**Interim Orders**

**Initial consideration**

25

(1) This Part applies where an allegation has been referred to an Interim Orders Panel by the Registrar for consideration as to whether to make or review an interim order.

(1) This Part applies where an allegation has been referred by the Registrar to the MPTS for them to arrange for an Interim Orders Tribunal to consider whether to make or review an interim order.

(2) Where an interim order has previously been made in respect of a practitioner the Registrar—

   (a) shall refer the case to the **Interim Orders Panel** for the MPTS for them to arrange for it to be considered by an Interim Orders Tribunal for the purposes of subsection (2)(a) or (9) of section 41A of the Act; or
(b) may refer the case to an Interim Orders Panel the MPTS for them to arrange for it to be considered by an Interim Orders Tribunal where new information is received by the General Council which, in his opinion, suggests that the interim order imposed on the practitioner's registration ought to be reviewed.

Notice of hearing

26

(1) Prior to the initial or any review hearing relating to an interim order, the Registrar shall serve on the practitioner—

(a) a notice of hearing;

(b) a copy of any written evidence obtained by the General Council which is relevant to the question of whether or not an interim order should be made or reviewed; and

(c) in relation to a review hearing, a copy of the order to be reviewed,

in such time before the hearing as is reasonable in the circumstances of the case.

(2) The notice of hearing shall—

(a) inform the practitioner of the allegation and the facts upon which it is based;

(aa) specify the date, time and venue of the hearing;

(ab) inform the practitioner of the practitioner's right to appear before the Interim Orders Panel and be heard, and to be represented in accordance with rule 32;

(b) inform the practitioner of the power of the Interim Orders Panel to proceed in his absence under rule 31;

(c) set out briefly the reasons why it is necessary to make or review an interim order;

(d) inform the practitioner of the Interim Orders Panel's powers of disposal under section 41A of the Act;

(e) request the practitioner to notify the Registrar as soon as possible whether he intends to attend the hearing; and

(f) invite the practitioner, if he chooses not to attend the hearing, to submit any written representations, within such period as is reasonable in the circumstances and as is specified in the notice, to the Registrar.

(1) Prior to the initial or any review hearing relating to an interim order—

(a) the Registrar shall—
(i) set out the reasons why it is necessary to make or review an interim order;

(ii) provide a copy of any written evidence obtained by the General Council which is relevant to the question of whether or not an interim order should be made or reviewed; and

(iii) in relation to a review hearing, provide a copy of the order to be reviewed; and

(b) the MPTS shall—

(i) give notice to the practitioner of the date, time and venue of the hearing;

(ii) inform the practitioner of the practitioner's right to appear before the Interim Orders Tribunal and be heard, and to be represented in accordance with rule 33;

(iii) inform the practitioner of the power of the Interim Orders Tribunal to proceed in his absence under [rule 31];

(iv) inform the practitioner of the Interim Orders Tribunal's powers of disposal under section 41A of the Act;

(v) request the practitioner to notify the MPTS as soon as possible whether he intends to attend the hearing; and

(vi) invite the practitioner, if he chooses not to attend the hearing, to submit any written representations, within such period as is reasonable in the circumstances and as is specified in the notice, to the MPTS.

in such time before the hearing as is reasonable in the circumstances of the case.

**Interim order review on the papers**

**26A.**

(1) A matter which has been referred to an Interim Orders Tribunal for a review hearing must be considered on the papers, where the MPTS receives confirmation in writing from the practitioner and the GMC that the parties have agreed to the terms of an order which could be made under section 41A(3) of the Act, which may include the maintenance, revocation or variation of an existing order.
(2) Consideration on the papers under paragraph (1) may be carried out by the chair of the Interim Orders Tribunal or the Tribunal itself.

(3) Where, the chair of the Interim Orders Tribunal or the Tribunal itself determines that the Tribunal should hold a hearing to consider the matter and the MPTS arrange a hearing for that purpose in accordance with section 41A(4A), the other provisions of this Part are to apply for the purposes of that hearing.

Procedure at an interim orders hearing

27

(1) At the hearing, the Interim Orders Panel Interim Orders Tribunal may, subject to paragraphs (2) and (3), receive any evidence which appears to it to be fair and relevant to its consideration under section 41A(1), (2) or (3) of the Act.

(2) No person shall give oral evidence at the hearing unless the Interim Orders Panel Interim Orders Tribunal consider such evidence is desirable necessary to enable it to discharge its functions.

(3) The Interim Orders Panel Interim Orders Tribunal may, at any stage in the proceedings—
   (a) with the consent of the practitioner; or
   (b) where, after consultation with the Legal Assessor, it is satisfied that to do so would be desirable to enable it to discharge its functions,

allow a party to produce at the hearing any written evidence, notwithstanding that a copy has not been provided to the other party before the hearing or that its author is not being called as a witness.

(4) At an interim orders hearing—
   (a) the Interim Orders Panel Interim Orders Tribunal shall hear and consider any preliminary legal arguments;
   (b) the Chairman of the Interim Orders Panel shall announce that the hearing has commenced and shall—
      (i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or
      (ii) otherwise, require the Presenting Officer to confirm the practitioner’s name and GMC Reference Number;
   (a) the Chair of the Interim Orders Tribunal shall announce that the hearing has commenced and must—
(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;

(b) the Interim Orders Tribunal must consider and determine any preliminary legal arguments;

(c) the Presenting Officer representative for the GMC shall address the Interim Orders Panel Interim Orders Tribunal regarding whether it is necessary to make or review an interim order in respect of the practitioner and, subject to paragraphs (1) to (3), may adduce evidence in this regard;

(d) the practitioner may present his case and, subject to paragraphs (1) to (3), may adduce evidence in support of it;

(e) the parties and members of the Interim Orders Panel Interim Orders Tribunal may put questions to any witness;

(f) where the practitioner gives oral evidence, the Presenting Officer representative for the GMC and members of the Interim Orders Panel Interim Orders Tribunal may put questions to him; and

(g) the Interim Orders Panel Interim Orders Tribunal shall announce its decision, and shall give its reasons for that decision.

(5) The Interim Orders Panel Interim Orders Tribunal may vary the order of proceedings under paragraph (4) where it is in the interests of justice to do so.

(6) Where —

(a) an interim order is being reviewed by an Interim Orders Panel Interim Orders Tribunal; and

(b) the hearing is, or is likely to be, the last such hearing before the expiry of the interim order,

the Interim Orders Panel may, after making its determination, notify the Registrar that an application should be made to the relevant court for the interim order to be extended under section 41A(6) of the Act.

Part 8
General

Cancellation of a hearing Withdrawal of a matter
(1) Where, after an allegation has been referred to the Committee and before the opening of the hearing before the Committee—

(a) the practitioner withdraws their request for an oral hearing; or

(b) it appears to the Registrar for some other reason that the hearing should not be held,

the Registrar may refer the matter to a medical or a lay Case Examiner for a decision as to whether or not the hearing should be cancelled matter (or part of it) should be withdrawn).

(2) Where, after an allegation has been referred to a Panel and before the opening of the hearing before the Panel—

(a) evidence becomes available to the Registrar that suggests that the practitioner's fitness to practise is not impaired;

(b) in the case of proceedings under Part 7, evidence becomes available to the Registrar that suggests that the Interim Orders Panel need not consider whether to make or review an interim order; or

(c) it appears to the Registrar for some other reason that the hearing before the Panel should not be held,

the Registrar may refer the matter to [a medical or a lay Case Examiner] for a decision as to whether or not the hearing should be cancelled.

(3) When considering whether to cancel a hearing under paragraph (1) or (2), the Case Examiner may—

(a) decide that the hearing should proceed on the basis of some or all of the particulars alleged;

(b) decide to cancel the hearing; or

(c) decide that the allegation should be referred for consideration [by a medical and a lay Case Examiner under rule 10 or 11].

(2) Where paragraph (3) applies, a Case Examiner may decide that-

(a) all or part of a matter referred to in that paragraph should be withdrawn, or

(b) in the case of a matter referred to a Medical Practitioners Tribunal (other than in accordance with paragraph 5A(3B) or (3C) or 5C(3B) or (3C) of Schedule 4 to, or section 35A(6D) of, the Act) the matter should be referred for consideration by a medical and lay Case Examiner under rule 10 or 11.
(3) This paragraph applies where, after a matter has been referred to a Medical Practitioners Tribunal or Interim Orders Tribunal and before the opening of the hearing before the Tribunal, a Case Examiner is of the opinion that the matter (or part of it) should not be considered by a Medical Practitioners Tribunal or that an Interim Orders Tribunal should not consider making an order.

(4) Where a decision is taken under paragraph (3) of this rule, the Registrar shall, as soon as is reasonably practicable, serve notice of the decision in writing upon the practitioner and the maker of the allegation (if any), and shall give the reasons for the decision in the notice.

Postponements and adjournments

29

(1) Before the opening of any hearing of which notice has been served on the practitioner in accordance with these rules—

(a) in the case of a Committee hearing, a member of the Committee may, of the member's own motion or upon the application of a party to the proceedings, postpone the hearing until such time and date as the member thinks fit; or

(b) in the case of a Panel Tribunal hearing, the Case Manager may, of the Case Manager's own motion or upon the application of a party to the proceedings, postpone the hearing until such time and date as the Case Manager thinks fit.

(2) Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Panel Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.

(2A) Where a hearing, other than a review hearing under rule 22 has been adjourned under paragraph (2), the Case Manager may, upon the application of a party to the proceedings, further adjourn the hearing until such time and date as the Case Manager thinks fit.

(3) No hearing shall be postponed or adjourned under paragraphs (1) or (2) unless the parties have been given a reasonable opportunity to make representations on the matter.

(4) Where a hearing has been postponed or adjourned, the Registrar MPTS shall, as soon as practicable, notify the parties of the time, date and place at which the hearing is to take place or to resume.

(5) Where, on the resumption of an adjourned Committee or Panel Tribunal hearing, a panellist or tribunal member will not be present who was present prior to the adjournment or a panellist will be present who was not present prior to the adjournment, the Committee or Panel (as the case may be) may, having taken into account any representations made by or on behalf of the parties, issue such directions as they consider necessary in the interests of justice about the following—
(a) the stage at which the hearing is to be resumed; and

(b) any special procedure which must be followed (including varying an existing direction or the order of proceedings under these Rules).

**Preliminary legal arguments**

**30**

Where the Committee or a Panel Tribunal considers and determines any preliminary legal argument, such determination is to bind any subsequent Committee or Panel Tribunal considering the case notwithstanding that any panellist present at the original hearing is not present at the subsequent hearing, or that any panellist present at the subsequent hearing was not present at the original hearing, unless the subsequent Committee or Panel Tribunal considers that—

(a) there has been a material change in circumstances and that it is in the interests of justice to reconsider the matter; or

(b) it is otherwise in the interests of justice to do so.

**Absence of the practitioner**

**31**

Where the practitioner is neither present nor represented at a hearing, the Committee or Panel Tribunal may nevertheless proceed to consider and determine the allegation if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.

**Joinder**

**32**

The Committee or Panel Tribunal may, after having regard to any relevant directions given by a Case Manager, consider and determine together—

(a) two or more allegations against the same practitioner which fall within—

(i) the same category; or

(ii) separate categories,

of impairment as set out in sections 35C(2)(a) to (e) of the Act; or

(b) allegations against two or more practitioners,

where it would be just to do so.

**Representation**
(1) At a hearing, the practitioner may be represented by—

(a) a solicitor or counsel;

(b) a representative from any professional organisation of which he is a member; or

(c) at the discretion of the Committee or Panel Tribunal, a member of his family or other suitable person.

(2) A person who gives evidence at a hearing shall not be entitled to represent or accompany the practitioner at that hearing.

(3) The practitioner (either in person or by a representative under paragraph (1)) and the Presenting Officer representative for the GMC shall be entitled to be heard by the Committee or Panel.

Evidence

34

(1) . . . The Committee or a Panel Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.

(2) . . .

(3) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.

(4) Production of a certificate signed by an officer of a regulatory body that has made a determination about the fitness to practise of a person shall be conclusive evidence of the facts found proved in relation to that determination.

(5) The only evidence which may be adduced by the practitioner in rebuttal of a conviction or determination certified in the manner specified in paragraph (3) or (4) is evidence for the purposes of proving that he is not the person referred to in the certificate or extract.

(6) The practitioner may admit a fact or description of a fact, and a fact or description of a fact so admitted may be treated as proved.

(7) A copy of a document of which the original is admissible may be received by the Committee or a Panel Tribunal without strict proof.

(8) A party may, at any time, serve notice on the other party to produce the original or a copy of any document that is—
(a) relevant to the proceedings; and

(b) alleged to be in the possession, ownership or control of that party,

and such notice may be admitted into evidence by the Committee or Panel Tribunal.

(9) In relation to proceedings before the Committee or a FTP Panel Medical Practitioners Tribunal, unless otherwise agreed between the parties or directed by a Case Manager, each party shall not less than 28 days before the date of a hearing—

(a) provide to the other party a list of every document which he proposes to introduce as evidence; [and]

(b) provide to the other party a copy of every document listed in paragraph (a) which the other party has not previously received; . . .

(c) . . .

(9A) Within 14 days of a list or document being provided under paragraph (9), the party to whom it is provided (“the receiving party”) must notify the other party if the receiving party requires any relevant person to attend to give oral evidence or to be available for cross-examination in relation to the subject matter of or making of any document.

(9B) Where a document that is the subject of a notification under paragraph (9A) is a witness statement and the receiving party intends to apply to the Committee or Panel Tribunal under paragraph (11)(c) for the witness concerned to give evidence-in-chief by way of oral evidence, the notification must include a notice to that effect and give reasons for the intended application.

(10) Where one party notifies the other under paragraph [(9A)] that he requires a relevant person to attend to give oral evidence [in relation to the subject matter of or making of a document other than a signed witness statement containing a statement of truth], the document concerned may nonetheless be received into evidence without such oral evidence where the Committee or FTP Panel is of the view that, having regard to all the circumstances (including the difficulty or expense of obtaining such attendance) and the justice of the case, it is proper to do so.

(11) A Committee or Panel Tribunal must receive into evidence a signed witness statement containing a statement of truth as the evidence-in-chief of the witness concerned, unless—

(a) the parties have agreed;

(b) a Case Manager has directed; or

(c) the Committee or Panel Tribunal decides, upon the application of a party or of its own motion,

that the witness concerned is to give evidence-in-chief by way of oral evidence.
(12) The standard of proof in any proceedings before the Committee or a Panel Medical Practitioners Tribunal is that applicable to civil proceedings.

(13) A party may, at any time during a hearing, make an application to the Committee or Panel Tribunal for the oral evidence of a witness to be given by means of a video link or a telephone link.

(14) When considering whether to grant an application by a party under paragraph (13), the Committee or Panel Tribunal must—

(a) give the other party an opportunity to make representations;

(b) have regard to—

(i) any agreement between the parties, or

(ii) in the case of a Panel Tribunal hearing, any relevant direction given by a Case Manager; and

(c) only grant the application if the Committee or Panel Tribunal consider that it is in the interests of justice to do so.

Witnesses

35

(1) Witnesses shall be required to take an oath, or to affirm, before giving oral evidence at a hearing.

(2) Subject to rule 36, witnesses—

(a) if giving oral evidence-in-chief, shall first be examined by the party calling them;

(b) may . . . be cross-examined by the opposing party;

(c) may . . . be re-examined by the party calling them; and

(d) may at any time be questioned by the Committee or Panel Tribunal and, with the leave of the Chairman at the hearing, a specialist health adviser or specialist performance adviser.

(3) Any further questioning of the witnesses by the parties shall be at the discretion of the Committee or Panel Tribunal.

(4) The Committee or Panel Tribunal may, upon the application of a party, agree that the identity of a witness should not be revealed in public.

(5) The Committee or Panel Tribunal may, on the application of a party or of its own motion, require a witness to attend a hearing and the relevant party shall exercise its power to compel attendance under paragraph 2 of Schedule 4 to the Act accordingly.
(6) A witness of fact shall not, without leave of the Committee or Panel-Tribunal, be entitled to give evidence at a hearing unless he has been excluded from the proceedings until such time as he is called.

Vulnerable witnesses

36

(1) In proceedings before the Committee or a Panel-Tribunal, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

(a) any witness under the age of 17 at the time of the hearing;
(b) any witness with a mental disorder within the meaning of the Mental Health Act 1983;
(c) any witness who is significantly impaired in relation to intelligence and social functioning;
(d) any witness with physical disabilities who requires assistance to give evidence;
(e) any witness, where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim; and
(f) any witness who complains of intimidation.

(2) Upon hearing representations from the parties, the Committee or Tribunal must adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee or Panel-Tribunal may include, but shall not be limited to—

(a) use of video links;
(b) use of pre-recorded evidence as the evidence-in-chief of a witness, provided always that such witness is available at the hearing for cross-examination and questioning by the Committee or Panel-Tribunal;
(c) use of interpreters (including signers and translators) or intermediaries;
(d) use of screens or such other measures as the Committee or Panel-Tribunal consider necessary in the circumstances, in order to prevent—

(i) the identity of the witness being revealed to the press or the general public; or
(ii) access to the witness by the practitioner; and

(c) the hearing of evidence by the Committee or Panel Tribunal in private.

(4) Where—

(a) the allegation against a practitioner is based on facts which are sexual in nature;

(b) a witness is an alleged victim; and

(c) the practitioner is acting in person,

the practitioner shall not without the written consent of the witness be allowed to cross-examine the witness in person.

(5) In the circumstances set out in paragraph (4), in the absence of written consent, the practitioner shall no less than 7 days before the hearing appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the General Council MPTS shall appoint such person on behalf of the practitioner.

**Record of decisions of the Committee or Panel Tribunal**

37

The Committee or Panel Tribunal must—

(a) record in writing their decision and the reasons for their decision; and

(b) provide a copy of the decision and reasons to the Registrar.

**Panel Tribunal undertakings**

37A

(1) Where undertakings have been agreed under rule 17(2)(m) or 22(h), the Registrar may carry out any investigations, which may include (but are not limited to) requesting the provision of reports or directing an assessment be carried out in accordance with Schedule 1 or 2 or directing that the practitioner undertake an assessment of knowledge of English in accordance with Schedule 3, that are, in the Registrar's opinion, appropriate to the consideration of—

(a) whether the practitioner has complied with any undertakings in place; or

(b) the practitioner's fitness to practise.

(2) Where, as a result of information received by the General Council, it appears to the Case Examiners that any undertakings agreed under rule 17(2)(m) or 22(h) should be varied or cease to apply, they shall inform the Registrar accordingly and the Registrar shall—

(a) invite the practitioner to comply with such varied undertakings as appear to the Case Examiners to be appropriate; or
(b) direct that the undertakings should no longer apply.

(3) Where the Registrar receives information that—

(a) the practitioner has failed to observe an undertaking agreed under rule 17(2)(m) or 22(h) or which, having been agreed under rule 17(2)(m) or 22(h), has been varied following an invitation to comply with it under paragraph (2)(a); or

(b) the practitioner's health or performance has deteriorated, or otherwise gives rise to further concern regarding their fitness to practise;

the Registrar may refer the matter to a FTP Panel at a review hearing under Part 5 of these Rules.

(3) Where the Registrar receives information that—

(a) the practitioner has not within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) agreed to comply with the undertakings with which the practitioner was invited to comply under paragraph (2)(a);

(b) the practitioner has failed to observe an undertaking agreed under rule 17(2)(m) or 22(h) or which, having been agreed under rule 17(2)(m) or 22(h), has been varied following an invitation to comply with it under paragraph (2)(a); or

(c) the practitioner's health, performance or knowledge of English has deteriorated, or otherwise gives rise to further concern regarding their fitness to practise;

the Registrar may refer the matter to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal under Part 5 of these Rules.

**Voting**

38

(1) Decisions of the Committee or of a Panel Tribunal shall be taken by simple majority.

(2) No Chair of the Committee or Panel Tribunal may exercise a casting vote.

(3) No member of the Committee or Panel Tribunal may abstain from voting.

(4) Subject to paragraph (5), where the votes are equal, the Committee or Panel Tribunal shall decide the issue under consideration in favour of the practitioner.

(5) Where a FTP Panel Medical Practitioners Tribunal is considering—

(a) an application to restore a practitioner's name to the register; or

(b) submissions made by the practitioner under rule 17(2)(g),
and the votes are equal, it shall decide the issue against the practitioner.

Notes and transcript of proceedings

39

(1) The Registrar shall arrange for the proceedings of the Committee or Panel to be recorded by electronic means or otherwise.

(2) Any party to the proceedings shall, on application to the Registrar, be furnished with a copy of the record of any part of the proceedings at which he was entitled to be present.

(3) Paragraphs (1) and (2) shall not apply to the deliberations of the Committee or Panel.

(1) The Registrar shall arrange for the proceedings of the Committee to be recorded by electronic means or otherwise.

(2) The MPTS shall arrange for the proceedings of the Tribunal to be recorded by electronic means or otherwise.

(3) Any party to the proceedings shall, on application to the Registrar or MPTS (as the case may be), be furnished with a copy of the written transcript of any part of the proceedings at which he was entitled to be present.

(4) Paragraphs (1) to (3) shall not apply to the deliberations of the Committee or Tribunal.

Service of notices and documents

40

(1) Any notice of hearing required to be served upon the practitioner under these Rules shall be served in accordance with paragraph 8 of Schedule 4 to the Act.

(2) Subject to paragraph (1), any notice or document required to be served upon the practitioner under these Rules may be served—

   (a) by ordinary post; or

   (b) by electronic mail to an electronic mail address that the practitioner has notified to the Registrar as an address for communications.

(3) If the practitioner is represented by—

   (a) a solicitor, the notice or document may also be—

      (i) sent or delivered to the solicitor's practising address, or

      (ii) sent by electronic mail to an electronic mail address of the solicitor; or

   (b) a trade union or defence organisation, the notice or document may also be—
(i) sent or delivered to the trade union or defence organisation's business address; or

(ii) sent by electronic mail to an electronic mail address of the trade union or defence organisation,

where the address has been notified to the Registrar as an address for communications.

(4) The service of any notice or document under these Rules may be proved by—

(a) a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service;

(b) a confirmation of receipt of the notice or document sent by electronic mail; or

(c) a signed statement from any person serving the notice or document confirming that the notice or document was delivered to, sent to or left at—

(i) the practitioner's proper address,

(ii) the practising address or electronic mail address of the practitioner's solicitor, or

(iii) the business address or electronic mail address of the practitioner's trade union or defence organisation.

Attendance of the public

41

(1) Subject to paragraphs (2) to (6) below, hearings before the Committee and a FTP Panel Medical Practitioners Tribunal shall be held in public.

(2) The Committee or FTP Panel Medical Practitioners Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public.

(3) Subject to paragraphs (4) to (6), the Committee or a Panel–Tribunal shall sit in private, where they are considering—

(a) whether to make or review an interim order; or

(b) the physical or mental health of the practitioner.

(4) Where it is considering an allegation, the FTP Panel Medical Practitioners Tribunal may revoke an interim order in public.

(5) A Panel–Tribunal shall, where it is considering matters under paragraph (3)(a), sit in public where the practitioner requests it to do so.
(6) Subject to paragraph (5), the Committee or Panel Tribunal may, where they are considering matters under paragraph (3)(a) or (b), hold a hearing in public where they consider that to do so would be appropriate, having regard to—

(a) the interests of the maker of the allegation (if any);
(b) the interests of any patient concerned;
(c) whether a public hearing would adversely affect the health of the practitioner; and
(d) all the circumstances, including the public interest.

(7) The Committee or Panel Tribunal may deliberate in camera, in the absence of the parties and of their representatives and of the public, at any time.

Exclusion from proceedings

42

The Committee or Panel Tribunal may exclude from any hearing any person whose conduct, in their opinion, is likely to disrupt the orderly conduct of the proceedings.

Consequential amendments

43

In rule 3 of the General Medical Council (Suspension and Removal of Members from Office) Rules 2004—

(a) in paragraphs (3)(1)(b) and (2), “section 38 or 41A of the Act” shall be substituted for “section 38, 41A or 41B of the Act”; and

(b) in paragraph (3)(b)(ii), “section 35D of the Act” shall be substituted for “section 36, 36A or 37 of the Act”.

Revocation

44

The General Medical Council (Interim Orders Committee) (Transitional Provisions) Rules 2000 are hereby revoked.
SCHEDULE 1
Performance Assessments

Rules 2, 3(1)(a), 7(3) to (6), 10(1), 10(5)(b), 11(7)(d), 13(e), 17(4)(b), 17(8), 19(b), 23(1)(b) and 24(2)(g)

Interpretation

1
In this Schedule “assessment” means an assessment of the standard of the practitioner's professional performance

1A
In this Schedule a reference to the standard of the practitioner's professional performance includes the standard of the practitioner's knowledge of English, in particular, whether the practitioner has the necessary knowledge of English.

Assessment Teams

2
(1) An assessment shall be carried out by an Assessment Team.

(2) The Registrar shall select from the panel of performance assessors appointed under rule 3, an Assessment Team comprising—

(a) a team leader, who shall be a medical performance assessor;

(b) one or more other medical performance assessors; and

(c) one or more lay performance assessors.

(3) A person shall not be selected as a member of an Assessment Team in any case where he has been selected to act as a specialist adviser at a previous hearing of the case.

(4) In selecting a medical performance assessor as a member of an Assessment Team, the Registrar shall have regard to the specialty to which the allegation relates.

Proceedings and procedures of Assessment Teams

3
(1) Subject to sub-paragraphs (2) to (4) and any directions given by the Registrar under paragraph [5A(2)] of Schedule 4 to the Act, and having regard to the nature of the practitioner's employment, the Assessment Team or individual performance assessor (as the case may be) shall adopt such procedures as appear to it to be necessary in order to assess the standard of the practitioner's professional performance.
(2) The Assessment Team or individual performance assessor (as the case may be) may seek advice or information from any person who might, in the opinion of the Assessment Team, assist them in carrying out the assessment.

(2A) For the purposes of assessing the standard of a practitioner's professional performance, the Assessment Team or individual performance assessor (as the case may be) may direct, in accordance with the provisions set out in Schedule 3, a practitioner to undertake an assessment of knowledge of English.

(3) The Assessment Team or individual performance assessor (as the case may be) shall disclose to the practitioner any written information or opinion received by the Assessment Team or individual performance assessor (as the case may be) which in their opinion may influence their assessment of the standard of his professional performance, and shall afford him a reasonable opportunity to respond.

(4) The Assessment Team or individual performance assessor (as the case may be) shall produce a report on the standard of the practitioner's professional performance which must express —

   (a) an opinion as to whether the practitioner is fit to practise either generally or on a limited basis; and

   (b) any recommendations as to the management of the case.

(5) Where the practitioner has undertaken an assessment of knowledge of English following a direction under these Rules given by the Registrar under paragraph 5A(2)(b) of Schedule 4 to the Act the results of the assessment must be included in the report referred to under sub-paragraph (4).

(6) An assessment of a person’s knowledge of English, directed by the Registrar as part of an assessment of the person’s professional performance under this Schedule is to be undertaken in accordance with the provisions set out in Schedule 3.
SCHEDULE 2
Health Assessments

Rules 2, 3(1)(b), 7(3), 7(4), 7(6), 10(1), 10(5)(b), 11(7)(d), 13(e), 17(4)(b), 17(8), 19(b), 23(1)(b), 24(2)(g)

1
In this Schedule “assessment” means an assessment of the physical or mental condition of the practitioner.

2
The Registrar shall invite directly the practitioner within 14 days to agree to attend before two medical examiners selected by the Registrar from the panel appointed under rule 3 for the purposes of assessing the practitioner's physical or mental condition.

3
The Registrar must make arrangements for any assessment directed under paragraph (2) to be carried out.

If the practitioner accepts the invitation under paragraph (2) within 14 days from the date of such invitation (or such further period as the Registrar may allow) the Registrar shall make arrangements for the assessments to be carried out.

4
The medical examiners shall each be required to prepare a report on the practitioner's physical or mental condition which shall express—

(a) an opinion as to whether the practitioner is fit to practise either generally or on limited basis; and

(b) any recommendations as to the management of the case.
SCHEDULE 3
Knowledge of English Assessments

1
The Registrar, Assessment Team or FTP Panel Medical Practitioners Tribunal (as the case may be) may direct the practitioner to—

(a) undertake an assessment of knowledge of English and;

(b) to provide information in respect of that assessment as specified in the direction.

2
Where a direction is made under paragraph 1, the Registrar, Assessment Team or FTP Panel Medical Practitioners Tribunal (as the case may be), must without delay serve a notice on the practitioner—

(a) requiring the practitioner to undertake an assessment of knowledge of English within such period as shall be specified in the notice, which period shall be no shorter than 30 days, and no longer than 90 days, beginning with the date of the notice, and

(b) specifying any information which the practitioner is required to provide in respect of that assessment.

3
Where a practitioner has undertaken an assessment under this Schedule and informed the relevant person of the information requested under paragraph 2(b), the Registrar, Assessment Team or FTP Panel Medical Practitioners Tribunal (as the case may be) may make a request to the relevant person for disclosure of that information.

4
Where a request is made under paragraph 3 the relevant person shall disclose the information requested to the person making the request.

5
In this Schedule “relevant person” means the Registrar, Assessment Team or FTP Panel Medical Practitioners Tribunal (as the case may be).
The General Medical Council (Constitution of Panels, Tribunals and Investigation Committee) Rules 2004

Citation and Commencement

1

These Rules may be cited as the General Medical Council (Constitution of Panels, Tribunals and Investigation Committee) Rules 2004 and shall come into force on 1st November 2004.

Interpretation

2

In these Rules—

“the Act” means the Medical Act 1983;

“appropriate person” means a person of good character who is fit to sit as a panel list or tribunal member;

“the Committee” means the Investigation Committee;

“lay” means a person who is not and never has been provisionally or fully registered, was at no time registered with limited registration and does not hold qualifications which would entitle them to apply for provisional or full registration under the Act;

“medical” in relation to any person, means a registered medical practitioner;

“Panel” means an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel; and

“Panel” means a Registration Appeals Panel or a Registration Panel

“panel list” means a person sitting on a Panel, a Registration Panel or the Investigation Committee

“Tribunal” means an Interim Orders Tribunal or a Medical Practitioners Tribunal;

Lists of panellists

3

(1) The General Council shall—

(a) appoint and maintain in accordance with paragraphs (2) and (3)—

(i) a list of medical and lay appropriate persons eligible to act as panelists on a Panel a Registration Appeals Panel, and

(ii) a list of medical and lay appropriate persons eligible to act as panelists on the Committee or a Registration Panel; and

(b) remove from those lists the name of any person—
(i) whose term of appointment has come to an end, unless his appointment to the relevant list has been renewed,

(ii) who resigns from the relevant list by giving notice in writing to that effect to the General Council, or

(iii) who in the opinion of the General Council has ceased to be an appropriate person.

(2) A member of the General Council may act as a panelist on the Committee or a Registration Panel but shall not act as a panelist on an Appeals Panel and, accordingly, may not be appointed to the list at paragraph (1)(a)(i).

(3) A person shall not at any one time be included in both the lists maintained by the General Council under paragraph (1)(a).

Lists of tribunal members

3A

(1) The MPTS must—

(a) appoint and maintain in accordance with paragraphs [(2) to (4)]—

(i) a list of persons eligible to serve as a registrant member of a tribunal; and

(ii) a list of persons eligible to serve as a lay member of a tribunal;

(b) set and publish criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment to a list at [sub-paragraph (a)(i) or (ii)];

(c) determine the terms on which a person holds a position on a list at [sub-paragraph (a)(i) or (ii)];

(d) determine the grounds on which the MPTS may suspend or remove a person from holding a position on a list at [sub-paragraph (a)(i) or (ii)].

(2) A person appointed to a list at paragraph (1)(a)(i) or (ii) holds and ceases to hold a position on the list in accordance with the terms of their appointment.

(3) A member of the General Council, the Committee, a Panel, or an officer of the General Council, shall not act as a tribunal member and, accordingly, may not be appointed to a list at paragraph (1)(a)(i) or (ii).

(4) A person shall not at any one time be included in both lists maintained by the MPTS under paragraph (1)(a).
Constitution of Panels, Tribunals and the Committee

4

(1) Subject to rules 5(3) and 6, membership of a Panel Registration Appeals Panel shall comprise medical and lay panelists, whose names are included on the list maintained under rule 3(1)(a)(i), selected by the Registrar in accordance with paragraphs (3) and (4) and shall include at least one person whose name is included in the list maintained by the General Council under rule 5(1)(a)(i).

(2) Subject to rules 5(3) and 6, membership of the Committee or a Registration Panel shall comprise medical and lay panelists, whose names are included on the list maintained under rule 3(1)(a)(ii), selected by the Registrar in accordance with paragraphs (3) and (4) and shall include at least one person whose name is included in the list maintained by the General Council under rule 5(1)(a)(ii).

(2A) Subject to rules 5(4) and (6), membership of a Tribunal is to—

(a) comprise medical and lay tribunal members, whose names are included on a list maintained under [rule 3A(1)(a)], selected by the MPTS in accordance with [paragraphs (3) and (4)]; and

(b) include at least one person whose name is included in the list maintained by the MPTS under [rule 5(2A)(a)].

(3) No panellist or tribunal member shall act as a panellist or tribunal member (as the case may be) on a Panel, a Tribunal or the Committee or a [Registration Panel] for the substantive hearing of a case that he has previously considered or adjudicated upon in any other capacity.

(4) Nothing in paragraph (3) is to prevent—

(a) a panellist who sat on a Fitness to Practise Panel in proceedings relating to the fitness to practise of any person from acting as a panellist on a subsequent Fitness to Practise Panel—

(i) in proceedings in which the Panel is to determine whether or not to make a direction under section 35D(5), (6), (8), (10) or (12) of the Act relating to that person, or

(ii) in proceedings relating to an application for restoration of that person's name to the register;

(b) a panellist who sat on an Interim Orders Panel in proceedings relating to a person from acting as a panellist on a subsequent Interim Orders Panel in proceedings in which the Panel is to review an order under section 41A(2) or (9) of the Act in respect of that person; or

(c) a person who acted as Case Manager in accordance with Rule 16 of the General Medical Council (Fitness to Practise) Rules 2004 in any proceedings from acting as Chair of the Panel at the substantive hearing in the same proceedings.

(4) Nothing in paragraph (3) is to prevent—

(a) a tribunal member who sat on a Medical Practitioners Tribunal in proceedings relating to the fitness to practise of any person from acting as a tribunal member on a subsequent Medical Practitioners Tribunal —
(i) in proceedings in which the Panel is to determine whether or not to make a direction under section 35D(5), (6), (8), (10) or (12) of the Act relating to that person, or

(ii) in proceedings relating to an application for restoration of that person’s name to the register;

(b) a tribunal member who sat on an Interim Orders Tribunal in proceedings relating to a person from acting as a tribunal member on a subsequent Interim Orders Tribunal in proceedings in which the Tribunal is to review an order under section 41A(2) or (9) of the Act in respect of that person.

Chair

5

(1) The General Council shall—

(a) appoint and maintain—

(i) from the list at rule 3(1)(a)(i), a list of panellists eligible to act as Chair of a Registration Appeals Panel, and

(ii) from the list at rule 3(1)(a)(ii), a list of panellists eligible to act as Chair of the Committee or a [Registration Panel]; and

(b) remove from the lists at sub-paragraph (a)(i) and (a)(ii) the names of any person removed from the lists at rules 3(1)(a)(i) and 3(1)(a)(ii) respectively.

(2) The Registrar shall select a person to act as Chair in respect of proceedings before—

(a) a Panel a Registration Appeals Panel; or

(b) the Committee or [Registration Panel],

from the list at paragraph (1)(a)(i) or (1)(a)(ii) respectively.

(2A) The MPTS shall—

(a) appoint and maintain from the lists at rule [3A(1)(a)], a list of persons eligible to serve as Chair of a Tribunal; and

(b) remove from the list at [paragraph (2A)(a)] the names of any person removed from the lists at [rule 3A(1)(a)].

(2B) The MPTS shall set and publish criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for selection to serve as Chair of the Tribunal.

(3) If the Chair selected under paragraph (2) is unavailable for the whole or part of any proceedings or becomes ineligible to act as Chair during the course of any proceedings, then the [Chair] or the Registrar may appoint another panellist, present at the commencement of the proceedings, to act as Chair for the whole or part of the hearing, as appropriate.

(4) If the Chair selected under paragraph [(2A)(a)] is unavailable for the whole or part of any proceedings or becomes ineligible to act as Chair during the course of any proceedings, then the Chair or the MPTS may appoint another tribunal member,
present at the commencement of the proceedings, to act as Chair for the whole or part of the hearing, as appropriate.”.

**Quorum**

6

The quorum of a Panel, a Registration Panel, a Panel, a Tribunal or the Committee is to be three panellists, including the Chair, of whom—

(a) at least one must be a medical panellist or tribunal member; and

(b) at least one must be a lay panellist or tribunal member.

**Validity of proceedings**

7

(1) The validity of any proceedings of a Panel, a Registration Panel, a Panel, a Tribunal or the Committee shall not be affected by any defect in the appointment of a panellist or a tribunal member.

(2) Where a panellist is unavailable for the whole or part of any proceedings or becomes ineligible to act during the course of any proceedings and the proceedings are adjourned as a result, then the appeal may proceed notwithstanding that any panellists present at the original hearing are not present at the subsequent hearing or that any panellists present at the subsequent hearing were not present at the original hearing, unless the Registrar considers that it is in the interests of justice to convene a freshly constituted panel.

(3) Where paragraph (2) applies, the hearing may proceed notwithstanding that—

(a) any panellists or tribunal members present at the original hearing are not present at the subsequent hearing, or

(b) any panellists or tribunal members present at the subsequent hearing were not present at the original hearing.

(4) Paragraph (3) does not apply where the Registrar considers that it is in the interests of justice to convene a freshly constituted panel, tribunal or committee.
General Medical Council (Legal Assessors) Rules 2004

1 Citation, commencement and interpretation

(1) These Rules may be cited as the General Medical Council (Legal Assessors) Rules 2004 and shall come into force on 1st November 2004.

(2) In these Rules--

"the 1983 Act" means the Medical Act 1983;

"Committee" means the Investigation Committee, in circumstances where it is considering giving a warning to a person under section 35C(6) of the Act;

"hearing" means proceedings of the Committee or a Panel that have been constituted as a hearing at which the parties to the proceedings may attend or be represented;

“legal assessor” means a person appointed under paragraph 7(1) or (1B) of Schedule 4 to the 1983 Act;

legal assessor” means a person appointed under paragraph 7(1) of Schedule 4 to the 1983 Act (proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels--legal assessors);

“legally qualified person” means a person satisfying the definition at criteria set out under [paragraph 7(1C) of Schedule 4] to the 1983 Act;

“Panel” means a Registration Appeals Panel;

"Panel" means an Interim Orders Panel[, Registration Appeals Panel] or a Fitness to Practise Panel.

“Tribunal” means Interim Orders Tribunal or Medical Practitioners Tribunal.

2 Functions of legal assessors

Legal assessors shall have the following functions--

(a) advising the Committee or a Panel, a Panel or a Tribunal on questions of law arising in proceedings before them, and in particular a legal assessor shall, in such proceedings--

(i) advise the Committee or the Panel, the Panel or the Tribunal on any question of law that is referred to him by the Committee or the Panel, the Panel or the Tribunal, and

(ii) intervene to advise the Committee or the Panel, the Panel or the Tribunal on an issue of law where it appears to him that, without his intervention, there is the possibility of a mistake of law being made, and
(iii) intervene to advise the Committee or the Panel, the Panel or the Tribunal of any irregularity in the conduct of the proceedings which comes to his knowledge; and

(b) advising on the drafting of decisions of the Committee or a Panel, a Panel or a Tribunal (notwithstanding that legal assessors will not themselves be parties to those decisions).

3 Attendance of legal assessors

In all proceedings in which a legal assessor must, by virtue of paragraph 7(1) of Schedule 4 to the 1983 Act (proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels—legal assessors), be appointed, the Committee or Panel conducting those proceedings shall not hold any meeting or hearing in respect of those proceedings in the absence of the legal assessor appointed in those proceedings.

(1) In all proceedings in which a legal assessor is appointed by—

(a) the Council under paragraph 7(1) of Schedule 4 to the 1983 Act; or

(b) the MPTS under paragraph 7(1B) of Schedule 4 to the 1983 Act;

the Committee, Panel or Tribunal conducting those proceedings shall not, unless the legal assessor appointed is present, hold any meeting or hearing in respect of them.

4 Advice of legal assessors or legally qualified chairs tendered at hearings

(1) Any advice tendered by a legal assessor on a question of law at a hearing shall, subject to paragraph (2), be tendered in the presence of every party, or person representing a party, in attendance at the hearing.

(2) Any advice given at a hearing by a legal assessor or legally qualified person on a question of law as to evidence, procedure or any other matter specified in the rules shall be given in the presence of every party, or person representing a party, in attendance at the hearing.

This is subject to paragraph (2).

(2) Where the Committee or a Panel, a Panel or a Tribunal—

(a) has begun to deliberate on its decision; and

(b) considers that it would be prejudicial to the discharge of its functions for the advice of the legal assessor or legally qualified person to be tendered in the presence of the parties or their representatives,

the advice may be tendered in the absence of the parties or their representatives.

(3) Where advice is tendered in the absence of the parties or their representatives in accordance with paragraph (2), the legal assessor or legally qualified person who tendered that advice shall—
(a) as soon as practicable after the completion of the deliberations inform each of the parties (or their representatives) in attendance at the hearing of the advice he gave, together with any question which led to that advice; and

(b) subsequently record those matters in writing and give a copy to those parties or their representatives.

(4) Copies of written advice made for the purposes of paragraph (3) shall be available, on application, to every party to the proceedings who does not attend, and is not represented at, the hearing to which the advice relates.

5 Advice of a legal assessor or a legally qualified person outside a hearing which the Committee, or a Panel or a Tribunal does not accept

Where, in proceedings but not at a hearing, a legal assessor or a legally qualified person tenders advice on a question of law to the Committee or a Panel, a Panel or a Tribunal which the Committee or the Panel, the Panel or the Tribunal does not accept--

(a) a record shall be made by the legal assessor or legally qualified person of the advice given (together with any question which led to that advice), and of the decision not to accept it, together with the reasons for that decision; and

(b) a copy of the record shall be given to every party to the proceedings or their representatives.

6 Revocations

The following Rules are hereby revoked--

(a) the General Medical Council (Legal Assessors) Rules 1980;

(b) the General Medical Council (Legal Assessors) (Amendment) Rules 1997;

(c) the General Medical Council (Legal Assessors) (Amendment) Rules 2000; and

(d) the General Medical Council (Legal Assessors) Amendment (Scotland) Rules 2000.
Amendment Order

The General Medical Council (Fitness to Practise, Constitution of Panels and Investigation Committee and Legal Assessor) (Amendment) Rules Order of Council [2015]
The General Medical Council has made the General Medical Council (Fitness to Practise, Constitution of Panels and Investigation Committee and Legal Assessor) (Amendment) Rules Order of Council [2015] which are set out in the Schedule to this Order, in exercise of the powers conferred by sections 35CC(1) of, and paragraphs 19B to 19D of Schedule 1 to, and paragraphs A1, 1(1), (2), (2ZA), (2ZB), (2B) to (2E), (3), (4) and (4A) to (4F), 5A(1) and (2ZA), 5C(1) and (2), 7(3) and (4) and 7A(6) of Schedule 4 to, the Medical Act 1983(a).

The General Medical Council has consulted with such bodies of persons representing medical practitioners, and such medical practitioners, as appeared to the General Medical Council requisite to be consulted in accordance with [paragraph 1(6) Schedule 4] to that Act.

By virtue of [paragraph 24 of Schedule 1 and paragraphs 1(7), 7(6) and 7A(10) of Schedule 4] to the Act such Rules shall not have effect until approved by Order of Privy Council.

Citation and commencement

1. This Order may be cited as the General Medical Council (Fitness to Practise and Constitution of Panels and Investigation Committee) (Amendment) Rules Order of Council [2015] and comes into force on xxx 2015.

(a) 1983 c.54. Section 35CC and paragraphs 19A to 19E, 23B and 24 of Schedule 1 were inserted, and paragraph 1 of Schedule 4 was substituted, by S.I. 2002/3135. Section 35CC was amended by S.I. 2008/3131, paragraph 19B of Schedule 1 was amended by S.I. 2006/1914 and paragraph 1 of Schedule 4 was amended by S.I. 2006/1914. Paragraphs 5C(1) and (2) of Schedule 4 was inserted by S.I. 2014/1470. Paragraph 19G of Schedule 1 and paragraphs A1, 1(2ZA), (2ZB), (2B) to (2E) and (4A) to (4F), 5A(2ZA) and 7A(6) to Schedule 4, were inserted by S.I. xxxx
Privy Council approval

2. Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

[Name]
Clerk of the Privy Council

SCHEDULE

The General Medical Council [(Fitness to Practise, Constitution of Panels and Investigation Committee and Legal Assessor) (Amendment) Rules [2015]

These Rules are made by the General Medical Council in exercise of the powers conferred by sections 35CC(1) of, and paragraphs 19B to 19D and 19G of Schedule 1 to, and paragraphs A1, 1(1), (2), (2ZA), (2ZB), (2B) to (2E), (3), (4) and (4A) to (4F), 5A(1) and (2ZA), 5C(1) and (2), 7(3) and (4) and 7A(6) of Schedule 4 to, the Medical Act 1983.

The General Medical Council has consulted with such bodies of persons representing medical practitioners, and medical practitioners of any such description, as appeared to the General Medical Council requisite to be consulted in accordance with [paragraph 1(6) of Schedule 4 to] that Act.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the General Medical Council (Fitness to Practise, Constitution of Panels and Investigation Committee and Legal Assessor) (Amendment) Rules [2015] and come into force on xxx [2015].

(2) In these Rules —

“the Fitness to Practise Rules” means the General Medical Council (Fitness to Practise) Rules 2004(a); and

“the Constitution of Panels and Investigation Committee Rules” means the General Medical Council (Constitution of Panels and Investigation Committee) Rules 2004(b);

“the Legal Assessors Rules” means the Legal Assessor Rules 2004(c).

Amendments to the Fitness to Practise Rules

2.—(1) The Fitness to Practise Rules are amended as follows.

(2) In rule 2 (interpretation) —

(a) in the definition of “Case Examiner”, for “28(3)(c)” substitute “28(2)(b); and

(b) in the definition of “Case Manager”, for “Registrar” substitute “MPTS”; and

(c) omit the definitions of—

(i) “FTP Panel”;

(ii) “Interim Orders Panel”;

(iii) “Legal Assessor”;

(iv) “Panel”;

(v) “the Presenting Officer”;


(c) Scheduled to S.I 2004/2625, which has been amended by S.I 2005/896
(vi) “specialist health adviser”; and
(vii) “specialist performance adviser”; and
(d) in the definition of “Panellist”, omit “or a Panel”; and
(e) in the appropriate place, insert—
“costs” includes fees, charges, disbursements or expenses;

“Interim Orders Tribunal” means an Interim Orders Tribunal constituted under rules made under paragraph 19G of Schedule 1 to the Act;

“Medical Practitioners Tribunal” means a Medical Practitioners Tribunal constituted under rules made under paragraph 19G of Schedule 1 to the Act;

“MPTS” means the Medical Practitioners Tribunal Service constituted under rules made under paragraph 19F of Schedule 1 to the Act;

“representative for the GMC” means a barrister, solicitor or other legal representative instructed by the Registrar to present the case on behalf of the General Council at any hearing before a Tribunal or Committee;

“Tribunal” means a Medical Practitioners Tribunal or an Interim Orders Tribunal; and

“witness” means any person, including the practitioner, on whose evidence (whether as to fact or opinion) either party intends to rely.

(3) For rule 3 (the title to which becomes “Appointment of Panels of assessors and examiners”), substitute—

“(1) The Registrar may appoint—

(a) a panel of medical and lay performance assessors for the purposes of carrying out performance assessments in accordance with Schedule 1; and

(b) a panel of medical examiners for the purposes of carrying out health assessments in accordance with Schedule 2.

(2) Members of the General Council are not eligible for appointment to a panel under paragraph (1).”

(4) In rule 4 (initial consideration and referral of allegations), in paragraph (5), after “unless the Registrar considers that it is in the public interest” omit “, in the exceptional circumstances of the case,“.

(5) In rule 5 (functions of the Registrar in relation to cautions, convictions and determinations) in paragraphs (1) and (2), for “a FTP Panel”, in each place it appears, substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”.

(6) For rule 6 (the title to which becomes “Referral to Interim Orders Tribunal”), substitute —

“If, at any stage [under these Rules], the Registrar is of the opinion that an Interim Orders Tribunal should consider making an interim order in relation to a practitioner, he shall refer the allegation to the MPTS for them to arrange for it to be considered by an Interim Orders Tribunal accordingly.”.

(7) In rule 7, omit paragraph (6).

(8) In rule 8 (consideration by Case Examiners)—

(a) in paragraph (1)(d), for “for determination by a FTP Panel” substitute “to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal”; and

(b) in paragraph (6), for “Interim Orders Panel” substitute “Interim Orders Tribunal”.

(9) In rule 9 (consideration by the Committee), in paragraph (d), for “for determination by a FTP Panel” substitute “to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal”.

(10) In rule 10 (undertakings)—
(a) in paragraph (1) and (5), for “a FTP Panel”, in each place it appears, substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”; and

(b) in paragraph (8)—

(i) in paragraph (c), for “health or performance”, substitute “health, performance or knowledge of English”.

(ii) for “for determination by a FTP Panel” substitute “to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal”; and

(11) In rule 11 (warnings)—

(a) in paragraph (2), for “considered by a FTP Panel” substitute “referred to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”; and

(b) in paragraph (6)(c), for “for determination by a FTP Panel” substitute “to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal”; and

(c) in paragraph (7), for “Presenting Officer” substitute “representative for the GMC”; and

(d) in paragraph (10), for “a FTP Panel” substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”.

(12) In rule 12 (review of decisions), in paragraph (1)(b), for “a FTP Panel” substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”.

(13) In rule 13 (relevant date for the purpose of sections 35A and 35B of the Act)—

(a) in paragraph (a), omit “4(4)(a) and (b) or”;

(b) in paragraph (b), for “an Interim Orders Panel” substitute “the MPTS for them to arrange for it to be considered by an Interim Orders Tribunal”; and

(c) in paragraph (d), for “a FTP Panel” substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”; and

(d) in paragraph (e), after “Schedule 1 or 2”, insert “or that the practitioner undertake an assessment of knowledge of English in accordance with Schedule 3”.

(14) In rule 13A (investigation following referral), for “a FTP Panel” substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal”.

(15) Omit rule 14 (appointment of specialist advisers).

(16) For rule 15 (notice of hearing), substitute—

“(1) Subject to rule 16, after an allegation has been referred to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal—

(a) the Registrar must give notice to the practitioner of—

(i) the allegation against the practitioner and the facts upon which it is based; or

(ii) the matter which gave rise to the referral under [paragraph 5A(3)(a) or 5C(3A)(a) of Schedule 4 to, or section 35A(6C) of, the Act]; and

(b) the MPTS must by notice to the practitioner—

(i) specify the date, time and venue of the hearing;

(ii) inform the practitioner of his right to attend the hearing and to be represented at the hearing in accordance with rule 33;

(iii) inform the practitioner of the power of the Medical Practitioners Tribunal to proceed in his absence under rule 31;

(iv) inform the practitioner of his right to adduce evidence in accordance with rule 34 and to call and cross-examine witnesses; and

(v) inform the practitioner of the Medical Practitioner Tribunal’s powers of disposal under section 35D (as appropriate), section 38 and section 41A of the Act.
(2) A notice referred to in paragraph (1) must be given by the Registrar or MPTS (as the case may be) at least 28 days before the hearing unless the practitioner consents or the Registrar or MPTS considers it in the public interest for less than 28 days’ notice to be given.”

(17) In rule 16 (case management)—

(a) in paragraph (1) and (2), for “Registrar”, in each place it appears, substitute “MPTS”; and

(b) after paragraph (1), insert—

“(1A) The power to give directions under the provisions of this rule may also be exercised by—

(a) the chair of a Medical Practitioners Tribunal, where the chair is appointed as a case manager for proceedings before that Tribunal; or

(b) the Medical Practitioners Tribunal itself;

and references to a Case Manager in these Rules are to be construed accordingly;”;

and

(c) in paragraph (2)—

(i) for “a FTP Panel for” substitute “the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal at”; and

(d) in paragraph (6)—

(i) in paragraph (a), after “that each party disclose to the other” insert “in advance of the hearing”; and

(ii) in paragraph (a)(ii), before “including the practitioner” insert “other than experts and”;

and

(iii) in paragraph (a)(iii), for “and an expert report in respect of” substitute “of any expert on whom they intend to rely, together with a written report setting out the substance of the evidence”; and

(iv) in paragraph (f)—

(aa) after “witness” insert “of fact”;

(bb) after “oral evidence” insert “pursuant to rule 34(11)”; and

(v) in paragraph (fa), for “Panel” substitute “Tribunal”; and

(vi) in paragraph (g)—

(aa) after “witness” insert “of fact”;

(bb) for “FTP Panel” substitute “Medical Practitioners Tribunal”; and

(vii) after paragraph (h), omit “and”; and

(viii) after paragraph (i) insert—

“(j) a direction determining any preliminary legal argument (where the direction is given by the Tribunal itself);

(k) a direction that the Tribunal consider whether to admit such evidence as is specified in that direction.”;

and

(e) after paragraph (7), insert substitute—

“(7A) Directions issued by the Case Manager shall be binding on the parties and on any subsequent Tribunal considering the case, unless the Tribunal considers that—

(a) there has been a material change in circumstances and that it is in the interests of justice to reconsider the matter; or

(b) it is otherwise in the interests of justice to do so.”;

and

(f) for paragraph (8), substitute—

“(8) A Medical Practitioners Tribunal may, in respect of the failure by a party to comply with these Rules or with directions issued by the Case Manager—

(a) draw adverse inferences;
(b) where the failure relates to the admissibility of evidence, refuse to admit the evidence; and

(c) award costs in accordance with rule [16A].”.

(18) After rule 16, insert—

“16A. Costs

(1) A Medical Practitioners Tribunal may award costs under rule [16(8)(c)], following an application from either party or of its own initiative.

(2) A costs award made under rule [16(8)(c)] is an order that one party or their representative (“the paying party”) pay the wasted costs of the other party (“the receiving party”), where the paying party’s conduct of the proceedings has been unreasonable.

(3) Before making a costs award, a Medical Practitioners Tribunal must receive any evidence and hear any submissions from the parties as to the costs award, in particular with regard to—

(a) the rule or case management direction which it is claimed the party has failed to comply with;

(b) the conduct which it is claimed is unreasonable;

(4) Where a Medical Practitioners Tribunal makes a costs award, it must consider and announce its decision give its reasons for that decision.

(5) Where a costs award is made, a Case Manager shall assess the amount of costs which a paying party is liable to pay, following the conclusion of the proceedings.

(6) The amount of costs shall be assessed after—

(a) the receiving party has, within 28 days of the conclusion of the proceedings in which the costs award was made, served a schedule of costs on both—

(i) the Case Manager; and

(ii) the paying party;

(b) the paying party has, within 28 days of receipt of the receiving party’s schedule of costs, served their response in writing to the schedule of costs and evidence of their ability to pay on both—

(i) the Case Manager; and

(ii) the receiving party;

(7) The assessment of costs under [paragraph (6)] includes the Case Manager having regard to the paying party’s ability to pay.

(8) A costs award shall be enforced in the same manner as if the award had been made by order of the county court (or, in Scotland, by decree of the sheriff court, or in Northern Ireland, by order of a county court).”.

(19) In the heading to Part 4 of the Rules, for “FTP Panel”, substitute “Medical Practitioners Tribunal”.

(20) In rule 17 (the title to which becomes “Procedure before a Medical Practitioners Tribunal”)—

(a) for “FTP Panel”, in each place it appears, substitute “Medical Practitioners Tribunal”; and

(b) in paragraph (2)—

(i) for paragraphs (a) and (b), substitute—

“(a) the Chair of the Medical Practitioners Tribunal must—

(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the practitioner’s name and GMC Reference Number;
(b) the Medical Practitioners Tribunal must hear and consider any preliminary legal arguments;”;

(ii) in paragraphs (c) and (f), for “Presenting Officer”, in each place it appears, substitute “representative for the GMC”; and

(iii) in paragraphs (d) and (e), for “Chairman” substitute “Chair”; and

(iv) after paragraph (h), insert—

“(ha) the Medical Practitioners Tribunal must hear any submissions from the parties as to the facts to be found proven by the Medical Practitioners Tribunal in the light of the evidence adduced pursuant to sub-paragraphs (f) and (h);”;

(v) in paragraph (i), after “findings of fact” insert “and shall give its reasons for those findings”; and

(c) for paragraph (m), substitute—

“(m) where a Medical Practitioners Tribunal finds that a practitioner’s fitness to practise is impaired, the General Council may agree with the practitioner that he will comply with such written undertakings (including any limitations on his practice) as the General Council considers appropriate;

(ma) where undertakings are agreed between the General Council and the practitioner under paragraph (m), a Medical Practitioners Tribunal may take any such undertakings into account, where—

(i) the Medical Practitioners Tribunal considers such undertakings to be sufficient to protect patients and protect the public interest; and

(ii) the practitioner expressly agrees that the Registrar shall disclose details of the undertakings (save those relating exclusively to the health of the practitioner) to—

(aa) any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;

(bb) any person from whom the practitioner is seeking such employment or such an arrangement; and

(cc) any enquirer;”;

(d) after paragraph (p) insert—

“(q) the Medical Practitioners Tribunal must deal with any consideration of a costs award in accordance with rule [16A].”; and

(e) in paragraph (3)—

(i) in paragraph (a), before “allegation” omit “particulars of the”; and

(ii) for “and consulting with the Legal Assessor, amend the particulars on appropriate terms” substitute “amend the allegation in appropriate terms”; and

(f) in paragraph (4)(a), omit sub-paragraph (a); and

(g) omit paragraphs (6) to (8).

(21) After rule 17, insert—

“17ZA. Procedure at a non-compliance hearing

(1) The order of proceedings at a hearing to consider a matter in accordance with [paragraph 5A(3B) or (3C) or 5C(3B) or (3C) of Schedule 4 to, or section 35A(6D) of, the Act], is to be as follows —

(a) the Chair of the Medical Practitioners Tribunal must—

(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number; or

(ii) otherwise, require the representative for the GMC to confirm the practitioner’s name and GMC Reference Number;
(b) the Medical Practitioners Tribunal must hear and consider any preliminary legal arguments;

(c) the representative for the GMC must—
   (i) inform the Medical Practitioners Tribunal of the background to the case,
   (ii) direct the attention of the Medical Practitioners Tribunal to any relevant evidence, and may adduce evidence and call witnesses in relation to the question of whether—
      (aa) the practitioner has failed to submit to, or comply with, an assessment under Schedule 1 or 2;
      (bb) having submitted to an assessment under Schedule 1, the practitioner has failed to comply with requirements imposed in respect of that assessment; or
      (cc) the practitioner has failed to undertake an assessment of knowledge of English in accordance with Schedule 3 or has undertaken such an assessment but has failed to provide the information requested in accordance with that Schedule; or
      (dd) the practitioner has failed to provide information required from him under section 35A(1A) of the Act;
   (d) the practitioner may, in response, adduce evidence and call witnesses in relation to the questions addressed by the representative for the GMC under paragraphs [(c)(ii)(aa) to (dd)] above;
   (e) the Medical Practitioners Tribunal must consider and announce its findings on the questions addressed by the representative for the GMC under paragraph (c);
   (f) the Medical Practitioners Tribunal may receive further evidence and hear any further submissions from the parties as to its decision whether to make a direction under paragraph 5A(3D) or 5C(4) of Schedule 4 to the Act;
   (g) the Medical Practitioners Tribunal must consider and announce its decision as to the direction, if any, to be made and must give reasons for that decision;
   (h) the Medical Practitioners Tribunal must receive any further evidence from the parties as to whether an order for immediate suspension or immediate conditions should be imposed on the practitioner’s registration, before considering and announcing whether it shall impose such an order and its reasons for that decision; and
   (i) the Medical Practitioners Tribunal must deal with any interim order in place in respect of the practitioner.”

(22) For rule 17A (the title to which becomes “Notification of determination of Medical Practitioners Tribunal”), substitute—

“The Registrar shall serve notification of the determination of the Medical Practitioners Tribunal, and the manner in which the Medical Practitioners Tribunal has disposed of the case, on the maker of the allegation (if any).”.

(23) For rule 18 (application of Part 5), substitute—

“(1) This Part shall apply to any hearing (a review hearing) at which a Medical Practitioners Tribunal is to determine whether or not to make a direction—
   (a) under section 35D(5), (6), (8), (10) or (12) of the Act;; or
   (b) under section 35D of the Act in respect of any matter referred to it under Rule 37A(3).”.

(24) In rule 19 (functions of Registrar)—
   (a) for “FTP Panel”, substitute “Medical Practitioners Tribunal”; and
   (b) in paragraph (b), for “invite the practitioner to undergo an assessment” substitute “direct that the practitioner undergo an assessment”.

C9
(25) In rule 20 (notice of review hearing)—

(a) for paragraph (1) substitute—

“(1) No later than 28 days before the hearing, -

(a) the MPTS shall give notice of the review hearing to the practitioner—

(i) of the direction made at the previous hearing and the grounds for the same;

(ii) stating the matters set out at rule 15(2)(b)(i) to (iv);

(iii) indicating the subsection of section 35D of the Act under which the Medical Practitioners Tribunal is proposing to act, and the powers available to the Medical Practitioners Tribunal under that provision;

(iv) requesting that the practitioner notify the MPTS, within 14 days of the date of the notice, whether he wishes to attend the hearing; and

(v) inviting the practitioner, if he chooses not to attend the hearing, to make written representations to be received by the MPTS no later than 14 days before the hearing; and

(b) the Registrar shall provide to the practitioner—

(i) a copy of any statement, report or other document which—

(aa) has not previously been sent to the practitioner or his representative; and

(bb) is relevant to the question whether a direction should be made under this Part or the terms on which it should be made;

(ii) where an early review hearing is to be held, the information that makes such an early review desirable.”; and

(b) in paragraph (3), for “FTP Panel” substitute “Medical Practitioners Tribunal”.

(26) In rule 21 (early review hearing)—

(a) for “FTP Panel” substitute “Medical Practitioners Tribunal”; and

(b) after “for an early review hearing”, insert “under rule 22 or [22A] (as the case may be)”.

(27) In rule 21A (procedure following referral of a new allegation)—

(a) in paragraph (1), for “FTP Panel, it” substitute “MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, the Tribunal”; and

(b) in paragraph (2)—

(i) for “FTP Panel” substitute “Medical Practitioners Tribunal”; and

(ii) after "section 35D” omit ",(5), (6), (8) or (12).

(28) After rule 21A, insert—

“21B. Review on the papers

(1) A matter which has been referred to a Medical Practitioners Tribunal for a review hearing must be considered on the papers, where the MPTS receives confirmation in writing from the practitioner and the Registrar that the parties have agreed the terms of a direction, revocation or variation which could be made under section 35D(5), (6), (8), (10) or (12) of the Act.

(2) Consideration on the papers under paragraph (1) may be carried out by the chair of the Medical Practitioners Tribunal, or the Tribunal itself.

(3) Where the chair of the Medical Practitioners Tribunal or the Tribunal itself determines that the Tribunal should hold a hearing to consider the matter and the MPTS arrange a hearing for that purpose in accordance with section 35D(13), the other provisions of this Part are to apply for the purposes of that hearing.”.

(29) In rule 22—

(a) for paragraphs (1)(a) and (b), substitute—
“(a) the Chair of the Medical Practitioners Tribunal must—
   (i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or
   (ii) otherwise, require the representative for the GMC to confirm the practitioner’s name and GMC Reference Number;
(b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;”;
and
(b) in paragraph (c), for “Presenting Officer” substitute “representative for the GMC”; and
c) in paragraphs (c), (e), (f), (g) and (i), for “FTP Panel”, in each place it appears substitute “Medical Practitioners Tribunal”; and
d) in paragraph (g), after “section 35D” omit “(5), (6), (8), (10) or (12)”.
(e) for paragraph (h), substitute—
   “(h) where a Medical Practitioners Tribunal finds that a practitioner’s fitness to practise is impaired, the General Council may agree with the practitioner that he will comply with such written undertakings (including any limitations on his practice) as the General Council considers appropriate;
(ha) where undertakings are agreed between the General Council and the practitioner under paragraph (m), a Medical Practitioners Tribunal may take any such undertakings into account, where—
   (i) the Medical Practitioners Tribunal considers such undertakings to be sufficient to protect patients and protect the public interest, and
   (ii) the practitioner expressly agrees that the Registrar shall disclose details of the undertakings (save those relating exclusively to the health of the practitioner) to—
      (aa) any person by whom the practitioner is employed to provide medical services or with whom he has an arrangement to do so;
      (bb) any person from whom the practitioner is seeking such employment or such an arrangement; and
      (cc) any enquirer;” and
(f) after paragraph (i), insert—
   “(j) the Medical Practitioners Tribunal must deal with any consideration of a costs award in accordance with rule [16A].”; and

(4) Where a review hearing is adjourned [under rule 29(2)], prior to the Medical Practitioners Tribunal making a finding under [rule 22(f)], the Medical Practitioners Tribunal must consider whether to make a direction under section 35D(5)(a), (8)(a), or (12)(c) of the Act or to impose an interim order under section 41A (as appropriate) to be effective during the period before the final outcome of the review hearing has effect.”.

(30) After rule 22, insert—

“22A. Procedure at a non-compliance review hearing
(1) The order of proceedings at a review hearing to consider a direction made under rule [17ZA(1)(g)] is to be as follows—
   (a) the Chair of the Medical Practitioners Tribunal must—
      (i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or
      (ii) otherwise, require the representative for the GMC to confirm the practitioner’s name and GMC Reference Number;
   (b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;
(c) the representative for the GMC must—
   (i) inform the Medical Practitioners Tribunal of the background to the case, and the sanction previously imposed;
   (ii) direct the attention of the Medical Practitioners Tribunal to any relevant evidence and may adduce evidence and call witnesses in relation to the practitioner's failure to submit to or comply with an assessment under Schedule 1, 2 or 3, or request for information under Schedule 3 or section 35A(1A) of the Act (as the case may be);
(d) the practitioner may, in response, adduce evidence and call witnesses in relation to the questions addressed by the representative for the GMC under paragraph (c);
(e) the Medical Practitioners Tribunal must receive further evidence and hear any further submissions from the parties in relation to the questions addressed by the representative for the GMC under paragraphs (c)(i) and (ii);
(f) the Medical Practitioners Tribunal must consider and announce its finding on the questions addressed by the representative for the GMC under paragraphs (c)(i) and (ii) and shall give its reasons for that decision;
(g) the Medical Practitioners Tribunal may receive further evidence and hear any further submissions from the parties as to its decision whether to make a direction under section 35D(5), (6), (10) or (12) of the Act;
(h) the Medical Practitioners Tribunal must consider and announce its decision as to the direction, if any, to be made and must give reasons for that decision; and
(i) where the decision under paragraph [(g)] is not to make a direction under section 35D(5), (6), (10) or (12)] the Medical Practitioners Tribunal [must/may] consider whether to impose an interim order.

(31) In rule 23 (action on receipt of a restoration application)—
   (a) for paragraphs (1) to (3), substitute—
      “(1) Upon receipt of an application for restoration made under section 41 of the Act—,
         (a) the Registrar must refer the matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and
         (b) the Registrar may—
            (i) make such investigations, and obtain such information, documents or reports as he considers appropriate;
            (ii) direct that the applicant undergo an assessment of his performance or health in accordance with Schedule 1 or 2 ;
            (iii) direct that the applicant undertake an assessment of knowledge of English in accordance with Schedule 3.
      (2) At least 28 days before the hearing before a Medical Practitioners Tribunal to consider his application, the MPTS shall give the applicant a notice complying with paragraph (3).
      (3) The notice referred to in paragraph (2) must—
         (a) specify the matters set out at rule 15(2)(b)(i) to (iv);
         (b) request that the applicant notify the MPTS, within 14 days of the date of the notice, whether he wishes to attend the hearing; and
         (c) invite the applicant, if he chooses not to attend the hearing, to make written representations to be received by the MPTS no later than 14 days before the hearing;
         (d) where the applicant has made a previous unsuccessful application, inform him of the Medical Practitioners Tribunal's power to suspend indefinitely his right to make further applications for restoration under section 41(9) of the Act; and
(e) where the applicant has made a previous unsuccessful application and chooses not to attend the hearing, invite him to make written representations on the issue of indefinite suspension of his right to make further applications, to be received by the MPTS no later than 14 days before the hearing.

(4) The Registrar shall provide to the applicant a copy of any statement, report or other document he has obtained which has not previously been sent to the applicant or his representative and which is relevant to the question whether his name should be restored to the register.

(5) If any statement, report or other document is subsequently obtained by the General Council which is relevant to the Medical Practitioners Tribunal’s decision whether to direct that the applicant's name be restored to the register, the applicant shall be given a reasonable opportunity of responding before the Medical Practitioners Tribunal makes its decision.

(32) In rule 24 (procedure at a restoration hearing)—

(a) in paragraphs (1) and (2)(c) to (i), for “for “FTP Panel”, in each place it appears, substitute “Medical Practitioners Tribunal”; and

(b) for paragraphs (2)(a) and (b), substitute—

“(a) the Chair of the Medical Practitioners Tribunal must—

(i) where the applicant is present, require the applicant to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the applicant’s name and GMC Reference Number;

(b) the Medical Practitioners Tribunal must consider and determine any preliminary legal arguments;”; and

(c) in paragraph (c)—

(i) for “Presenting Officer” substitute “representative for the GMC”; and

(ii) in paragraph (c)(ii), after “any relevant evidence” omit “, including transcripts of previous hearings.”; and

(d) in paragraph (g), after “including that the applicant should undergo” insert “(at his own cost)”.

(33) In rule 25 (initial consideration)—

(a) for paragraph (1), substitute——

“(1) This Part applies where an allegation has been referred by the Registrar to the MPTS for them to arrange for an Interim Orders Tribunal to consider whether to make or review an interim order.”; and

(b) in paragraph (2), for “an Interim Orders Panel”, in each place it appears, substitute “the MPTS for them to arrange for it to be considered by an Interim Orders Tribunal”.

(34) In rule 26 (notice of hearing), for paragraph (1) and (2), substitute—

“(1) Prior to the initial or any review hearing relating to an interim order—

(a) the Registrar shall—

(i) set out the reasons why it is necessary to make or review an interim order;

(ii) provide a copy of any written evidence obtained by the General Council which is relevant to the question of whether or not an interim order should be made or reviewed; and

(iii) in relation to a review hearing, provide a copy of the order to be reviewed; and

(b) the MPTS shall—

(i) give notice to the practitioner of the date, time and venue of the hearing;
(ii) inform the practitioner of the practitioner's right to appear before the Interim Orders Tribunal and be heard, and to be represented in accordance with rule 33;

(iii) inform the practitioner of the power of the Interim Orders Tribunal to proceed in his absence under [rule 31];

(iv) inform the practitioner of the Interim Orders Tribunal's powers of disposal under section 41A of the Act;

(v) request the practitioner to notify the MPTS as soon as possible whether he intends to attend the hearing; and

(vi) invite the practitioner, if he chooses not to attend the hearing, to submit any written representations, within such period as is reasonable in the circumstances and as is specified in the notice, to the MPTS.

in such time before the hearing as is reasonable in the circumstances of the case.”.

(35) After rule 26, insert—

26A. Interim order review on the papers

(1) A matter which has been referred to an Interim Orders Tribunal for a review hearing must be considered on the papers, where the MPTS receives confirmation in writing from the practitioner and the GMC that the parties have agreed to the terms of an order which could be made under section 41A(3) of the Act, which may include the maintenance, revocation or variation of an existing order.

(2) Consideration on the papers under paragraph (1) may be carried out by the chair of the Interim Orders Tribunal or the Tribunal itself.

(3) Where, the chair of the Interim Orders Tribunal or the Tribunal itself determines that the Tribunal should hold a hearing to consider the matter and the MPTS arrange a hearing for that purpose in accordance with section 41A(4A), the other provisions of this Part are to apply for the purposes of that hearing.”.

(36) In rule 27 (procedure at an interim orders hearing)—

(a) for “Interim Orders Panel”, in each place it appears substitute “Interim Orders Tribunal”; and

(b) in paragraph (2), for “desirable” substitute “necessary”; and

(c) in paragraph (3)(b), omit “, after consultation with the Legal Assessor,”; and

(d) for paragraph (4)(a) and (b), substitute—

“(a) the Chair of the Interim Orders Tribunal shall announce that the hearing has commenced and must—

(i) where the practitioner is present, require the practitioner to confirm his name and GMC Reference Number, or

(ii) otherwise, require the representative for the GMC to confirm the practitioner's name and GMC Reference Number;

(b) the Interim Orders Tribunal must consider and determine any preliminary legal arguments;”;

and

(e) in paragraph (4)(c) and (f), for “Presenting Officer”, in each place it appears, substitute “representative for the GMC”; and

(f) omit paragraph (6).

(37) In rule 28 (the title to which becomes “Withdrawal of a matter”)—

(a) in paragraph (1), for “hearing should be cancelled” substitute “matter (or part of it) should be withdrawn; and

(b) for paragraph (2) and (3), substitute—

“(2) Where paragraph (3) applies, a Case Examiner may decide that—
(a) all or part of a matter referred to in that paragraph should be withdrawn; or
(b) in the case of a matter that has been referred to a Medical Practitioners Tribunal (other than in accordance with paragraph 5A(3B) or (3C) or 5C(3B) or (3C) of Schedule 4 to, or section 35A(6D) of, the Act) the matter should be referred for consideration by a medical and lay Case Examiner under rule 10 or 11.

(3) This paragraph applies where, after a matter has been referred to a Medical Practitioners Tribunal or Interim Orders Tribunal and before the opening of the hearing before the Tribunal, a Case Examiner is of the opinion that the matter (or part of it) should not be considered by a Medical Practitioners Tribunal or that an Interim Orders Tribunal should not consider making an order.

(c) in paragraph (4), for “paragraph (2)” substitute “paragraph (3)”.

(38) In rule 29 (postponements and adjournments)—
(a) in paragraphs (1), (2) and (5), for “Panel”, in each place it appears, substitute “Tribunal”; and
(b) after paragraph (2), insert—
“(2A) Where a hearing, other than a review hearing under rule 22 has been adjourned under paragraph (2), the Case Manager may, upon the application of a party to the proceedings, further adjourn the hearing until such time and date as the Case Manager thinks fit.”.
(c) in paragraph (4), for “Registrar” substitute “MPTS”; and
(d) in paragraph (5), after “panellist”, in each place it appears, insert “or tribunal member”.

(39) In rules 30 (preliminary legal arguments), 31 (absence of the practitioner), 32 (joiner), 33 (representation), 35 (witnesses), 36 (vulnerable witnesses) and 42 (exclusion from proceedings), for “Panel”, in each place it appears, substitute “Tribunal”;

(40) In rule 33 (representation)—
(a) in paragraph (1)(c), after “other” insert “suitable”; and
(b) in paragraph (3), for “Presenting Offer” substitute “representative for the GMC”; and

(41) In rule 34 (evidence)—
(a) in paragraphs (1), (7), (8), (9B), (11), (13) and (14) for “Panel” substitute “Tribunal”; and
(b) in paragraph (9) and (12), for “FTP Panel” substitute “Medical Practitioners Tribunal”.

(42) In rule 35 (witnesses), in paragraph (2)(d), after “Committee or Tribunal” omit “and, with the leave of the Chairman at the hearing, a specialist health adviser or specialist performance adviser”;

(43) In rule 36 (vulnerable witnesses)—
(a) in paragraph (1)(a), for “17” substitute “18”; and
(b) for paragraph (2), substitute—
“(2) Upon hearing representations from the parties, the Committee or Tribunal must adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.”;
(c) in paragraph (5), for “General Council” substitute “MPTS”.

(44) In rule 37 (the title to which becomes “Record of decisions of the Committee or Tribunal”) for “Panel” substitute “Tribunal”.

(45) In rule 37A (the title to which becomes “Tribunal undertakings”)—
(a) for paragraph (3), substitute
“(3) Where the Registrar receives information that—

(a) the practitioner has not within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) agreed to comply with the
undertakings with which the practitioner was invited to comply under paragraph (2)(a);

(b) the practitioner has failed to observe an undertaking agreed under rule 17(2)(m) or 22(h) or which, having been agreed under rule 17(2)(m) or 22(h), has been varied following an invitation to comply with it under paragraph (2)(a); or

(c) the practitioner's health, performance or knowledge of English has deteriorated, or otherwise gives rise to further concern regarding their fitness to practise,

the Registrar may refer the matter to the MPTS for them to arrange for determination by a Medical Practitioners Tribunal under Part 5 of these Rules.”

(46) In rule 38 (voting)—

(a) in paragraphs (1) to (4), for “Panel”, in each place it appears, substitute “Tribunal”: and

(b) in paragraph (2), for “Chairman” substitute “Chair”; and

(c) in paragraph (5), for “FTP Panel” substitute “Medical Practitioners Tribunal”.

(47) For rule 39 (notes and transcript of proceedings), substitute—

“(1) The Registrar shall arrange for the proceedings of the Committee to be recorded by electronic means or otherwise.

(2) The MPTS shall arrange for the proceedings of the Tribunal to be recorded by electronic means or otherwise.

(3) Any party to the proceedings shall, on application to the Registrar or MPTS (as the case may be), be furnished with a copy of the written transcript of any part of the proceedings at which he was entitled to be present.

(4) Paragraphs (1) to (3) shall not apply to the deliberations of the Committee or Tribunal.”

(48) In rule 41 (attendance of the public)—

(a) in paragraphs (1), (2) and (4), for “FTP Panel”, substitute “Medical Practitioners Tribunal”; and

(b) in paragraphs (3), (5), (6) and (7), for “Panel” substitute “Tribunal”.

(49) In Schedule 1 to the Rules (Performance Assessments)—

(a) in paragraph 1 to that Schedule (interpretation), for “practitioner’s” substitute “person’s”; and

(b) omit paragraph 2 to that Schedule; and

(c) in paragraph 3 to that Schedule (the title to which will become “Proceedings and procedures of the assessment”)—

(i) in sub-paragraph (1) of that paragraph, after “Subject to sub-paragraphs (2) to (4)” insert “and any directions given by the Registrar under paragraph [5A(2)] of Schedule 4 to the Act”; and

(ii) in sub-paragraphs (1) to (4) of that paragraph, after “Assessment Team”, in each place it appears, insert “or individual performance assessor (as the case may be)”;

(iii) omit sub-paragraph (2A); and

(iv) in sub-paragraph (4), for “shall express” substitute “must, where the Registrar so requires, express”; and

(v) in sub-paragraph (5), for “under these Rules” substitute “given [by the Registrar] under paragraph 5A(2)(b) of Schedule 4 to the Act”; and

(d) after sub-paragraph (5), insert—

“(6) An assessment of a person’s knowledge of English, directed [by the Registrar] as part of an assessment of the person’s professional performance [under this Schedule] is to be undertaken in accordance with the provisions set out in Schedule 3.”.

(50) In Schedule 2 to the Rules (Health Assessments), in paragraph 2 to that Schedule—
(a) in paragraph 2 to that Schedule, for “invite” substitute “direct”;
(b) for paragraph 3 to that Schedule, substitute—

“3. The Registrar must make arrangements for any assessment directed under paragraph (2) to be carried out.”.

(51) In Schedule 3 to the Rules (Knowledge of English Assessments), for “FTP Panel”, in each place it appears, substitute “Medical Practitioners Tribunal”.

Amendments to the Constitution of Panels and Investigation Committee Rules

3.—(1) The Constitution of Panels and Investigation Committee Rules (the title to which becomes “The Constitution of Panels, Tribunals and Investigation Committee Rules”), are amended as follows.

(2) In rule 1 (citation and commencement), after “Panels”, insert “, Tribunals”.

(3) In rule 2 (interpretation)—

(a) in the appropriate place, insert—

“Tribunal” means an Interim Orders Tribunal or a Medical Practitioners Tribunal;

(b) in the definition of “appropriate person”, after “panellist” insert “or tribunal member”; and

(c) for the definition of “Panel”, substitute—

“Panel” means a Registration Appeals Panel or a Registration Panel; and

(d) in the definition of “panellist”, after “a Panel” omit “, a Registration Panel”.

(4) In rule 3,

for “a Panel”, in each place it appears, substitute “a Registration Appeals Panel”.

(5) After rule 3, insert—

“Rule 3A. Lists of tribunal members

(1) The MPTS must—

(a) appoint and maintain in accordance with paragraphs [(2) to (4)]—

(i) a list of persons eligible to serve as a registrant member of a tribunal; and

(ii) a list of persons eligible to serve as a lay member of a tribunal;

(b) set and publish criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment to a list at [sub-paragraph (a)(i) or (ii)];

(c) determine the terms on which a person holds a position on a list at [sub-paragraph (a)(i) or (ii)];

(d) determine the grounds on which the MPTS may suspend or remove a person from holding a position on a list at [sub-paragraph (a)(i) or (ii)].

(2) A person appointed to a list at [paragraph (1)(a)(i) or (ii)] holds and ceases to hold a position on the list in accordance with the terms of their appointment.

(3) A member of the General Council, the Committee, a Panel, or an officer of the General Council, shall not act as a tribunal member and, accordingly, may not be appointed to a list at [paragraph (1)(a)(i) or (ii)].

(4) A person shall not at any one time be included in both lists maintained by the MPTS under paragraph [(1)(a)].”.

(6) In rule 4 (the title to which becomes “Constitution of Panels, Tribunals and the Committee”—

(a) in paragraph (1), for “Panel”, substitute “Registration Appeals Panel”; and

(b) after paragraph (2) insert—
“(2A) Subject to rules [5(4) and 6], membership of a Tribunal is to—

(a) comprise medical and lay tribunal members, whose names are included on a list maintained under [rule 3A(1)(a)], selected by the MPTS in accordance with [paragraphs (3) and (4)]; and

(b) include at least one person whose name is included in the list maintained by the MPTS under [rule 5(2A)(a)].”

(c) in paragraph (3)—

(i) after “panellist”, where it first appears, insert “or tribunal member”; and

(ii) after “panellist” where it subsequently appears, insert “or tribunal member (as the case may be)”; and

(iii) after “a Panel” insert “, a Tribunal”; and

(iv) after “Committee”, omit “or a Registration Panel”; and

(d) for paragraph (4), substitute—

“(4) Nothing in paragraph (3) is to prevent—

(a) a tribunal member who sat on a Medical Practitioners Tribunal in proceedings relating to the fitness to practise of any person from acting as a tribunal member on a subsequent Medical Practitioners Tribunal —

(i) in proceedings in which the Tribunal is to determine whether or not to make a direction under section 35D(5), (6), (8), (10) or (12) of the Act relating to that person, or

(ii) in proceedings relating to an application for restoration of that person's name to the register;

(b) a tribunal member who sat on an Interim Orders Tribunal in proceedings relating to a person from acting as a tribunal member on a subsequent Interim Orders Tribunal in proceedings in which the Tribunal is to review an order under section 41A(2) or (9) of the Act in respect of that person.”.

(7) In rule 5 (chair)—

(a) for “a Panel” in each place it appears, substitute “a Registration Appeals Panel”; and

(b) after paragraph (2), insert—

“(2A) The MPTS shall—

(a) appoint and maintain from the lists at rule [3A(1)(a)], a list of persons eligible to serve as Chair of a Tribunal; and

(b) remove from the list at [paragraph (2A)(a)] the names of any person removed from the lists at [rule 3A(1)(a)].

(2B) The MPTS shall set and publish criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for selection to serve as the Chair of the Tribunal;

(c) in paragraph (3), after “during the course of any proceedings, then” omit “the Chair or”; and

(d) after paragraph (3), insert—

“(4) If the Chair selected under paragraph [(2A)(a)] is unavailable for the whole or part of any proceedings or becomes ineligible to act as Chair during the course of any proceedings, then the Chair or the MPTS may appoint another tribunal member, present at the commencement of the proceedings, to act as Chair for the whole or part of the hearing, as appropriate.”.

(8) In rule 6 (quorum)—

(a) in paragraph (a), for “a Panel a Registration Panel” substitute “a Panel, a Tribunal”; and

(b) in paragraphs (a) and (b), after “panellist” in each place in appears, insert “or tribunal member”.
(9) In rule 7 (validity of proceedings)—
(a) in paragraph (1)—
(i) for “a Panel a Registration Panel” substitute “a Panel, a Tribunal”; and
(ii) after "panellist" insert "or tribunal member"; and
(b) for paragraph (2), substitute—
“(2) This paragraph applies where a panellist or a tribunal member is unavailable for the whole or part of any proceedings or becomes ineligible to act during the course of any proceedings and the proceedings are adjourned as a result.

(3) Where paragraph (2) applies, the hearing may proceed notwithstanding that—
(a) any panellists or tribunal members present at the original hearing are not present at the subsequent hearing, or
(b) any panellists or tribunal members present at the subsequent hearing were not present at the original hearing.

(4) Paragraph (3) does not apply where the Registrar considers that it is in the interests of justice to convene a freshly constituted panel, tribunal or committee.”.

Amendments to Legal Assessor Rules

4.—(1) The Legal Assessor Rules are amended as follows.
(a) In rule 1 (citation, commencement and interpretation)— for the definition of “legal assessor”, substitute—
“legal assessor” means a person appointed under paragraph 7(1) or (1B) of Schedule 4, to the 1983 Act”; and
(b) for the definition of “Panel”, substitute—
“Panel” means a Registration Appeals Panel; and
(c) in the appropriate place, insert—
“legally qualified person” means a person satisfying the criteria set under [paragraph 7(1C) of Schedule 4] to the 1983 Act; and
“Tribunal” means Interim Orders Tribunal or Medical Practitioners Tribunal.

(2) In rule 2 (functions of legal assessors)—
(a) for “or a Panel”, in each place it appears, substitute “, a Panel or a Tribunal”; and
(b) for “or the Panel”, in each place it appears, substitute “, the Panel or the Tribunal”.

(3) For rule 3 (attendance of legal assessors), substitute—

“3. Attendance of legal assessors
(1) In all proceedings in which a legal assessor is appointed by—
(a) the Council under paragraph 7(1) of Schedule 4 to the 1983 Act; or
(b) the MPTS under paragraph 7(1B) of Schedule 4 to the 1983 Act;
the Committee, Panel or Tribunal conducting those proceedings shall not unless the legal assessor appointed is present, hold any meeting or hearing in respect of them.”.

(4) In rule 4 (the title to which becomes “Advice of legal assessors or legally qualified persons tendered at hearings”)—
(a) after “legal assessor”, in each place it appears, insert “or legally qualified person”; and
(b) for paragraph (1), substitute
“(1) Any advice given at a hearing by a legal assessor or legally qualified person on a question of law as to evidence, procedure or any other matter specified in the rules shall be given in the presence of every party, or person representing a party, in attendance at the hearing.
(5) In rule 5 (the to which becomes “Advice of a legal assessor or a legally qualified person outside a hearing which the Committee, a Panel or a Tribunal does not accept)—
   (a) after “a legal assessor” insert “or a legally qualified person”; and
   (b) for “or a Panel” substitute “, a Panel or a Tribunal”; and
   (c) for “the Panel”, substitute “, the Panel or the Tribunal”; and
   (d) in paragraph (a), after “legal assessor”, insert “or legally qualified person”.

Given under the official seal of the General Medical Council this xxx day of xxx [2015].

[Terence Stephenson]
Chair

[Niall Dickson]
Chief Executive and Registrar
Rules Order

The General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules Order of Council [2015]
The General Medical Council has made the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules [2015] which are set out in the Schedule to this Order, in exercise of the powers conferred by sections [paragraph 19F of Schedule 1] to the Medical Act 1983(a).

The General Medical Council has consulted with such bodies of persons representing medical practitioners, and such medical practitioners, as appeared to the General Medical Council requisite to be consulted in accordance with [x] to that Act.

By virtue of [paragraph 24 of Schedule 1] to the Act such Rules shall not have effect until approved by Order of Privy Council.

Citation and commencement

1. This Order may be cited as the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules Order of Council [2015] and comes into force on xxx 2015.

Privy Council approval

2. Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

[Name]
Clerk of the Privy Council

(a) 1983 c.54. paragraph 19F of Schedule 1 was inserted by S.I. XXXX
Citation, commencement and interpretation

1. These Rules may be cited as the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules [2015] and come into force on xxx [2015].

Interpretation

2. In these Rules—
   “the Act” means the Medical Act 1983;
   “chair” means the chair of the MPTS;
   “final outcome”, in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—
   (a) once the period for bringing an appeal has expired without an appeal being brought; or
   (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;
   “lay” in relation to any person, means a person who is not and never has been provisionally or fully registered, was at no time registered with limited registration and does not hold qualifications which would entitle them to apply for provisional or full registration under the Act;
   “licensing body” means any body, other than the General Council, anywhere in the world that licenses or regulates any profession;
   “MPTS” means the Medical Practitioners Tribunal Service;
   “member”, unless the context otherwise requires, means a registrant member or a lay member and includes the chair;
   “protected conviction” means, a conviction that is protected for the purposes of the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975;
   “registrant” means a registered medical practitioner who holds a licence to practise;
   “spent conviction” means—
   (a) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974; or
   (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

Composition of the MPTS

3. — (1) The MPTS are to consist of 2 registrant members and 3 lay members.
   (2) Only persons who are not members of the General Council are to be members of the MPTS.
(3) The General Council must set and publish criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment as chair or another member of the MPTS. Terms of office of members

4.—(1) The terms of office for which members of the MPTS are appointed, including the duration of the term of office of each member of the MPTS, is to be determined by the General Council, on appointment.

(2) No member of the MPTS may hold office as a member (including as chair) of the MPTS for more than an aggregate of 8 years during any period of 20 years.

Education and training of members

5. The General Council must make provision in standing orders with respect to the requirements with regard to education and training of members of the MPTS, and those standing orders may provide for—

(a) education and training to be the responsibility of another body; and

(b) those requirements to be set and varied by that body from time to time.

Disqualification from appointment as a member

6. A person is disqualified from appointment as a member of the MPTS if that person—

(a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent [or a protected] conviction;

(b) has at any time been convicted of an offence in the United Kingdom, and—

(i) the final outcome of the proceedings was a sentence of imprisonment or detention; and

(ii) the conviction is not a spent or protected conviction;

(c) has at any time been removed—

(i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—

(aa) for which the person was responsible or to which the person was privy; or

(bb) which the person by their conduct contributed to or facilitated; or

(ii) under—

(aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities); or

(bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session),

from being concerned with the management or control of any body;

(d) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;

(e) at any time has been adjudged bankrupt or sequestration of the person's estate has been awarded, and—

(i) the person has not been discharged; or

(ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 19862 (bankruptcy restrictions order and undertaking);

(f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;

(g) is subject to—
(i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986;

(ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1986;

(iii) a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002; or

(iv) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of a county court administration order);

(h) has been included by—

(i) the Disclosure and Barring Service in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or

(ii) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007);

(i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—

(i) the person's suspension from a register held by the licensing body, and that suspension has not been terminated;

(ii) the person's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body; or

(iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;

(j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the General Council, in the course of which or where the final outcome has been that—

(i) the person's registration in the register has been suspended (including by an interim suspension order or an order under section 38 of the Act (power to order immediate suspension etc. after a finding of impairment of fitness to practise)) and that suspension has not been terminated;

(ii) the person has been erased from the register (for a reason connected to the person's fitness to practise); or

(iii) the person's registration in the register has been made conditional upon their compliance with any requirement (including by an order for interim conditional registration or an order under section 38 of the Act) and that requirement has not been lifted;

(k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured, the final outcome of which was the erasure of the person from the register;

(l) has agreed in the course of proceedings concerning the person's fitness to practise to comply with undertakings, in accordance with rules under [paragraph 1(2A) to (2D)] of Schedule 4 to the Act (procedure and evidence before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels), and the undertakings continue to apply;

(m) is or has been subject to any investigation or proceedings concerning the person's fitness to practise by—

(i) any licensing body; or

(ii) the General Council,

and the General Council is satisfied that the person's membership of the MPTS would be liable to undermine public confidence in the regulation of the medical profession; or
(n) has at any time been convicted of an offence elsewhere than in the United Kingdom and the General Council is satisfied that the person's membership of the MPTS would be liable to undermine public confidence in the regulation of the medical profession.

Removal of members from office

7.—(1) A member must be removed from office by the General Council, if—
(a) the member resigns, which a member may do at any time by a notice in writing to the General Council;
(b) in the case of—
   (i) a registrant member, that member is erased from the register for a reason not connected to the member's fitness to practise; or
   (ii) a lay member, that member becomes a person who no longer satisfies the criteria for being a lay member (under paragraph 1A(1)(b) of Schedule 1 to the Act);
(c) the member becomes a person of the type mentioned in rule 5(a), (b) or (e) to (h) (irrespective of whether or not they subsequently cease to be a person of the type mentioned in those provisions);
(d) the member becomes a person of the type mentioned in rule 5(c) or (d);
(e) in the case of a registrant member, the member has become the subject of any investigation or proceedings concerning the member's fitness to practise by the General Council or any licensing body, as a result of which—
   (i) the member's registration in the register is suspended;
   (ii) the member is erased from the register; or
   (iii) the member's registration in the register has been made conditional upon the member's compliance with any requirement,
and the proceedings relating to that particular sanction have reached their final outcome;
(f) in the case of a registrant member, the member has become the subject of any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of the person's entry in the register;
(g) in the case of a registrant member, the member has agreed in the course of proceedings concerning the member's fitness to practise to comply with undertakings, in accordance with rules under paragraph 1(2A) to (2D) of Schedule 4 to the Act (procedure and evidence before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels);
(h) the General Council is satisfied that the member's level of attendance at meetings of the MPTS falls below a minimum level of attendance acceptable to the General Council, having regard to—
   (i) any recommended minimum levels of attendance that the General Council have set; and
   (ii) whether or not there were reasonable causes for the member's absences;
(i) the General Council is satisfied the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the General Council have included in their standing orders;
(j) the General Council is satisfied that the member is no longer able to perform their duties as a member of the MPTS because of adverse physical or mental health;
(k) the General Council is satisfied that the member's continued membership of the MPTS would be liable to undermine public confidence in the regulation of the medical profession.
A member who becomes, or may be about to become, a person to whom [paragraph (1)(b) to (g)] applies must notify the General Council and the MPTS in writing of that fact as soon as the person becomes aware of it.

Any member of the MPTS or employee of the General Council may notify the General Council if they are of the view that the General Council may need to exercise its functions under [paragraph 1].

The chair must notify the General Council if the chair is aware that—

(a) a member has become, or may be about to become, a person to whom paragraph (1)(b) to (g) applies; and

(b) that member has not notified the General Council in writing of that fact and the chair is not satisfied that the member will do so immediately.

Suspension of members from office

8.—(1) The General Council may suspend a member from office by a notice in writing served on the member—

(a) if the General Council has reasonable grounds for suspecting that the member has become a person to whom rule [6(1)(b)(ii) to (d)] applies, for the purposes of determining whether or not the member has become such a person;

(b) while the General Council is considering whether or not it is satisfied as to the matters set out in rule [6(1)(h) to (k)];

(c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—

(i) any licensing body; or

(ii) the General Council,

and the General Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the MPTS while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

(d) if the member is subject to any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the General Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the MPTS while the investigation or proceedings concerning the member's entry in the register is or are ongoing; or

(e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—

(i) either—

(aa) the investigation or proceedings relate to an offence involving dishonesty or deception; or

(bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention; and

(ii) the General Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the General Council while the investigation or proceedings is or are ongoing.

(2) The General Council must suspend a registrant member from office by a notice in writing served on the member if the member is the subject of an order under section 38 or 41A of the Act (power to order immediate suspension etc. after a finding of impairment of fitness to practise, and interim orders).
(3) The notice in writing under paragraph (1) or (2) must set out the reasons for the suspension and the duration of the period of suspension, which must (in the first instance) not be for more than 6 months.

(4) The General Council—
   (a) may at any time review a suspension of a member by it; and
   (b) must review any suspension of a member by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.

(5) Following a review, the General Council may—
   (a) terminate the suspension;
   (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.

(6) The General Council must notify the suspended member in writing of the outcome of any review and that notice in writing must include the reasons for any decision taken.

Chair of the MPTS

Appointment, term of office and cessation of office of the chair

9.—(1) The General Council must, as one of its functions relating to the appointment of members of the MPTS, appoint the chair of the MPTS.

(2) The General Council may appoint a person to be the chair of the MPTS (“the appointee”)—
   (a) when it appoints that person to be a member of the MPTS; or
   (b) whom it has already appointed as a member of the MPTS.

(3) The General Council must, upon making the appointment, determine the term of the appointee's office as chair and that term cannot last beyond the date on which the appointee's term of office as a member of the MPTS is due to expire (irrespective of whether or not the appointee is thereafter reappointed as a member of the MPTS).

(4) An appointee ceases to be chair upon—
   (a) ceasing to be a member of the MPTS;
   (b) resigning as chair, which the appointee may do at any time by a notice in writing to the General Council;
   (c) suspension of the appointee's membership of the MPTS by the General Council; or
   (d) a vote to terminate the appointee's appointment as chair by a simple majority of all the other members of the General Council.

Transitional arrangements in respect of the first chair and Committee members of the MPTS

10. Notwithstanding rule [8(1) and (2)], where immediately before the commencement of these rules, a committee of the General Council constituted under paragraph 25 of Schedule 1 to the Act have been carrying out functions relating to fitness to practise proceedings, the General Council may—
   (a) appoint as the chair of the MPTS, for such a period as the General Council may determine, the person who was, immediately before that commencement, the chair of that committee; and
   (b) may appoint as a member of the MPTS other than the chair, for such period as the Council may determine, a person who was, immediately before that commencement, a member of that committee.
Deputising arrangements

11.—(1) Subject to paragraph (2), if, for any reason, the chair is absent from a meeting of the MPTS, the General Council may—

(a) nominate a member of the MPTS (“deputy chair”) to serve as chair at that meeting; or
(b) determine that the meeting will not take place, or will not continue (in circumstances where the meeting has already commenced).

(2) If, for any reason—

(a) the General Council is on notice that their chair is likely—
   (i) to be absent for more than one meeting of the MPTS; or
   (ii) to be unavailable to perform the duties of a chair for more than one month; or
(b) the office of chair is vacant,
   the General Council may—
   (i) nominate a member (“deputy chair”) to serve as chair;
   (ii) delegate the functions of the MPTS chair to the chair of the General Council, during the absence or unavailability of the chair or the vacancy.

(3) A member serving as deputy chair must cease to be deputy chair—

(a) in the case of—
   (i) the absence or unavailability of the chair, once the chair notifies the MPTS that they are able to resume their duties; or
   (ii) the office of chair being vacant, once the vacancy is filled;
(b) if the member ceases to be a member;
(c) if the member resigns as deputy chair, which the member may do at any time by a notice in writing to the General Council; or
(d) if the member’s membership of the MPTS suspended by the General Council; or if the General Council votes (by a majority at a quorate meeting) to terminate the member’s appointment as deputy chair.

Delegation

12.—(1) The General Council may direct the MPTS to delegate to the chair of the MPTS, or to such other officer of the General Council as the Council determine, such of the functions of the MPTS as the Council determine.

(2) Where a direction is made by the General Council under paragraph (1), the MPTS must delegate to the chair of the MPTS, or other officer of the Council (as the case may be), such of its functions as the Council directs.

Proceedings of the MPTS

Quorum

13. The quorum of the MPTS is to be 3.

Effect of vacancies etc. on the validity of proceedings

14.—(1) The validity of any proceedings of the MPTS is not be affected by—

(a) any vacancy among the members of the MPTS;
(b) any defect in the appointment of a member of the MPTS;
(c) a member whom the General Council must remove from the MPTS under rule [6(1)(b) to (g)] participating in the proceedings;

(d) a member whom the General Council has removed under rule [6(1)] having participated in the proceedings; or

(e) a member who has been provisionally suspended by the MPTS or suspended by the General Council under rule [7(1) or (2)] having participated in the proceedings.

(2) Notwithstanding paragraph (1)(c), a member whom the General Council must remove from the MPTS under rule [6(1)(b) to (g)] is not entitled to participate in proceedings of the MPTS, pending the member's removal from the MPTS by the General Council.

Given under the official seal of the General Medical Council this xxx day of xxx [2015].

[Terence Stephenson]
Chair

[Niall Dickson]
Chief Executive and Registrar