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| <b>Agenda item:</b>  | <b>15</b>  |
| <b>Report title:</b> | <b>The role of tribunals in the wider regulatory system</b>  |
| <b>Report by:</b>    | <b>Anna Rowland</b> , Assistant Director Policy, Business Transformation and Safeguarding, Fitness to Practise Directorate, <a href="mailto:ARowland@gmc-uk.org">ARowland@gmc-uk.org</a> , 020 7189 5077 |
| <b>Action:</b>       | <b>To note</b>   |

### **Executive summary**

We plan to strengthen the existing process for Medical Practitioners Tribunal Service Tribunals to share information presented at a hearing that suggests a risk within the remit of another regulator or other body.

### **Recommendation**

The Strategy and Policy Board is asked to note the proposed process for tribunals to share information about the wider regulatory system.

## Background

- 1 While operationally separate from the Fitness to Practise directorate, the Medical Practitioners Tribunal Service (MPTS) is part of the GMC family.
- 2 The GMC's statutory objective (a) to protect, promote and maintain the health, safety and well-being of the public (b) to promote and maintain public confidence in the medical profession, and (c) to promote and maintain proper professional standards and conduct for members of that profession, applies to the MPTS, the same as to other parts of the GMC. The protection of the public includes providing support to the wider regulatory system to prevent risk to the public and support a safety culture in the practice of medicine.
- 3 The GMC is required, subject to information legislation, to share information with other regulators, when that information relates to a risk or potential risk to the public and falls within the remit of that regulator. For example where the GMC receives information that suggests there may be a systemic failure on the part of a healthcare provider that poses a risk to the public or where a practice or procedure has been identified that is putting patients at risk, we share that information with the relevant organisation. Other examples might be more specific, such as a the failure of an organisation to respond adequately to a patient concern, unacceptable delays in releasing information, a Responsible Officer failing to undertake his or her duties or a clinical environment which appears under stress to the point where patient safety may be being compromised.
- 4 There will be times when the Tribunal has concerns and questions about information of this nature that is presented. Should such concerns be received by the Tribunal as a result of information presented at a hearing, systems should be in place which ensure that information or any concerns are identified and passed on to the appropriate authorities.

### *Current arrangements*

- 5 The MPTS already has a system in place to ensure that when information is presented at a hearing that suggests a risk within the remit of another regulator or other body, a form should be completed. The Tribunal Development Team identifies and sends the form to the appropriate contact in the Fitness to Practise directorate.
- 6 The aim is to create a system which makes sure, as a matter of routine, that Tribunals consider whether any wider issues or concerns have arisen during the proceedings and if so they should have a means by which those responsible are alerted. There must also therefore be a mechanism that makes sure this is carried out.

*Amendment to the process for sharing information presented to the tribunal*

- 7** To require Tribunals to confirm in every case whether wider information has arisen (a system involving nil returns declaration) would be going too far.
- 8** However, short of that, the current system should be tightened up and made more comprehensive and robust, in the following ways:
  - a** An instruction in the Tribunal members' handbook about the need to record any wider concerns that arise from evidence given during the hearing and the need where possible to identify the organisation or individual to which it should be sent.
  - b** A section added to the Chair's feedback form, which is completed at the end of every case, for recording information in those cases where such wider concerns have arisen from the evidence. Where such information is included in the determination, the feedback form would reference the relevant paragraphs of the determination. Where no such concerns arise during a hearing, this section of the feedback form would not be filled out and failure to fill this out would not be a nil return.
  - c** Information identified in this way (i.e. the relevant section of the feedback form) to be formally sent to the Registrar of the GMC with a request that it is passed on to the relevant authorities. In practice where this section of the form has been completed the Tribunal Development Team should pass that information to the GMC Information Sharing Team to take forward. Letters which result would normally be signed by the Registrar and copies, together with any replies received, would be sent to the Chair of the MPTS. The MPTS Chair's biannual report to Council would include reference to the number of instances where the Tribunal has raised issues with the wider system using the memorandum of concern contained in the feedback form.
  - d** Guidance for all Tribunal members on the types of issue that should be included in the memorandum, making clear that it is legitimate for the Tribunal to raise a concern or a query without having to have reached any judgement on the matter itself. A session of the annual training programme will be devoted to this.

*Next steps*

- 9** The changes to the MPTS process will be taken forward by the MPTS Change Management Team and the GMC Information Sharing Team will ensure that copies of letters sent by the Registrar in relation to information shared by the MPTS and any replies will be sent to the Chair of the MPTS.