

Publication and disclosure policy

Fitness to practise

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Publication and disclosure policy – Fitness to practise

Introduction

This document sets out our general policy on the publication and disclosure of information relating to a doctor's fitness to practise. We publish and disclose information about fitness to practise to help meet our overarching objective of protecting the public. In meeting this objective, we act to

- protect, promote and maintain the health, safety and well-being of the public
- promote and maintain public confidence in the medical profession
- promote and maintain proper professional standards and conduct for members of the profession.

Our publication and disclosure policy is informed by the following principles:

- We are committed to transparency about our processes and decisions. We believe that being open about the action we take in response to serious concerns about doctors is in the interests of the public and the medical profession.
- We will take a proportionate approach when displaying this information online or sharing it with those who request it.

Legislative context

We have a statutory duty under section 35B(4) of the *Medical Act 1983* (the Act) to publish, in such a manner as we see fit, a range of decisions by medical practitioners tribunals, interim orders tribunals and investigation committees, and undertakings agreed with doctors. We have a discretionary power to withhold any information concerning the physical or mental health of a person which we consider to be confidential.

We also have a discretionary power under section 35B(2) of the Act to publish or disclose any information about a doctor's fitness to practise, to any individual or organisation, where we consider it to be in the public interest. In exercising this power, we do not have to consider the public interest in relation to each individual doctor or case, but can agree and implement policies which apply to the disclosure of general categories of information, in the public interest.

We are subject to a range of legislative duties in relation to information governance under data protection legislation, *the Human Rights Act 1998*, and *the Freedom of Information Act 2000*. Data protection legislation and the *Freedom of Information Act* impose a particular set of duties in respect of information disclosure.

This document outlines our policy in relation to the routine publication and disclosure of fitness to practise information.

Where do we publish information about a doctor's fitness to practise?

Information is published on the websites of both the General Medical Council (GMC) and the Medical Practitioners Tribunal Service (MPTS). The MPTS has been carrying out impartial adjudication of concerns about doctors since 11 June 2012.

When serious concerns are raised about a doctor, the GMC investigates. At any point a serious concern may be referred to the MPTS to consider whether it is necessary to take interim action to restrict or suspend a doctor's registration to manage any interim risks while we carry out an investigation. At the end of an investigation, two decision makers (one medical, one lay) called case examiners may close the case (with or without advice), issue a warning, agree undertakings with a doctor or refer the concerns to the MPTS for adjudication. If the decision makers do not agree about the outcome of the investigation or if a doctor exercises their right to a hearing in relation to the issue of a warning, the matter will be referred to a hearing by the Investigation Committee (which is run by the GMC's investigation arm).

Adjudication at the MPTS is carried out by independent tribunals (medical practitioners tribunal and interim order tribunals). Where a medical practitioners tribunal finds a doctor's fitness to practise to be impaired, it may take action in relation to a doctor's registration, called sanctions. The sanctions that can be imposed are the placing of conditions on a doctor's registration, suspension from the medical register or, in some circumstances, erasure of a doctor's name from the medical register. If a tribunal finds a doctor's fitness to practise is not impaired they may close a case with no action or issue a warning. They may also on occasion agree that a case can be closed if, during a hearing, a doctor agrees undertakings with the GMC.

The GMC website

The online medical register of doctors is called the medical register. It is publicly available via the GMC website. The medical register records on a doctor's registration record any active measures to address concerns about a doctor's fitness to practise, including interim action.

It also contains historical information about action taken in the past in relation to a doctor's fitness to practise even if the measures are no longer active. The publication of this information is time limited.

This policy sets out below further information on what the GMC publishes on the medical register about both current and historical action in relation to a doctor's fitness to practise.

The Investigation Committee page on the GMC website contains decisions of investigation committee hearings which conclude in a warning. The decisions are published here for one year. Decisions of investigation committees which do not conclude in a warning are not published. Notices of forthcoming investigation committee hearings are published on this page and will be removed no later than three months after the hearing takes place. You

can find further information on the circumstances in which we issue website notices relating to hearings in Annex A to this policy.

The recent decisions page on the GMC website contains a list of recent decisions taken at the end of an investigation by case examiners, to agree undertakings with a doctor, vary existing undertakings, or to issue a warning to a doctor. These decisions are published on this list for one year. Decisions taken which relate solely to a doctor's health are not published on this page.

The MPTS website

The recent decisions page on the MPTS website contains decisions of the following medical practitioner tribunal hearings:

- Hearings about the fitness to practise of doctors, including hearings to address non-compliance with an investigation and applications for restoration to the medical register.
- Hearings to review existing sanctions, including reviews that take place without an oral hearing on the papers.
- Hearings where the tribunal considers a doctor's application to take voluntary erasure from the medical register.

These decisions are published on the MPTS website for one year, with the exception of decisions that relate solely to a doctor's health which are not published on this page. This page also contains hearing decisions that do not result in the issue of a warning or a finding of impairment (or a finding of non-compliance at a non-compliance hearing) although these are not published on the GMC's online medical register.

Where an interim orders tribunal hearing imposes a suspension or conditions on a doctor's registration, the MPTS publishes this via a website notice on the *Recent decisions* page of their website for six weeks. No further details of the decision taken are published however, although the interim order itself is published on the GMC's online medical register while it is active.

The MPTS also publishes information about forthcoming tribunal hearings on its website, both in a list of current and upcoming MPTS hearings and via a website notice. A website notice will be published on the MPTS website before all medical practitioners tribunal hearings (including non-compliance hearings) held in public and will be removed no later than three months after the hearing takes place. Interim orders tribunals are usually held in private, but if a doctor chooses to have their interim order hearing in public, a website notice will be published in the same way. You can find further information on the circumstances in which we issue website notices at Annex A to this policy.

What information do we publish about a doctor's fitness to practise?

Current sanctions and undertakings effective on a doctor's registration

Substantive sanctions (including those imposed by a non-compliance hearing) and undertakings

Where a substantive suspension, substantive conditions or undertakings are active on a doctor's registration we publish this information on the *Doctor details* page of the doctor's record on the medical register for as long as the sanction or undertakings are active. For suspensions, conditions and undertakings agreed by a tribunal, there is also a link to the relevant hearing decision, if this is publicly available. For undertakings agreed by our decision makers without a tribunal hearing, a summary of the reasons for the decision to agree undertakings is included on the doctor's record* together with the list of agreed undertakings. If we subsequently agree with the doctor to vary the undertakings, a short explanation of the reason for the variation is added to the summary.

Where a doctor has been erased from the register for fitness to practise reasons, this will be stated on the *Doctor details* page of the doctor's record on the medical register for a period of ten years from the date at which the doctor leaves the register. A link to the relevant hearing decision is also displayed, if this is publicly available. After ten years the information will be removed from the medical register. However, if the doctor is subsequently restored to the medical register, this information will once more be displayed on the *Doctor history* page of the record.

Interim and immediate orders

Interim and immediate orders are displayed on a doctor's record while they are active but removed from publication when they are lifted. If a doctor voluntarily leaves the medical register (voluntary erasure), or is administratively erased from the medical register, while an interim order is active, the interim order will be published for a further period of one year.

Information about a doctor's health, and other confidential information

We do not publish any information relating solely to a doctor's health. We treat this information as confidential. This means that, where a doctor's registration is subject to undertakings or conditions, only those that relate to their practice will be displayed on their record. Undertakings or conditions that relate solely to the management of their health condition are not displayed.

* This applies to all cases where the original undertakings were agreed on or after 4 September 2017. Cases where undertakings were agreed before that date do not have an accompanying summary. Nor do we publish a summary in any case where the undertakings have been agreed solely on the grounds of health.

We do not publish records of hearing decisions where the issues relate solely to a doctor's health, either on the medical register or on the MPTS *Recent decisions* page, although if a sanction has been imposed, this will be published on the doctor's record on the medical register. We may not publish decisions, or parts of decisions, in other exceptional circumstances where information is considered confidential, for example to protect the privacy of a complainant, witness or other third party.

Some decisions will involve the consideration of both health and other issues, for example misconduct or performance concerns. In these circumstances, all hearing decisions, and the explanatory summaries which accompany undertakings, will only refer to the other issues and will not include information solely relating to the doctor's health. We will consider including this information however, if the doctor requests it.

Tribunals which hear cases involving the consideration of both health and other issues are expected to hold as much of the hearing as possible in public, entering into private session only for those parts of a hearing which relate to a doctor's health. Where this is not possible however, and non-health issues are considered alongside health issues in private session, we will publish a record of the tribunal's decision with the information relating solely to the doctor's health removed.

Historical sanctions and undertakings

Where sanctions or undertakings are no longer active on a doctor's registration, we will continue to publish them in the *Doctor history* section of the doctor's record on the medical register for a period of time. We will also publish decisions which resulted in a finding of impairment by a medical practitioner's tribunal in this section, even if no sanction was imposed. The exact length of time for which information is published will depend on the type of sanction, whether the doctor remains registered, and whether or not the action was taken solely on health grounds. The time limits aim to achieve a balance between the following factors:

- transparency about the regulatory action we have taken in order to protect the public and maintain confidence in the profession
- proportionality in relation to matters that took place a long time ago; matters relating to a doctor's health; or doctors who have given up their registration and are no longer seeking work as a doctor.

The time limits for substantive sanctions are as follows:

Table 1: Doctors not currently registered

| Sanction | Time limit |
|---|-----------------------------------|
| Doctor was erased from the medical register by a medical practitioners tribunal | 10 years from the date of erasure |

| | |
|--|---|
| Doctor received suspension or conditions, or agreed undertakings | 5 years from the date the doctor left the register (subject to relevant 10 and 15 year maximum periods – see Table 2) |
| Doctor received a finding of impaired fitness to practise but no sanction was imposed or undertakings agreed | 1 year from the date the doctor left the register (subject to 5 year maximum period – see Table 2) |
| Doctor received suspension or conditions, or agreed undertakings, solely on the grounds of health | 1 year from the date the doctor left the register (subject to the sanction still being active at that point) |

Table 2: Registered doctors – action taken for reasons other than solely on the grounds of adverse physical or mental health

| Sanction | Time limit |
|---|---|
| Doctor was erased from the medical register by medical practitioners tribunal and subsequently restored to register | As long as the doctor is registered with the GMC plus 5 years if they leave |
| Doctor received a suspension of more than 3 months | 15 years from the date the suspension expires |
| Doctor received a suspension of 3 months or less, or conditions, or agreed undertakings | 10 years from the date the sanction expires or is revoked |
| Doctor received a finding of impaired fitness to practise but no sanction was imposed or undertakings agreed | 5 years from the date of the end of the MPTS hearing |

Table 3: Registered doctors – action taken solely on the grounds of adverse physical or mental health

| Sanction | Time limit |
|---|--|
| Doctor received suspension or conditions, or agreed undertakings, because of impaired fitness to practise solely on the grounds of health | Remove from publication as soon as sanction expires/is revoked |
| Doctor received impairment finding solely on the grounds of health but no sanction was imposed or undertakings agreed | No publication on the online register |

Interim and immediate orders

Historical interim and immediate orders are not published. However, they can be disclosed for the duration of the publication period of any subsequent related interim order or substantive action.

Voluntary and administrative erasure from the register

Where a doctor leaves the register voluntarily, or is administratively erased, while a fitness to practise sanction, undertakings or impairment finding is still being published on the medical register, the time limits which then apply are those set out in Table 1 for 'Doctors not currently registered'. However, these time limits are subject to the maximum period overall for the particular fitness to practise action taken. So, we will publish information about a doctor's suspension, conditions or undertakings (received other than solely on the grounds of health) on the medical register for five years from the date the doctor left the register unless there is less than five years of the original time limit left to run, in which case we will publish it for the remaining period of that original time limit.

For example, in March 2014, Doctor A received a three month suspension, which expired in June 2014. Information about the suspension is subject to a ten year publication time limit, so will continue to appear in the history section of the doctor's record until June 2024. However, in April 2022, Doctor A applies for and is granted voluntary erasure. The publication time limit for a suspension for a doctor who is no longer on the register is five years from the date the doctor leaves the register, which for Doctor A would be April 2027, but as there is less than five years of the original publication period left, the information will appear on his record only until the end of that period ie June 2024. If Doctor A had taken voluntary erasure in April 2016, the five year publication period for non-registered doctors would apply, and the information would be removed from the medical register in April 2021.

Where a doctor has received a finding of impaired fitness to practise with no sanction and later takes voluntary erasure, or is administratively erased, we will publish this for one year from the date that the doctor leaves the register. If, however, there is less than a year to run of the original five year publication period, we will publish it for the remainder of that time only.

If a doctor has a sanction or undertakings still active on their registration at the point at which they take voluntary erasure, or are administratively erased, we will publish information about the sanction or undertakings for five years from the date the doctor leaves the register. If the sanction or undertakings were received solely on the grounds of health, we will publish the information for one year.

Voluntary erasure hearing decisions

The MPTS publishes decisions taken by tribunals on applications for voluntary erasure on the *Recent decisions* page of its website for one year. If voluntary erasure is granted after a tribunal finds a doctor's fitness to practise to be impaired but prior to a sanction being

determined, we also publish that decision on the medical register for a period of one year from the date of voluntary erasure. Where voluntary erasure is granted during a review of active sanctions, we publish the decision on the medical register in line with the time limits for the substantive sanction (that is, one year for cases where the action has been taken solely on the grounds of health; five years for all other cases).

Voluntary and administrative erasure and interim orders

In some cases, a doctor may take voluntary erasure or be administratively erased while they are subject to an interim order. In these circumstances, the interim order will continue to be published for one year from the date the voluntary or administrative erasure takes effect.

Restoration to the register

Where a doctor is erased from the medical register for fitness to practise reasons, this information will remain on their medical register record for ten years from the date at which they were erased, and then be removed. However, in a small number of fitness to practise erasure cases, a doctor who is able to demonstrate they are now fit to practise can be restored to the register. In view of the seriousness of the original concerns, we will republish information about the fitness to practise erasure in the *Doctor history* section of the doctor's record (if it has already been removed) and it will stay there for as long as the doctor remains on the medical register, and for a further five years if they subsequently leave the register.

Where a doctor who has taken voluntary erasure, or who has been administratively erased, is restored to the register, information about any previous sanction, undertakings or finding of impaired fitness to practise which is no longer active but is still within its original publication date will be republished in the *Doctor history* section of the doctor's record for the remainder of the original publication period.

For example, Doctor B was suspended for six months in November 2011. The suspension was lifted in May 2012. The sanction moves to the Doctor history section on the online register and will be published until May 2027 – 15 years from the date it was lifted. In September 2016, Dr B decides to take voluntary erasure. Suspension has a five year publication time limit for a doctor no longer registered, so the record of the suspension is removed from the online register in September 2021. However, Doctor B applies and is restored to the register in 2023. The sanction of suspension is republished on the Doctor history section, until the original deadline of May 2027.

Restoration to the medical register can only take place where a doctor is found to be fully fit to practise. In other words, a doctor cannot be restored to the register with any conditions or undertakings attached to their registration. If a doctor has taken voluntary erasure or been administratively erased while a sanction was still active on their registration, and is later restored to the register having been found fully fit to practise, the

start of the publication period for that previous sanction will be the date at which the doctor left the register.

For example, Doctor C had substantive conditions imposed on her registration in January 2015. In February 2016 the sanction was still active but a tribunal granted the doctor's application for voluntary erasure. There is a five year publication period for conditions for doctors who are no longer registered, so information will remain on the doctor's record until February 2021. In September 2023, Dr C applies for restoration to the medical register and is successful. Conditions carry a ten year publication time limit from the point they cease to be effective. As they were still active when Dr C first left the register, the publication period will be held to run from the date she left – that is February 2016. On her restoration, they will therefore be republished on the doctor's history page until February 2026.

Restoration hearing decisions

Decisions of tribunal hearings following an application for restoration where there is no previous finding of impaired fitness to practise are published on the *Recent decisions* page of the MPTS website only, for a period of one year. They are not published on the medical register, although a record of the hearing date will be published there for five years.

Decisions of medical practitioners tribunals following an application for restoration from a doctor who has had a previous finding of impaired fitness to practise made against them are published on the *Recent decisions* page of the MPTS website for one year, and on the medical register. Where a doctor has previously been erased from the medical register for fitness to practise reasons, the decision to grant an application for restoration will remain on the medical register for as long as the doctor is registered. All other restoration hearing decisions where there has been a previous finding of impaired fitness to practise, whether the application is successful or not, will remain for five years from the date of the decision.

Medical practitioners tribunal review hearing decisions

The MPTS publishes review hearing decisions (including where a review takes place on the papers) on the *Recent decisions* page of its website for a period of one year. Where the outcome of the hearing is a further sanction, the sanction and decision will be published on the medical register in line with the time limits applicable to that sanction. Where the outcome of the review hearing is that the doctor's fitness to practise is not impaired, or, that it is impaired but no further action will be taken, the decision will be published for ten years from the date of the hearing (except in cases which are solely related to health for which the decision is not published). During this time, the sanction that was previously in force on the doctor's registration will still be published on the *Doctor history* page of their medical register record, and the review decision sets out the reasons why the doctor has now been allowed to return to unrestricted practice.

If a doctor leaves the register voluntarily, or is administratively erased, while a review hearing finding that the doctor's fitness to practise is not impaired is still being published, then the time limit for publication will be five years from the date of leaving the medical register (subject to the overall maximum publication period of ten years for this

information). This is in line with the publication period for doctors who are not currently registered but have fitness to practise information still being displayed on their medical register record.

Doctors may be subject to a sanction which is then replaced or varied on review. Each sanction will be published in line with the relevant time limit applicable to it. This means that there will be circumstances in which an earlier sanction is published for longer than a sanction subsequently imposed on review. This is because the time limit attaches to the seriousness of the sanction that has been imposed.

For example, Doctor D was suspended for 6 months in March 2015. A review hearing took place in September 2015. The suspension was allowed to expire but conditions were instead imposed on her registration. Information about the suspension will be published for 15 years from the date of expiry, so until September 2030. The conditions imposed were revoked after 2 years, in September 2017. Information about the conditions will be published for 10 years, until September 2027.

There will also be circumstances where a sanction is originally imposed on a doctor for both health and other reasons, eg misconduct, but where on review, impairment is found solely in relation to health and a further sanction imposed. In this scenario, the original sanction would be published in line with the time limits for action taken for reasons other than solely on the grounds of health, but the subsequent sanction would be published in line with the time limits for action taken solely on the grounds of health.

For example, Doctor E was convicted of assault and also suffered from an alcohol addiction. A tribunal found his fitness to practise to be impaired on the grounds of both misconduct and health, and imposed a suspension of 12 months in June 2014. At a review hearing in June 2015, the tribunal found the doctor's fitness to practise to be no longer impaired on the grounds of the conviction but still impaired on the grounds of health. The suspension was revoked but the tribunal imposed conditions on the doctor's registration, which remained active until June 2017 when they were lifted on review. The original suspension will be published for 15 years from the date of expiry, that is, until June 2030. The subsequent conditions would not be published after they were lifted, ie in June 2017, because they were imposed solely on the grounds of health.

In some cases, a sanction may have originally been imposed because of impaired fitness to practise solely on the grounds of health, but on review, impairment is subsequently found on other grounds too. In this scenario, the original sanction would not be published after it ceased to be active, but any subsequent sanction would be published in line with the time limits for action taken for reasons other than solely on the grounds of health.

Variations of undertakings in cases involving both health and other concerns

In some cases, undertakings may have been agreed for both health and other reasons, for example performance or conduct concerns, but are subsequently reviewed and varied so that they address solely health concerns – that is, our decision makers no longer consider the doctor's fitness to practise is impaired by reasons other than health. In these cases, we publish information about the original set of undertakings on the *Doctor history* page of their medical register record in line with the time limits for action taken for reasons

other than solely on the grounds of health. The varied set of undertakings would be published in line with the time limits for action taken solely on the grounds of health.

For example, Doctor F was diagnosed with depression and an anxiety disorder. Complaints had also been made about aggressive behaviour on a number of occasions towards patients and colleagues. Our decision makers found that the doctor showed insight into his situation, and that his health condition was affecting his behaviour at work. They considered however that there was a realistic prospect that his fitness to practise was impaired on the grounds of both health and conduct, and agreed with the doctor that these concerns could be effectively addressed by undertakings. These came into effect in March 2015. Eighteen months later, in September 2016, our decisions makers reviewed Doctor F's progress, and decided that there were no longer concerns about the doctor's conduct, but that there remained a realistic prospect that he was impaired on the grounds of health. However, based on evidence from his medical supervisor, the doctor's undertakings were varied at that point to relax some of the restrictions on his practice. These varied undertakings remained in place until September 2017 when they were revoked completely and Doctor F returned to unrestricted practice. Information about the original undertakings will be published for ten years from the date they were varied, that is, until September 2026. Information about the varied undertakings which related to health concerns only is removed from publication at the point they are revoked, that is, September 2017.

It is also possible for our decision makers to agree undertakings with a doctor to address health concerns only, but then on review to decide to vary the undertakings to take account of performance or conduct concerns which have subsequently arisen. In this scenario, the original undertakings would not be published after they were revoked, but the varied undertakings would be published in line with the time limits for action taken for reasons other than solely on the grounds of health.

Doctors who have died

Our policy aims to be proportionate in the information that is publicly available on a doctor's record on our website. Where a doctor has died, and their death has been formally notified to us and verified, we will remove both current and historical information about their fitness to practise, including any warnings, from their record on the medical register. Where a doctor's death occurs less than a year after the outcome of a medical practitioners tribunal however, the tribunal's decision will continue to be published on the MPTS website as usual for the full year. This is because there is a public interest in the outcome of tribunal hearings, and the action taken by the regulator where concerns have been raised about a doctor's fitness to practise.

Information which has been removed from publication after a doctor's death will still be available on request to the general public for the duration of the publication time limit which applies to non-registered doctors. This is because information about a doctor who has since died may still be relevant to an individual's decision to pursue a complaint or claim.

Warnings

Warnings issued on or after 26 February 2018 are published for one year on the *Doctor details* page of a doctor's record on the medical register and for a further year on the *Doctor history* page, so for two years in total. They are then removed from publication and will no longer be routinely disclosed to general enquirers or to prospective employers. We will usually disclose information about warnings indefinitely to current UK employers and those in the crown dependencies where a request is made for information about a doctor's fitness to practise history.

Warnings issued before 26 February 2018 are subject to the Publication and disclosure policy that was in force at that time, and are therefore published on the *Doctor details* page of the doctor's record on the medical register for five years.

Appeals

Doctors may appeal a sanction imposed by a medical practitioners tribunal to the High Court of Justice in England and Wales, the Court of Session in Scotland, or the High Court of Justice in Northern Ireland. Doctors are given 28 days to appeal a decision before it becomes effective on their registration. The fact of this appeal period is published on the doctor's record on the medical register. If a decision is appealed, we publish the fact that the sanction is not effective pending the outcome of the appeal.

There are a number of potential outcomes from an appeal. In some cases the appeal court may overturn some or all of a tribunal's findings; they may substitute their own findings for those of the tribunal or they may send a case back to be heard by a new tribunal. Our routine approach to publication is to update the original tribunal's decision on the doctor's record to reflect the findings of the appeal court. This is likely to take the form of a note at the top of the decision explaining the background and appeal decision. Where appropriate, we will include a link to the decision taken by the appeal court. On occasion we may remove information from the original decision relating to findings which have been overturned by the appeal court, but not if it means that the final outcome cannot be understood.

In cases where the appeal court dismisses a doctor's appeal, or the doctor withdraws the appeal, a note will be included at the top of the original tribunal's decision to say that this has happened. This is in order to explain why there is a gap between the date of the tribunal's decision to impose a sanction and the date of that sanction taking effect.

In cases where a doctor's appeal is successful to the extent that the appeal court overturns all findings of the tribunal and any sanction imposed, the original decision and references to any sanction imposed by that tribunal will be removed from the doctor's record. A note will be included in the doctor's record on the medical register for a period of one year to clarify that a previous tribunal decision has been overturned on appeal.

In cases where the appeal court overturns some of a tribunal's findings, or its decision on sanction, and sends the case back to the MPTS to be reheard, or to the GMC to

reconsider, the original tribunal's decision will be removed from the doctor's record on the medical register until any new hearing has taken place. A note will be included in the record for a period of one year to clarify that, following an appeal, the case has been sent back to the MPTS/GMC for rehearing/reconsideration.

The GMC also has the power to appeal decisions of a medical practitioners tribunal. However, if a tribunal has imposed a sanction, then this will come into effect at the end of the 28 day appeal period, even if the GMC has lodged an appeal. It will therefore be effective on a doctor's registration while any appeal is ongoing. One possible outcome of the appeal process is that the court quashes the sanction imposed by the original tribunal and refers the case back to be heard by another medical practitioners tribunal. In this event, the original sanction will no longer be active on the doctor's registration but will remain published on the *Doctor history* page of the online medical register until the new hearing has taken place. During this time, the original tribunal decision will be updated to explain that the GMC appealed the tribunal's decision, had the sanction quashed and the case referred to another hearing. Following the rehearing, the new outcome will take effect and be published on the record as appropriate. At that point, the previous quashed sanction will be removed from publication on the online medical register. The decision from the rehearing will explain what has happened in the particular case.

It is not possible to foresee every potential outcome from an appeal, so while this reflects our routine approach to publication, we will apply discretion in individual cases in line with our overarching objective, and our principles for publication and disclosure, set out in the introduction to this document.

GMC section 40A appeal decisions

Since January 2019, the GMC exercises its power to appeal decisions of a medical practitioners tribunal through an Executive Panel – the 'section 40A Panel'. This panel is comprised of the Chief Executive as Registrar, the Director of Fitness to Practise and the Director of Education and Standards. This panel has delegated authority for deciding on whether or not to appeal a decision of a medical practitioners tribunal. The decisions of the section 40A Panel will be published on the *Recent GMC Decisions* page of the GMC website.

The publication timeframe for these decisions will depend on whether or not an appeal was issued and whether there are any subsequent appeal hearings.

- Where the section 40A Panel has considered a decision by a medical practitioners tribunal and decided not to appeal, their decision will be published for three months
- Where the section 40A Panel has considered a decision by a medical practitioners tribunal and decided to appeal, their decision will be published until the appeal is concluded and for 28 days following the judgment of the appeal or, if there are any subsequent appeals by either the GMC or the doctor (related to the original

decision of the medical practitioners tribunal), until these are concluded and for 28 days following judgment

MPTS appeals circulars

Decisions made by appeal courts can raise learning points for future cases. The MPTS therefore issues appeal circulars, which are circulated to tribunal members. They are also shared with medical defence organisations, and are also available on the MPTS website. These circulars cover both appeals and judicial reviews and include information about the judgments reached in specific cases and their implications for future adjudication.

What information do we disclose about a doctor's fitness to practise?

Our policy on publication of fitness to practise information relates to the information that is publicly available on the GMC and MPTS websites, including information on the medical register. Our policy on disclosure of fitness to practise information relates to the information that we will disclose, either proactively, or when requests for information are made to us. You can make requests for information to our Contact Centre. Details for how to contact us are on our website.

All information that is publicly available on the medical register is available to anyone contacting us for information about a doctor's registration. Where information has been taken off the medical register, we do not routinely disclose it except in the following circumstances:

- **Current UK employers and those in the crown dependencies** – We will usually disclose information about historical sanctions and warnings indefinitely to current employers where a request is made for information about a doctor's fitness to practise history. However, we will not routinely disclose historical information to prospective employers or other enquirers once the relevant publication time limit has expired. A prospective employer becomes a current employer after an offer of employment has been made and accepted.
- **Overseas medical regulators** – We will usually disclose information about historical sanctions indefinitely to overseas medical regulators, where a request is made for information about the fitness to practise history of a doctor who is currently registered with us. This applies to requests for information made through any channel or mechanism (including by requesting a Certificate of Current Professional Standing (Good standing) (CCPS). Exceptions to this, which we will usually only disclose while in publication, are cases solely based on concerns about a doctor's health, interim orders (unless related to a subsequent interim order or substantive action that we are disclosing) and warnings as they do not affect a doctor's registration. Decisions about whether to disclose historical fitness to practise information of doctors who are no longer registered with us will be made on a case by case basis.

- **Other overseas organisations, including employers** – We will usually only share information that is available on the medical register. This applies to requests for information made through any channel or mechanism. We will consider requests for the disclosure of historical fitness to practise information on a case by case basis.
- **Interim and immediate orders** – Historical interim and immediate orders are not published. However, they can be disclosed on request to any enquirer for the duration of the publication period of any subsequent related interim order or substantive action.
- **Doctors who have died** - Information which has been removed from publication after a doctor's death will still be available on request for the duration of the publication time limit which applies to non-registered doctors – as set out in Table 1 above.
- **Historical information not on the medical register which remains in time limit** – the medical register was first published online in October 2005. Any fitness to practise sanctions that were in force at that time were transferred on to the online register, but those that had expired were not. Where an expired sanction remains within the publication time limit, it will be disclosed to general enquirers on request.
- **In the public interest** – We will disclose information about a doctor's fitness to practise in any circumstance where we decide under our discretionary powers (Section 35B(2) of the Medical Act 1983) that it is in the public interest to do so. This may include, but is not confined to, judicial or public inquiries or investigations.

Disclosure to other organisations responsible for healthcare provision and regulation

We issue a decisions circular each month to a range of UK organisations responsible for healthcare provision and regulation. The circular includes all investigation stage and hearing decisions made in the preceding month, which affect a doctor's registration or practice. This includes sanctions imposed on the doctor's registration, undertakings, interim orders, warnings and cases where a doctor has been granted voluntary erasure or administratively erased and at the time of their erasure there were outstanding fitness to practise concerns. This excludes information about a doctor's health.

We also share the decision circular with a range of international medical regulators. While sanctions on a doctor's registration are only applicable to the UK, overseas healthcare regulators may take this information into consideration as part of their regulatory processes. Under European law, we are also required to send alerts to European medical regulators or competent authorities about any restrictions on a doctor's registration, which we do through the European Union's Internal Market Information system.

What information do we disclose while we are considering concerns about a doctor?

Before disclosing an individual's personal information, we aim to inform them how their information will be used in our fitness to practise processes and give them an opportunity to let us know if they have any concerns or specific requests. In some cases, where there are lower level concerns that would only be matters for the GMC if part of a wider pattern of behaviour, we disclose the concerns to the doctor and their responsible officer to be considered as part of revalidation. Where a doctor has no responsible officer, we will disclose the concerns to the doctor and the doctor's current employer. We may on occasion also disclose the fact that concerns have been raised about the doctor to their previous employers in order to check they have no further concerns we should be aware of, but only where it is relevant and necessary to do so.

Where serious concerns are raised, we may make provisional enquiries to gain further information before making a decision about whether a full investigation is necessary. We will disclose details of the complaint to the doctor and to the doctor's responsible officer*. We may contact the doctor's employer or another third party if they hold information that we need.

In cases where serious concerns have been raised with us anonymously or confidentially, we may, on an exceptional basis, make enquiries of a responsible officer without first having disclosed the complaint to the doctor. This is in order to establish whether the responsible officer holds information which might clarify the allegation and help us determine whether further investigation should take place. It will also assist us to determine if a breach of confidentiality owed to the person who raised the concern, by disclosure to the doctor, would be justified in the public interest.

Where we decide to progress a full investigation into concerns raised, we will disclose details of the concerns, including the place of the incident, to the doctor's current employers. If it is relevant and necessary to do so, we will also disclose the details to the doctor's previous employers. If the doctor's responsible officer is not the doctor's employer we will also notify the responsible officer about the concerns. At this stage, we will also fulfil our statutory duty to notify the Department of Health (England), Scottish Ministers, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales.

We update complainants regularly about the progress of investigations and we inform them of the outcome of an investigation and any tribunal hearing. This includes information that a doctor has taken voluntary erasure or been administratively erased before an investigation or tribunal hearing has concluded.

The fact that a doctor is the subject of an investigation will not be routinely disclosed to general enquirers (apart from current or new employers/responsible officers) or the media

* A responsible officer is a senior doctor with responsibility for monitoring the performance of doctors, and making sure that doctors keep their skills and knowledge up to date.

unless and until a warning is issued, undertakings are agreed or a hearing takes place. The exception to this is where it is necessary for the MPTS to impose an interim order to restrict the doctor's practice as a precautionary measure.

Additional information

Witnesses

We remove the names of all witnesses from published decisions.

Tribunals may take such measures as they consider appropriate to enable them to receive evidence from vulnerable witnesses. Under rule 36 of the GMC's Fitness to practise rules, a tribunal may treat a witness as a vulnerable witness if they consider the quality of their evidence is likely to be adversely affected as a result of the witness:

- being under the age of 18 at the time of the hearing;
- having a mental disorder within the meaning of the Mental Health Act 1983;
- being significantly impaired in relation to intelligence and social functioning;
- having physical disabilities and requiring assistance to give evidence;
- complaining of intimidation; or where
- the allegation against the practitioner is of a sexual nature and the witness was the alleged victim.

However their evidence will be published in the record of the decision in accordance with this publication policy. In addition to removing the names of witnesses, in exceptional circumstances it may also be possible to remove other identifying details such as the address and name of a health centre, or broadening the scope of the doctor's practice (for example, the South East rather than London).

Transcripts at the end of a hearing

Both the doctor who is the subject of the hearing and the GMC can ask for a copy of the hearing transcript, free of charge, at the end of a hearing. If the hearing was held in public, the person who made the complaint can also ask for a copy free of charge, at the end of a hearing. A charge will apply to requests for copies from other enquirers. For further detail, please see our publication scheme on our website at www.gmc-uk.org/publications/right_to_know/publications_scheme.asp

Transcripts will only routinely be provided to general enquirers if the decision to which they relate is still being published or disclosed under the terms of this policy.

Vetting and barring scheme

We have statutory powers to refer doctors who may pose a risk to vulnerable adults or children to the Disclosure and Barring Service (DBS) in England, Wales and Northern

Ireland (Safeguarding Vulnerable Groups Act 2006) and to Disclosure Scotland (DS) under the Protection of Vulnerable Groups (Scotland) Act 2007.

We do not disclose information about decisions by the DBS or DS to bar someone from working with vulnerable adults or children.

Media enquiries

The GMC and MPTS press offices deal with all media enquiries. They are contactable at press@gmc-uk.org and pressoffice@mpts-uk.org.

You can find guidance on the circumstances in which the GMC or MPTS issues a website notice to give notice of a hearing at Annex A.

Accessibility

We are committed to a publication policy that is accessible to people with sensory impairment. Our websites contain an accessibility section with tips and guidance on how to resize the text, ways to change the text and background colour together with other accessibility features. The website works with a number of screen readers to offer users the option to have web pages and PDFs read to them (this is available at no cost via Browsealoud). The sites perform well on a Vischeck (colour blindness simulator) test, and have high contrast and scalable text options which can be chosen from the home page.

ANNEX A

Guidance on issuing a public website notice for hearings

Introduction

1. The purpose of this guidance is to set out the circumstances in which we issue a public website notice to give notice of a hearing.
2. We have a discretionary power to publish or disclose any information about a doctor, to any enquirer, where we believe it to be in the public interest. This power is set out in the Medical Act 1983 Section 35B(2). In the interests of transparency our policy is to issue a website notice to give notice of public hearings.
3. This approach supports the better regulation principles of transparency and accountability.

Categories of hearing

4. We issue a website notice for all medical practitioners tribunal and investigation committee hearings where the hearing is expected to take place in public.
5. As most interim orders tribunal hearings are held in private, no website notice is produced for these hearings. A website notice is produced prior to any interim orders tribunal hearing, which is to be held in public at the doctor's request.

Notification of public hearings

6. We normally issue a website notice in advance of a scheduled investigation committee hearing or medical practitioners tribunal hearing. This includes review hearings held before the end of a period of conditions or suspension.
7. We will not issue a website notice to give notice of a hearing where:
 - a The allegation relates solely to a doctor's health.
 - b The hearing is preliminary and the sole purpose is to decide whether or not the full hearing should be heard in private.
 - c An injunction from the court precludes publication.
8. For clarity, (b) applies only where the sole purpose of a hearing is to establish whether a subsequent, separate hearing should be heard in private. Where the first part of a public hearing is expected to consider whether evidence should be heard in private, a website notice will be issued in the usual way.

Exceptional circumstances

9. In exceptional circumstances the MPTS may decide that it would not be appropriate to issue a website notice to give notice of the hearing where doing so presents a significant risk to the physical or mental health of someone connected to the hearing.

10. Relevant factors may include:

- d** A doctor who is at risk of suicide.
- e** A significant risk of serious harm to the physical or mental wellbeing of a witness or their family.
- f** An adverse impact on the willingness of a key witness to provide evidence to a hearing.
- g** The following factors, however, are not relevant to whether or not a website notice to give notice of a hearing will be issued:
- h** A reputational risk to a doctor or their family.
- i** The strength of evidence to support the allegations.

11. Evidence may be required to support the decision not to issue a website notice. For example, this could include advice from the police or a report from a treating psychiatrist.

ANNEX B

Proactively disclosing information about a doctor's fitness to practise history to their employer(s) outside of the fitness to practise process

Introduction

This annex is specifically concerned with the circumstances in which the GMC may proactively disclose information outside of the fitness to practise process to a doctor's employer, under section 35B(2), about issues that have been previously reviewed and/or investigated by the GMC relating to a doctor's fitness to practise. An example of the types of cases where this policy might apply is where we have reviewed historical information we hold about a doctor regarding allegations of sexual misconduct involving children, or other safeguarding issues, and where we consider that the doctor's employer may not currently be aware of the doctor's full fitness to practise history.

Background

Our disclosure of information about doctors' fitness to practise is governed by the Medical Act 1983 ("the 1983 Act"). This includes a statutory duty to publish a range of decisions made by medical practitioners' tribunals, interim orders tribunals and investigation committees*. We also have a duty to inform a doctor's employer (or someone with whom they have an arrangement to provide medical services) once we have decided to investigate an allegation into a doctor's fitness to practise[†], which includes informing the employer or contracting body of the outcome of an investigation.

We have the power to disclose information about doctors' fitness to practise on the basis of public interest, this power is set out in section 35B(2) of the Medical Act 1983. This sets out that:

* See section 35B(4) of the 1983 Act

† See section 35B(1)(b)(i) of the 1983 Act

The General Council may, if they consider it to be in the public interest to do so, publish, or disclose to any person, information -

(a) which relates to a particular practitioner's fitness to practise, whether the matter to which the information relates arose before or after his registration, or arose in the United Kingdom or elsewhere; or

(b) of a particular description related to fitness to practise in relation to every practitioner, or to every practitioner of a particular description.

In relation to our power to disclose of information under section 35B(2), we state in this policy (page 18 above) that *"We will disclose information about a doctor's fitness to practise in any circumstance where we decide under our discretionary powers ... that it is in the public interest to do so. This may include, but is not confined to, judicial or public inquiries or investigations"*.

Proactively disclosing information to a doctor's employer(s) about a doctor's fitness to practise history outside of the fitness to practise process

The overall question we will consider is whether a proactive disclosure to the doctor's current employer outside the fitness to practise process is in the public interest. The public interest incorporates three elements:

- The protection of patients and the public generally from doctors whose fitness to practise is impaired;
- The maintenance and promotion of public confidence in the medical profession; and
- The maintenance and promotion of proper professional standards and conduct for doctors.

Additional considerations we will take into account include those set out below, together with any other matters we consider are relevant to an assessment of the public interest in the particular case.

The GMC will have regard to the proportionality and necessity of disclosure, in light of the information currently available to the doctor's employer, e.g. because:

- The information in question has not previously been disclosed to the employer;
- Having regard to the length of time that has elapsed since the information in question was disclosed to the employer, those who are currently responsible for the doctor's work with their current employer may not be aware of the information; or
- Although the information appears to have been disclosed by the GMC to a previous employer, the doctor has changed their employer since the disclosure was made.

We will also take into account the nature of any allegations that were made regarding the doctor's fitness to practise, including any safeguarding issues, the extent to which those allegations were investigated by the GMC or others, and the outcome of any such investigations. For example, consideration of the nature of the allegation should include both an assessment of the seriousness of the allegation alongside the propensity for the allegation or behaviour to be repeated in the future. An example of the types of cases where this policy might apply is where we have reviewed historical information we hold about a doctor regarding allegations of sexual misconduct involving children, or other safeguarding issues, and where we consider that the doctor's employer may not currently be aware of the doctor's full fitness to practise history.

The information we may disclose in this context will generally include:

- Information about allegations made to the GMC that resulted in steps being taken in respect of the doctor's registration (such as erasure, suspension, or the imposition of conditions);
- Information about allegations that resulted in other steps being taken (e.g. where the doctor was given a warning); and
- Information about allegations where findings of fact have been made, but steps have not been taken in respect of the doctor's registration.

In exceptional circumstances we may disclose information in cases where findings of fact have not been made in cases where multiple allegations represent a pattern of concern, and the circumstances are such that we consider there is an information gap that should be addressed in the public interest.

Process for disclosure

Disclosure to the doctor's current employer will usually be made to the doctor's responsible officer in writing. Ahead of a disclosure to the employer outside of the fitness to practise process, we will give the doctor notice of the proposed disclosure, and the doctor will be given 28 days within which to make representations.

General information about the way in which the GMC handles personal data is set out in the GMC's Privacy Notice, which is available here: <https://www.gmc-uk.org/privacy-and-cookies>. The Privacy Notice explains in general terms the steps that are taken by the GMC in order to comply with the General Data Protection Regulation 2016 ("GDPR") and the Data Protection Act 2018 ("DPA 2018").