

Decision on what restrictive action is required

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Introduction

1. Following a decision that a Physician Associate ('PA') or Anaesthesia Associate's ('AA') fitness to practise is impaired, the Anaesthesia Associates and Physician Associates Order 2024 ('the Order') allows case examiners to impose restrictive action on registration in certain circumstances. This means putting in place a final measure of conditions, suspension, or removal to protect the public.
2. References made to 'public protection' throughout this document refer to our legal duty to protect the public which is split into three distinct parts. It means we must act in a way that:
 - protects, promotes and maintains the health, safety and wellbeing of the public
 - promotes and maintains public confidence in the professions
 - promotes and maintains proper professional standards and conduct for members of the professions.



Our publication [Decision making principles in fitness to practise](#) explains our legal duty in more detail.

3. When reaching a decision on impairment, case examiners will have applied the guidance [Decision on whether regulatory action is required](#) to form a view on the level of current and ongoing risk to public protection (low, medium, or high) posed by the PA or AA, and how their findings relate to each part of public protection. The case examiners should remind themselves of their earlier conclusions and have regard to the need to protect the public when making their decision on what final measure is proportionate.
4. The purpose of this guidance *Decision on what restrictive action is required* is to support case examiners reach fair and consistent decisions on what restrictive action is required to protect the public.

Any restrictive action taken must be proportionate

5. The publication [*Decision making principles in fitness to practise*](#) explains that a good decision about a PA or AA's fitness to practise should protect the public, be proportionate, be transparent and be fair. In the context of deciding what restrictive action is required to address the level of current and ongoing risk to public protection posed by a PA or AA, being proportionate means:
- a. When deciding what is required but no more than necessary to achieve public protection, approaching the question by considering if the least restrictive action is appropriate, and not making a final decision until the options immediately above and below the action the decision maker is minded to take have also been assessed.
 - b. When considering the impact on those affected by the decision, the interests of individual patients and members of the public may include the impact that taking a specific type of action is likely to have on the delivery of health services in a particular speciality or within a defined geographical location. However, whilst there may be a public interest in facilitating a PA or AA's return to safe practice, the decision on what restrictive action is required needs to reflect the level of current and ongoing risk to public protection that has been identified (and which takes into account the seriousness of the concern) and must be consistent with our legal role to protect the public.
 - c. The interests of the PA or AA will include the impact on their career. This means when deciding what restrictive action is required, it may be appropriate to consider any increased impact a specific outcome would have on an individual PA or AA compared to others, considering their specific circumstances. However, case law is clear that the need to protect the public outweighs the interests of any individual medical professional. And while restrictive action is not put in place to punish or discipline a PA or AA, it may have a punitive effect.

Evidence that may be relevant to the decision on what restrictive action to take

6. The following matters are not relevant to the assessment of current and ongoing risk to public protection which will have informed the case examiners' decision on impairment, but can be considered when deciding what restrictive action is required:
 - a. evidence about the impact that taking a specific type of action may have on patients or members of the public, or the PA or AA themselves, and / or
 - b. references and testimonials about the PA or AA's character.

a. Evidence about the impact of restrictive action

7. The following should inform the case examiners' consideration of whether any evidence about the impact of restrictive action is relevant to the decision on what restrictive action is required:
 - a. the extent to which the information provided can be corroborated or verified, and
 - b. what is known about the PA or AA's future career plans and prospects.
8. Evidence about the impact a specific type of action will have on patients and members of the public will usually only be relevant where it is likely the PA or AA will stay working in their area of speciality or the same geographical area.
9. Where the case examiners assess as being relevant, evidence about the impact a specific type of restrictive action will have, the weight to be given to it is a matter for their judgement, having regard to their earlier assessment of the current and ongoing risk to public protection posed by the PA or AA. In most cases, particularly in those where the behaviour or poor performance indicates a starting point of a high level of seriousness, this type of evidence will have limited, if any, impact because the need to protect the public will outweigh any relevant evidence about the impact that a specific type of restrictive action may have.

b. References and testimonials

10. References and testimonials may support the PA or AA and / or provide a view on their character. The following should inform the case examiners' consideration of whether any references or testimonials are relevant to the decision on what restrictive action to take:
 - a. whether the reference or testimonial is relevant to the specific findings about the PA or AA's fitness to practise – to be relevant, the person providing the reference or testimonial needs to be fully aware of the circumstances of the concern(s),
 - b. the extent to which the views expressed in the reference or testimonial are supported by other available evidence,
 - c. how long the author has known the PA or AA and the relationship between them,
 - d. how recently the author has had experience of the PA or AA's behaviour or performance at work, and
 - e. whether there is any evidence that the author has a conflict of interest in providing

the reference or testimonial.

- 11.** Whilst greater emphasis can usually be placed on testimonials that have been verified*, the question of how much weight to be given to evidence provided in references and testimonials is a matter for the case examiners' judgement, having regard to their earlier assessment of the level of current and ongoing risk to public protection posed by the PA or AA. In most cases, particularly in those where the behaviour or poor performance had a starting point of a high level of seriousness and the level of current and ongoing risk to the public remained high, this type of evidence will have limited, if any, impact because the need to protect the public will outweigh any relevant evidence about the PA or AA's character.
- 12.** An adverse inference should not be drawn in cases where references and testimonials are not presented by the PA or AA. This is because there may be a range of reasons why they are not available, including but not limited to:
 - a.** a variation in the quantity, quality and spread of references and testimonials between cases does not necessarily relate to the PA or AA's character,
 - b.** there may be cultural reasons for not requesting references and testimonials - for example some PAs or AAs may be less likely to discuss the fact they are under investigation with colleagues because of the significant reputational consequences for their family and networks in their communities, and / or
 - c.** those who qualified outside of the UK and have just started working in the UK may find it more difficult to obtain them, as may individuals who have recently changed employer or are working on a locum basis.

* The GMC will confirm whether testimonials have been verified. This involves checking they are authentic, and the authors are aware of the circumstances of the concern(s) about the PA or AA's fitness to practise. Verification may have been completed by the GMC or the PA or AA's legal representative.

Deciding what restrictive action to take

Conditions

13. Conditions are suitable for those cases where the PA or AA's behaviour, performance, or the impact a health condition is having on their ability to provide care to a sufficient standard, is currently incompatible with unrestricted registration. This means the current and ongoing risk to public protection posed by the PA or AA needs to be managed by restricting their registration for a period of time, with the aim they should be able to safely return to unrestricted practice in the future.
14. Where a final measure of conditions is imposed on a PA or AA's registration, the case examiners must specify the period for which it is to remain in force, up to a maximum of 12 months*.

What are conditions?

15. Conditions restrict a PA or AA's ability to practise and / or require them to do something. The purpose of putting in place restrictive action of conditions is to provide a PA or AA with time to address identified failings to demonstrate they are fit to practise on an unrestricted basis, whilst ensuring that the current and ongoing risk posed to public protection is being adequately managed.
16. Where conditions are put in place, they should be appropriate, workable, and measurable.

Appropriate

17. To be appropriate, conditions must address the specific findings about the risk to public protection posed by the PA or AA.

Workable

18. To be workable, conditions must be capable of producing the desired result of addressing the specific findings about the current and ongoing risk to public protection posed by the PA or AA.
19. Conditions are likely to be workable where:
 - a. the PA or AA has shown insight,
 - b. time is needed for the PA or AA to take steps to address the findings (remediate), for example through retraining, study, supervision and / or seeking medical treatment,
 - c. the PA or AA is willing to remediate, and

* Article 13(1) and (2) of the Order

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- d. the case examiners are satisfied the PA or AA will comply with them.
- 20.** When deciding whether remediation is possible, the case examiners should carefully consider any objective evidence that is available to them. This may include the outcome of assessments, or other independent evidence of the PA or AA's performance, health, or knowledge of English language.
- 21.** Sometimes evidence is provided that a PA or AA's employer, or another relevant body, will not support certain conditions if they were to be put in place, which means that a specific condition(s) is not workable in that environment. Where alternative conditions can be identified that are workable, proportionate and achieve the overall aim of conditions and they adequately address the current and ongoing risk to public protection posed by the PA or AA, consideration can be given to putting those in place instead.
- 22.** However, where alternative conditions are not appropriate or proportionate, the conditions considered necessary to protect the public in a timely way should be imposed, despite the fact they may not be supported by the current employer or relevant body. A lesser or greater restrictive action than that which is necessary to protect the public should not be imposed simply because certain conditions may not be supported by a specific body.

Measurable

- 23.** A condition must be described in specific terms to make it measurable. Conditions must be measurable so that the PA or AA can be clear about what is required of them. Having measurable conditions also means that when an assessment of whether the PA or AA poses any current and ongoing risk to public protection is next made, the extent to which they have complied with the conditions, and the question of whether the conditions have had the desired result, can be considered.

When are conditions likely to be proportionate?

- 24.** Conditions may be proportionate in cases where the PA or AA has shown a degree of insight into the allegation and some, or all, of the following factors are present:
- a. the PA or AA has demonstrated they are willing and / or able to remediate,
 - b. identifiable areas of the PA or AA's practice need prohibiting, monitoring, or retraining,
 - c. the PA or AA has demonstrated they are willing to be open and honest with patients and others they work with if things go wrong,
 - d. the PA or AA will not put patients at harm, either directly or indirectly, by having conditions on their registration.
- 25.** A PA or AA may have demonstrated they are willing and able to remediate where they've provided evidence that they're committed to improving their knowledge and skills and keeping them up to date throughout their working life, improving the quality of their work and seeking and responding to feedback. They may not have demonstrated they are willing and / or able to remediate where there is evidence there have been previous unsuccessful attempts to remediate, or where there is evidence the PA or AA has been unwilling to

engage.

- 26.** Conditions are unlikely to be a proportionate response in cases where the nature of the concerns about the PA or AA's behaviour suggests an underlying problem with their attitude.

Imposing conditions on a PA or AA's registration

- 27.** When imposing conditions, as well as giving reasons for the need for this type of restrictive action, the objectives of the conditions should be clearly set out, so they are measurable.
- 28.** Conditions should be drawn from the suite of conditions detailed in the conditions bank. The wording of conditions in the bank should be retained unless unusually it is necessary to amend or add to them, considering the individual circumstances of the case.
- 29.** The case examiners will need to decide the appropriate length of time that conditions should be put in place for, up to the maximum of 12 months. The following factors will be relevant:
- a.** the assessment of the level of current and ongoing risk to public protection posed by the PA or AA,
 - b.** the reasons for assessing conditions as being the proportionate response,
 - c.** the amount of time the PA or AA is likely to need to remediate, complete treatment for and/or recover from a health condition that is having an impact on their ability to provide care to a sufficient standard, and / or
 - d.** the amount of time the parties will reasonably need to prepare for a review of whether the PA or AA continues to pose a current and ongoing risk to public protection or is safe to return to unrestricted practice.
- 30.** Where a condition has been imposed that requires a PA or AA to complete an assessment of their performance, health or knowledge of English language, the time needed to complete the assessment should be accounted for*.
- 31.** Any time spent under an interim measure of conditions or suspension is unlikely to be relevant to deciding the appropriate length of conditions. This is because the type of action and the length of time conditions are put in place for both need to adequately address the decision that the PA or AA poses a current and ongoing risk to public protection.
- 32.** Interim measures serve a very different purpose to final measures; when imposing an interim measure, an Interim Measures Tribunal (IMT) makes no findings of fact and the test for considering whether to impose an interim measure is entirely different from the criteria that applies when considering what, if any, is an appropriate final measure to impose on a PA or AA's registration following a finding of impairment. To take into account previous time spent under an interim measure before any decision to impose conditions is made, would likely leave a public protection gap, as reducing the length of time that any conditions are put in place for would not wholly reflect the assessment of the level of current and ongoing

* Usually nine months for performance assessments and three months for health and English language assessments.

risk to public protection that has now been made.

33. The question of whether the PA or AA can safely return to unrestricted practice will need to be considered before a period of conditions concludes and so a review should be directed. For PAs and AAs, a review may be conducted by a case examiner or tribunal.
34. Where an interim measure is in place at the time that restrictive action of conditions is imposed, this should usually be revoked. The exception is where the interim measure relates to other concerns in the fitness to practise process that have not yet been determined.
35. The case examiners' decision to impose a final measure of conditions will take effect when notice of the decision is deemed served on the PA or AA.

Suspension

36. Suspension is for those cases where the PA or AA's behaviour, performance, or the impact a health condition is having on their ability to provide care to a sufficient standard, is currently incompatible with unrestricted registration. This means the current and ongoing risk to public protection posed by the PA or AA needs to be managed by restricting their registration for a period of time, with the aim they should be able to safely return to unrestricted practice in the future.
37. Where a final measure of suspension is imposed on a PA or AA's registration, the case examiners must specify the period for which it is to remain in force, up to a maximum of 12 months*.

What is suspension?

38. Suspension restricts a PA or AA's registration and prevents them from practising during the period it is in effect. The purpose of suspending a PA or AA's registration is to protect the public by removing them from practice to manage the current and ongoing risk they pose to public protection.
39. Restrictive action of suspension is intended to address the level of current and ongoing risk to public protection and is not intended to be punitive. However, as it prevents a PA or AA from working and earning a living within that profession, it can have this effect. Suspension can also have a deterrent effect and be used to send a signal to the individual PA or AA, the professions and public about what is regarded as behaviour unbecoming a PA or AA.

When is suspension likely to be proportionate?

40. Suspension may be proportionate in cases where some, or all, of the following factors are present:
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* Article 13(1) and (2) of the Order

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- a. conditions are not appropriate, measurable and / or workable,
 - b. the level of current and ongoing risk to public protection is such that it cannot be safely managed with conditions and suspension is necessary to stop the PA or AA from working and putting patients at risk while they gain insight into any deficiencies and remediate, or undergo medical treatment, and / or
 - c. the level of current and ongoing risk to public protection is such that, although patient safety is not in issue, suspension is needed to maintain public confidence in the professions and / or maintain professional standards.

Imposing suspension on a PA or AA's registration

- 41.** The case examiners will need to decide the appropriate length of time that suspension should be put in place for, up to the maximum of 12 months. The following factors will be relevant:
 - a. the assessment of the level of current and ongoing risk to public protection posed by the PA or AA,
 - b. the reasons for assessing suspension as being the proportionate response,
 - c. the amount of time the PA or AA is likely to need to remediate, complete treatment for and/or recover from a health condition that is having an impact on their ability to provide care to a sufficient standard, and / or
 - d. the amount of time the parties will reasonably need to prepare for a review of whether the PA or AA continues to pose a current and ongoing risk to public protection or is safe to return to unrestricted practice.
- 42.** A short suspension may be appropriate in cases where the PA or AA's behaviour fell at the higher end of the spectrum of seriousness, but there was relevant context that decreased risk and / or evidence of insight and remediation that reduced the current and ongoing risk to public protection such that there are no patient safety considerations, and so suspension is being imposed on public confidence grounds and / or to maintain professional standards. It might also be appropriate in relation to a very small number of clinical cases where a PA or AA's performance was such that although unlikely to recur, the concern was so serious as to undermine the public's trust in the professions.
- 43.** Where a PA or AA is suspended because of findings in relation to insufficient knowledge of English, a short suspension is unlikely to be appropriate in the first instance because they will need sufficient time to improve their language skills, take an English language assessment and for the parties to consider the results.
- 44.** Any time spent under an interim measure of conditions or suspension is unlikely to be relevant to deciding the appropriate length of a final measure of suspension. This is because the type of action and the length of time it's put in place for both need to adequately address the decision that the PA or AA poses a current and ongoing risk to public protection.
- 45.** Interim measures serve a very different purpose to final measures; when imposing an interim measure an IMT makes no findings of fact and the test for considering whether to impose an interim measure is entirely different from the criteria that applies when

considering what, if any, is an appropriate final measure to impose on a PA or AA's registration following a finding of impairment. To take into account previous time spent under an interim measure before any decision to impose a suspension is made would likely leave a public protection gap, as reducing the length of time that suspension is put in place for would not wholly reflect the assessment of the level of current and ongoing risk that has now been made.

46. However, time spent under an interim measure of suspension may be relevant when determining the proportionate period of suspension to be imposed purely on the grounds of public confidence. In many of these cases, given the different purposes of interim and final measures, a previous interim measure of suspension is unlikely to have a significant impact. Nevertheless, it must still be considered.
47. The question of whether the PA or AA can safely return to unrestricted practice will need to be considered before a period of suspension concludes and so a review should be directed. The exception to this is where a short suspension (usually three months or less) has been imposed on public confidence grounds and / or to maintain professional standards. A review may be conducted by a case examiner or tribunal.
48. Where an interim measure is in place at the time that restrictive action of suspension is imposed, this should usually be revoked. The exception is where the interim measure relates to other concerns in the fitness to practise process that have not yet been determined.
49. The case examiners' decision to impose suspension will take effect when notice of the decision is deemed served.

Removal from the register

50. Removal is action available for those cases where a PA or AA's behaviour, performance, or the impact a health condition is having on their ability to provide care to a sufficient standard, is incompatible with continued registration at this point in time. It means the level of current and ongoing risk the PA or AA poses to public protection is so significant that they should not be allowed to practise.

What is removal?

51. Removal takes away a PA or AA's registration which means they are no longer entitled to practise in the UK at all, or anywhere else where they are required to hold GMC registration. It is used to protect the public in the most serious cases. It also has a deterrent effect as it sends a signal to the individual PA or AA, the professions and public about what is regarded as behaviour unbecoming a registered PA or AA.

When will removal be the only proportionate response?

52. Removal may be the only proportionate response where:
 - a. the PA or AA's behaviour, performance, or the impact a health condition is having on their ability to provide care to a sufficient standard, is such that it caused serious harm and the risk of harm recurring cannot be mitigated sufficiently through putting

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- conditions or suspension in place,
- b.** the PA or AA has shown a persistent lack of insight into the seriousness of the allegation about their behaviour, performance, or the impact of a health condition on their ability to provide care to a sufficient standard, and the potential or actual consequences, and / or
 - c.** the seriousness of the allegation and / or existence of any relevant context that increased the current and ongoing risk to public protection mean the impact of the PA or AA continuing to hold registration is such that it will have the effect of undermining public confidence in the professions.

Removing a PA or AA's registration

- 53.** A final measure of removal will take effect as soon as is reasonably practicable after it is imposed*.
- 54.** Where an interim measure is in place at the time that restrictive action of removal is imposed, this should usually be revoked. The exception is where the interim measure relates to other concerns in the fitness to practise process that have not yet been determined. This is to avoid a public protection gap in the event the PA or AA appeals the decision to remove them from the register.

* Article 9(1)(b) of the Order

Deciding what restrictive action to take in specific case types

1. Sexual misconduct

55. The proportionate final measure in response to a sexual misconduct case will depend on the extent of the PA or AA's behaviour and the impact it is assessed to have on each of the three parts of public protection.
56. Whilst a range of behaviour can be seen, the nature of the departure from the professional standards indicates a starting point of a high level of seriousness in all cases. Evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place. Evidence about the impact of a specific type of restrictive action and references and testimonials, will have limited, if any, relevance to the case examiners' decision about what final measure is appropriate.
57. For sexual misconduct cases involving a criminal conviction or caution, or where the PA or AA is registered as a sex offender, reference should also be made to the principles set out in the specific case type section *Convictions, cautions and determinations*.
58. In sexual misconduct cases the seriousness of the behaviour is likely to mean that the level of current and ongoing risk to public protection is medium or high. This will require consideration of suspension or removal. Where sexual misconduct is found to be sexually motivated (where one of the purposes of the behaviour was the PA or AA's gratification), the inherent seriousness may make any outcome short of removal inappropriate.

2. Dishonesty

59. The proportionate final measure in response to a dishonesty case will depend on the extent of the PA or AA's behaviour and the impact it is assessed to have on each of the three parts of public protection.
60. Whilst a range of behaviour can be seen, the nature of the departure from the professional standards often indicates a starting point of a high level of seriousness. Evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place. Evidence about the impact of a specific type of restrictive action and references and testimonials, will have more limited, if any, relevance to the case examiners' decision about what final measure is appropriate.
61. For dishonesty cases involving a criminal conviction or caution, reference should also be made to the principles set out in the specific case type section *Convictions, cautions and*

determinations.

62. In dishonesty cases, the seriousness of the behaviour is likely to mean in most cases that the level of current and ongoing risk to public protection is medium or high. This will require consideration of suspension or removal.

3. Violent or abusive behaviour

63. The proportionate final measure in response to a case about violent or abusive behaviour will depend on the extent of the PA or AA's behaviour and the impact it is assessed to have on each of the three parts of public protection.
64. Whilst a range of behaviour can be seen, the nature of the departure from the professional standards often indicates a starting point of a high level of seriousness. Evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place. Evidence about the impact of a specific type of restrictive action and references and testimonials, will have more limited, if any, relevance to the case examiners' decision about what final measure is appropriate.
65. For violent or abusive behaviour involving a criminal conviction or caution, reference should also be made to the principles set out in the specific case type section *Convictions, cautions and determinations.*
66. In violent or abusive behaviour cases, the seriousness of the behaviour is likely to mean in most cases that the level of current and ongoing risk to public protection is medium or high, requiring consideration of suspension or removal. In some cases, such as where the PA or AA's behaviour is connected to the impact of a health condition, the level of current and ongoing risk to public protection may be lower, meaning conditions may be more proportionate.

4. Discrimination

67. The proportionate final measure in response to a case about discrimination will depend on the extent of the PA or AA's behaviour and the impact it is assessed to have on each of the three parts of public protection.
68. Whilst a range of behaviour can be seen, the nature of the departure from the professional standards will often indicate a starting point of a high level of seriousness. Evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place. Evidence about the impact of a specific type of restrictive action and references and testimonials, will have more limited, if any, relevance to the decision about what final measure is appropriate.

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69. Where discrimination is unlawful because it relates to a protected characteristic, the seriousness of the behaviour is likely to mean that the level of current and ongoing risk to public protection is medium or high, requiring consideration of suspension or removal. In other cases, it may be lower, meaning that conditions or suspension may be appropriate.

5. Clinical concerns

70. A wide range of behaviour and / or poor performance can be seen in these cases. The decision on the proportionate final measure will depend on the evidence of the extent of the PA or AA's behaviour and / or poor performance and the impact it is assessed to have on each of the three parts of public protection.
71. In clinical cases, evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate restrictive action to put in place.
72. Very rarely, a PA or AA will be convicted for a criminal offence relating to their clinical practice. In these cases, reference should also be made to the principles set out in the specific case type section *Convictions, cautions or determinations*.
73. Conditions will often be a proportionate response to clinical cases where the level of current and ongoing risk to public protection is assessed to be low or medium. Suspension or removal are only likely to be needed where the assessment of risk is high due to the allegation being at the higher end of the spectrum of seriousness, there is relevant context that increases the risk to public protection and / or the PA or AA has shown a lack of insight and / or is not willing and / or able to remediate.
74. In a very small number of cases, a clinical failing by a PA or AA will be so serious that, even if it is unlikely to recur, the level of current and ongoing risk to public confidence in the professions is high. In these cases, the need to protect the public will require consideration to be given to a period of suspension or removal.

6. Impact of a health condition

75. The decision on the proportionate final measure will depend on the nature of the PA or AA's health condition and the evidence of the impact it is assessed to have on their ability to provide care to a sufficient standard.
76. Evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place.
77. Conditions will often be the proportionate response where the level of current and ongoing risk to public protection is assessed to be low or medium. They can help the PA or AA manage their health condition and/or remedy any related deficiencies in their practice, while

protecting the public. Conditions should include a requirement that the PA or AA has medical supervision, in addition to reporting or supervision at their place of employment.

- 78.** Suspension is likely to be needed in a health case where the level of current and ongoing risk to public protection is high because:
- a.** the PA or AA's judgement may be diminished and there is a risk to patient safety if they continued to practise, even with conditions, and / or
 - b.** there is evidence the PA or AA lacks insight into the impact of their health condition and there is a risk of harm to patients, either directly or indirectly, which means they are not currently safe to practise with conditions, and / or
 - c.** the PA or AA has not complied with previous restrictions or requirements put in place to manage the impact of their health condition.
- 79.** Removal of a PA or AA from the register will not usually be appropriate on initial consideration of what final measure is required to address the level of current and ongoing risk to public protection, where that risk relates only to the impact of the PA or AA's health condition on their ability to provide care to a sufficient standard.

7. Knowledge of English language

- 80.** The decision on the proportionate final measure will depend on the evidence of the extent of the PA or AA's deficiency and the impact it is assessed to have on each of the three parts of public protection.
- 81.** Evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place.
- 82.** Conditions may be the proportionate response where the level of current and ongoing risk to public protection is assessed to be low or medium. They can be imposed to help the PA or AA remedy the deficiencies in their knowledge of English, while protecting the public. They may need to include requirements that the PA or AA work under supervision. The areas in which the PA or AA is deficient - speaking, listening, reading and / or writing - and the breadth of their deficiency, will inform the decision on whether conditions are appropriate.
- 83.** Suspension is likely to be needed in an English language case where the level of current and ongoing risk to public protection is high because:
- a.** there is evidence the PA or AA lacks insight into their language deficiency and / or has failed to make effort to improve their knowledge of English language, and / or
 - b.** the PA or AA has not complied with previous restrictions or requirements imposed in respect of their knowledge of English language.
- 84.** Removal of a PA or AA from the register will not usually be appropriate on initial consideration of what final measure is required to address the level of current and ongoing risk to public protection, where the risk relates only to the individual's knowledge of English

language.

8. Criminal convictions and cautions and determinations by another body responsible for the regulation of a health or social care profession

- 85.** The purpose of putting in place restrictive action in these types of cases is not to punish the PA or AA a second time. It is to address the impact the nature and circumstances of the conviction, caution or determination is assessed to have on each of the three parts of public protection.
- 86.** A range of behaviour and / or poor performance can be seen in these cases. Where the nature of the departure from the professional standards indicates a starting point of a high level of seriousness, evidence of relevant context that decreases the risk to public protection and evidence of insight and remediation that decreases risk will already have been considered when assessing the level of current and ongoing risk to public protection posed by the PA or AA. The level of current and ongoing risk – whether it is low, medium, or high – will inform the decision on what is the proportionate final measure to put in place. Evidence about the impact of a specific type of restrictive action and references and testimonials, will have more limited, if any, relevance to the case examiners’ decision about what final measure is appropriate.
- 87.** For convictions, cautions or determinations relating to *Sexual misconduct, Dishonesty and lack of integrity, Violent or abusive behaviour, Discrimination or Clinical concerns* reference should also be made to the principles set out in the specific case type section.
- 88.** Where a criminal conviction results in a custodial sentence (immediate or suspended), this will generally mean the level of current and ongoing risk to public protection is medium or high, requiring consideration of suspension or removal. For cases involving non-custodial convictions, cautions and determinations, the level of current and ongoing risk to public protection is likely to be low or medium, meaning conditions or suspension may be the proportionate response.
- 89.** Where a PA or AA has been convicted of a serious criminal offence resulting in an immediate custodial sentence, the impact on public protection means they should not be permitted to hold unrestricted practice until they have completed their sentence. Similarly, no PA or AA registered as a sex offender should be able to hold unrestricted registration.
- 90.** While the courts distinguish between degrees of seriousness, any conviction for child sex abuse materials will mean the level of current and ongoing risk to public confidence in the professions is high. The only proportionate action in these cases will usually be removal and any departure from this approach will need to be carefully explained.
- 91.** Where the level of current and ongoing risk to public protection is low and conditions are exceptionally being considered as the proportionate final measure to impose on a PA or AA who is registered as a sex offender, consideration should be given to including conditions that stipulate no contact with any patients or category of patients. Consideration should also be given to imposing a condition requiring the PA or AA to undergo an assessment, for example by a clinical psychologist, to evaluate the risk they pose to patients before they may

be permitted to resume certain forms of practice.

- 92.** Very rarely, a PA or AA will be convicted of a criminal offence relating to their clinical practice. For example, conducting a clinical procedure without proper consent, or where a PA or AA's intentional or reckless practice, results in a conviction for assault. Exceptionally, in the case of a patient death, a PA or AA could be convicted of gross negligence manslaughter* or culpable homicide†. In these cases, the impact on the three parts of public protection may mean that the level of current and ongoing risk to public protection is medium or high, requiring that consideration is given to a period of suspension or removal.

* In England, Wales and Northern Ireland

† In Scotland