

## Guidance for doctors on restoration following disciplinary erasure

### Purpose

- 1 The purpose of this guidance is to provide information for doctors on the process they should follow when seeking restoration to the register following disciplinary erasure. It also sets out the factors the tribunal will consider when deciding whether to allow a doctor to return to practice after they have been erased for disciplinary reasons.

### Can I apply to be restored to the register?

- 2 Any doctor referred to the Medical Practitioners Tribunal Service (MPTS) for a hearing and erased from the register by a medical practitioners tribunal ('tribunal') can apply to be restored.
- 3 You cannot apply to have your name restored to the register until after a period of five years has elapsed since the date your name was erased from the register. If your application for restoration is successful your name will be restored to the medical register with a licence to practise, unless you tell us you do not want one.

### How do I apply?

- 4 You will need to apply in writing using the restoration application form which can be obtained by [contacting us](#). You should also submit any documentary material you wish to have considered, such as testimonials and information that demonstrate the steps you have taken since your name was erased to keep your medical skills and knowledge up to date.

### Should I seek advice before applying?

- 5 You may find it helpful to seek the advice of a medical defence organisation, a professional organisation, and/or a lawyer.

### Who will consider my application?

- 6 Your application will be referred to a tribunal to consider at a hearing.

## What happens next?

- 7** You will be given notice of the tribunal hearing at which your application will be considered. Not less than 28 days before the date of the hearing, the MPTS will send you a notice of that hearing. Please see Annex A for details of a notice of hearing.

## Should I attend the hearing?

- 8** This is a matter for you, although it may assist the tribunal in reaching a decision on your application if you are present. If you wish, a legal representative or an officer or member of your professional association can represent you.
- 9** Alternatively you may want a friend, family member or other person to represent you. The tribunal will need to decide if they are a fit and proper person to do so. To make this decision they will consider any available information including any criminal convictions or past conduct (see our guidance on [fit and proper persons](#)).

## Can the GMC arrange legal representation for me at the hearing?

- 10** No. You will need to make your own arrangements for representation. If you cannot afford to pay for legal representation you may wish to contact Advocate. Advocate is a charity that helps to find free legal assistance from volunteer barristers. Call 020 7092 3960 or visit their website: <https://weareadvocate.org.uk>.

## What will happen at the hearing?

- 11** Please see Annex B which provides information about what happens at each stage of the hearing. It also contains information about what the tribunal can and cannot do as far as your application is concerned.

## What factors do the medical practitioners tribunal take into account when considering the application for restoration?

- 12** The tribunal will consider a number of factors, including the following:
  - a** the circumstances that led to erasure including the reasons given by the previous tribunal (or panel) for the decision to direct erasure
  - b** whether you have demonstrated insight into the matters that led to erasure and taken responsibility for your actions
  - c** whether you have remediated the previous findings about your behaviour, skills, performance or health and if there is a risk of repetition

- d** what you have done since your name was erased from the register
  - e** the steps you have taken to keep your medical knowledge and skills up to date
- 13** The guidance used by tribunals when considering whether to restore a doctor is published [here](#). Having considered the above factors, the tribunal will balance their findings against whether restoration is in line with the GMC's overarching objective. This is to protect the public which includes protecting, promoting and maintaining the health, safety and wellbeing of the public, maintaining and promoting confidence in the medical profession and proper professional standards and conduct among doctors.
  - 14** Before reaching a decision on your application the tribunal may adjourn and give such directions as it sees fit, including that you should undergo an assessment of your performance, language and/or health (see Annex B).
  - 15** The tribunal will take into account the outcome of any assessments you undergo and all relevant evidence regarding your fitness to practise.
  - 16** It is important to bear in mind that there is no right to be restored to the register. You will need to demonstrate why you should be restored and that you are fit to practise.
  - 17** The tribunal has no power to restore you to the register with conditions or to restrict or limit your registration in any way. The tribunal will therefore consider whether you are fit to resume unrestricted medical practice; if there is any doubt about this matter you will not be restored to the register.

## **Assessment – what does it cost and who pays?**

- 18** If the tribunal adjourns for a performance assessment, this will be undertaken by assessors chosen by the GMC. You will be required to meet the cost of the performance assessment which must be paid in full before it is arranged and can take place.
- 19** Once you have made the performance assessment payment, the GMC will write to you about the arrangements for the assessment to take place. After you have completed the assessment the assessors will produce a report and submit it to the GMC. A copy will also be sent to you.
- 20** An assessment of your health or language will only normally be required if the GMC has information that raises a question about your health or knowledge of English. You will not be charged for the cost of a health assessment but will need to meet the cost of a language assessment.

## If my application succeeds how quickly will I be restored to the register?

- 21** If the tribunal decides to grant your application your name will be restored to the register as soon as possible, following the completion of certain administrative tasks such as an identity check and receipt of payment of the Annual Retention Fee. A member of our Registration and Revalidation directorate would contact you about this shortly after the hearing and further general [information](#) about restoration can be found on our website.
- 22** If you are restored by the tribunal to registration only without a licence (as this is what you requested) but then subsequently decide to apply for your licence to be restored, you will need to make an application through our Registration and Revalidation directorate. Information about how to do so is [here](#).

## If my application succeeds will I have to practise in an approved practice setting?

- 23** Doctors returning to full registration after a prolonged period out of UK practice must practise only in an approved practice setting. This means they must only practise in the UK if they have a connection to a designated body. A designated body is an organisation that has established clinical governance processes including appraisal systems that support doctors with their revalidation and promote and protect the interests of patients. If your application for restoration is successful it is likely that you will be required to practise in an approved practice setting until your first revalidation after restoration. For further information please see our guidance on [approved practice settings](#).

## If my application was unsuccessful can I apply again?

- 24** Yes, unless your right to apply again has been suspended (see below). However you cannot make a further application for restoration until 12 months have elapsed from the date of your last application.
- 25** If you make two unsuccessful applications, your right to make further applications may be suspended indefinitely by the tribunal that considers your application for restoration. If this happens, you can apply for the suspension to be reviewed after three years have elapsed from the date on which the tribunal made the decision to suspend indefinitely your right to make further applications. If a tribunal does not lift the suspension on your right to apply, you can apply again but only after three years from the date of the last tribunal's decision.

## **If my application is refused will I be reimbursed the money I paid for the performance assessment I underwent?**

**26** No. That money was to meet the cost of the performance assessment. The assessment took place and you are not therefore entitled to any refund of that cost.

## **If I apply for restoration but the application is refused will I have to undertake further assessment(s) if I apply again for my name to be restored to the register?**

**27** Yes. If your application is refused and you then make a subsequent application, you may need to undertake further assessment(s) if we feel this is necessary due to concerns about your performance, health or knowledge of English.

**This guidance was last updated in October 2019**

Note: Prior to 31 December 2015, medical practitioners tribunals were called fitness to practise panels

# Annex A

## What information does a notice of hearing provide?

- 1** A notice of hearing will be sent to you at least 28 days before your restoration hearing and will:
  - a** specify the date, time and venue of the hearing
  - b** inform you of your right to attend and be represented
  - c** inform you of the power of the tribunal to proceed in your absence
  - d** inform you of your right to adduce evidence and to call and cross examine witnesses
  - e** request you to notify the registrar, within 14 days of the date of the notice, whether you wish to attend the hearing
  - f** invite you, if you choose not to attend, to make written representations to be received by the registrar no later than 14 days before the hearing
  - g** where you have made a previous unsuccessful application, inform you of the tribunal's power to suspend indefinitely your right to make further applications for restoration
  - h** where you have made a previous unsuccessful application and have chosen not to attend the hearing, invite you to make written representations on the issue of indefinite suspension of your right to make further applications for restoration, such written submissions to be received by the registrar no later than 14 days before the hearing
- 2** Along with the notice, you will also receive a copy of any statement, report or other document which has not previously been sent to you or your representative which is relevant.
- 3** If any statement, report or document is subsequently obtained by the GMC which is relevant to the tribunal's decision, you will be given a reasonable opportunity to respond before the tribunal makes its decision.

## Annex B

### The procedure for considering applications for restoration to the register

- 1** The tribunal will first hear any preliminary legal argument.
- 2** If you are present, the chair of the tribunal will invite you to confirm your name and GMC reference number. If you are not present, the chair will require the presenting officer (the representative of the GMC – who may be a barrister or solicitor) to present the case on behalf of the GMC to confirm your name and GMC reference number.
- 3** The presenting officer will give the tribunal the background to the case and the circumstances which led to the erasure of your name from the register. They may direct the attention of the tribunal to any relevant evidence, including transcripts of previous hearings and may adduce evidence and call witnesses in relation to your fitness to practise.
- 4** You, or your representative, will have an opportunity to address the tribunal and present evidence and call witnesses on any relevant matter, including your suitability for restoration to the register.
- 5** You cannot ask the tribunal to reconsider the facts proved against you that led to your erasure. You had a right of appeal immediately after the original hearing. If you did not appeal, or appealed unsuccessfully, that was the end of the matter.
- 6** The tribunal may receive further evidence and hear further submissions from the parties as to its decision whether to grant or refuse the application.
- 7** Before reaching a decision on the application, the tribunal may adjourn and give such directions as it sees fit, including that you should undergo an assessment of your performance, language and/or health.
- 8** If the tribunal adjourns before reaching a decision, it shall:
  - a** consider any assessment reports together with any other relevant evidence and reports; and
  - b** invite further representations and evidence from the parties.
- 9** The tribunal will consider the matter and will give their decision to grant or refuse the application and their reasons.
- 10** If the tribunal determines that you should not be restored to the register and this is your second or subsequent application the tribunal may consider whether to make a

direction to suspend indefinitely your right to make further applications for restoration. Before deciding whether to make such a direction the tribunal will consider any representations and evidence received and, where you are present, will invite further representations and evidence from you.

- 11** Having heard such evidence and representations, the tribunal will consider the matter and announce the decision and their reasons.
- 12** The GMC can appeal decisions made by tribunals\*, including those to restore doctors to the register. The GMC has the power to make an appeal where it considers that the decision to restore a doctor is not sufficient for the protection of the public, taking into account:
  - protecting the health, safety and well-being of the public
  - maintaining public confidence in the medical profession; and/or
  - maintaining proper professional standards and conduct for members of that profession

If the GMC decides to lodge an appeal against the decision to restore you to the register, the MPTS will inform you at the end of the appeal period and the GMC will serve you with a notice of appeal. Once you have been restored to the register you will retain the right to practise until the appeal is determined.

- 13** The GMC is required to notify the Professional Standards Authority of certain decisions by a tribunal, including those to restore a doctor to the register†. The Professional Standards Authority may refer the case to the High Court of Justice in England and Wales if they consider a decision to restore a doctor's name should not have been made‡. The Professional Standards Authority will inform the doctor concerned if they are considering this course of action. Further information about the Professional Standards Authority is available on their website <http://www.professionalstandards.org.uk/>.

The GMC is a charity registered in England and Wales (1089278) and Scotland (SC037750)

\* Under Section 40A of the Medical Act 1983, as amended

† Under Section 41 of the *Medical Act 1983, as amended*

‡ Under Section 29 of the *NHS and Healthcare Professions Act 2002*.