



Agenda item:	M8
Report title:	Report of the Medical Practitioners Tribunal Service Committee
Report by:	Dame Caroline Swift , Chair of the MPTS, dame.caroline.swift@mpts-uk.org , 0161 240 7115
Considered by:	MPTS Committee GMC/MPTS Liaison Group
Action:	To consider

Executive summary

This report gives an update on the work of the Medical Practitioners Tribunal Service (MPTS) since the last report to Council in June 2017.

Key points to note:

- The first MPTS annual report was laid before Parliament in July 2017.
- We continue to prioritise work to reduce the number of cases that adjourn part-heard, including requiring parties to submit evidence bundles for pre-reading by tribunals.
- 72 legally qualified individuals have been appointed to sit as tribunal chairs and legal assessors.
- Elsewhere on the agenda, Council will be asked to agree the MPTS budget for 2018 as £8.5m, reduced from £9.4m in 2017.

Recommendation

Council is asked to consider the report of the MPTS Committee.

Committee update

- 1** This paper is the Medical Practitioners Tribunal Service (MPTS) Committee's second biannual report of 2017.
- 2** The MPTS Committee met on 19 September 2017, when it considered updates on tribunal members resourcing, case management, information security and adjournments. The Committee also met on 1 November 2017 and considered updates on 2018 business planning, tribunal member training and the Doctor Contact Service.
- 3** In July 2017, the MPTS Committee submitted its first annual report to the UK Parliament. This was an important milestone for the MPTS, delivering on the recent Section 60 amendments to the Medical Act requiring us to provide Parliament with our own report as a statutory committee of the GMC.
- 4** Our first annual report set out in detail exactly what the MPTS does, as well as reporting on our performance in 2016 and our priorities for the future, including working with all parties to reduce the number of hearings that adjourn part-heard, and extending the support we offer to doctors appearing before our tribunals.
- 5** Gavin Brown has been appointed as Executive Manager, MPTS, joining us from a senior role at HM Prisons and Probation Service. This new title replaces that of Assistant Director, to reflect the distinct role leading the operationally separate MPTS.
- 6** An appointment campaign has taken place for a new lay MPTS committee member, as Richard Davies' term concluded in early November 2017.
- 7** We continue to monitor all adjournments in our Adjournments Working Group, and prioritise work to reduce the number of cases that adjourn part-heard. This has included:
 - a** Requiring parties to provide documentary evidence for tribunals to read in advance of a hearing, rather than on the opening day. Documents are shared via the 'Connect' system to ensure information security. We piloted this approach in early 2017 and will now gradually introduce it as standard procedure in hearings.
 - b** Extending our use of robust case management to ensure more timely and effective disclosure.
 - c** Appointing 72 legally qualified individuals to act as legally qualified chairs and legal assessors (detailed later in this report).
 - d** Working with our colleagues in the GMC Fitness to Practise Directorate and the medical defence organisations to identify the key reasons for adjournments and agreeing steps to reduce their likelihood.

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- 8** Apart from the clear cost savings, one of the main reasons for reducing the number of adjournments is to reduce the stressful impact hearings can have on doctors and witnesses.
- 9** The MPTS is developing a workbook for doctors who, for whatever reason, represent themselves at our hearings. The workbook will help them arrive at their hearing better prepared.
- 10** Alongside the factsheets and telephone information service we already offer for self-represented doctors, we also now run a Doctor Contact Service, available to any doctor on the day of a hearing. A member of MPTS staff unconnected with the doctor's case can be available to talk to, aiming to help lessen the isolation and stress the doctor might encounter, signpost useful support material and provide information about the hearing process.

Resources

- 11** Elsewhere on the Council's agenda, it will be asked to agree a 2018 MPTS budget of £8.5m, a reduction from £9.4m in 2017 and £10.6m in 2016. Further detail on how the MPTS has achieved this reduction can be found at [Annex B](#).
- 12** The MPTS budget is set based on forecasts of the number of cases likely to be referred by the GMC. Any significant change in the number of cases referred will have a corresponding impact on MPTS spending.

Hearing outcomes

- 13** Hearing outcomes for the first three quarters of 2017 are provided at [Annex A](#).
- 14** 137 doctors appeared at new medical practitioners tribunal hearings in the period January to September 2017. 32% of those doctors had their name erased from the medical register, 36% were suspended and 7% were given conditions. 16% were found not impaired and a further 7% found not impaired but issued with a warning. In three hearings (2%), the tribunal decided no action was necessary after a finding of impairment.
- 15** These figures are broadly consistent with outcomes in the previous two calendar years. For example, in 2016, 229 doctors appeared at new medical practitioners tribunal hearings. Just over 30% of those doctors had their name erased from the medical register, 41% were suspended and 7% given conditions. 15% were found

not impaired and a further 5% found not impaired but issued with a warning. In the remainder of hearings (just under 2%), the tribunal granted an application for voluntary erasure, or decided no action was necessary after a finding of impairment.

- 16** In our last report to Council, we commented that in 2016 there was a clear reduction in the number of doctors referred to the MPTS for an interim orders tribunal (IOT) hearing in comparison to previous years. This situation has continued in 2017, with 265 doctors appearing at new IOT hearings in January to September 2017. This compares with 339 in the whole of 2016 and 522 in the whole of 2015.
- 17** Six non-compliance hearings have been held in January to September 2017, all of which resulted in the doctor being suspended from the register.
- 18** 18 restoration hearings have been held in January to September 2017, a slightly higher number than in previous years. Eight doctors had their application for restoration granted, while ten had their application refused.

Tribunal member appointment and diversity

- 19** Earlier in 2017 we ran an appointment campaign for legally qualified individuals to act as legally qualified chairs and legal assessors. We have appointed 72 individuals, who have all undergone a week's induction training. Many have already sat on tribunals, as both legally qualified chairs and legal assessors.
- 20** Of the 72 appointments, 38% are female and 13% identify as Black Minority Ethnic (BME).
- 21** As of September 2017, the MPTS has 315 tribunal members (including the 72 new legally qualified individuals) of whom 46% are female and 19% identify as BME.
- 22** This compares favourably with the most recently published figures for courts in England and Wales (28% female and 7% BME) and tribunals in England and Wales (46% female and 14% BME). (Source: www.judiciary.gov.uk/publications/judicial-statistics-2017)

Quality assurance

- 23** The MPTS Quality Assurance Group (QAG) meets monthly to review a proportion of written tribunal determinations. The purpose of these reviews is to make sure the determinations are clear, well-reasoned and compliant with the relevant case law and guidance.
- 24** QAG also identified issues which could usefully be incorporated into future tribunal training sessions, and learning points which are sent out in tribunal circulars.

- 25** In 2017 we have issued learning points on various topics, including:
- a** The appropriate test for deciding that a doctor has acted dishonestly.
 - b** Giving clear reasons for deciding to sit partly in private session.
 - c** Clearly summarising parties' submissions, to assist public understanding.
- 26** All learning points issued to tribunal members can be viewed at www.mpts-uk.org/learning_points.

External engagement

- 27** We have continued a programme of meetings with groups representing doctors and patients. This has included:
- a** In September 2017, Judith Worthington, MPTS Committee member, spoke at a session of the British Orthopaedic Association annual congress, alongside Professor Terence Stephenson, GMC Chair and Anna Rowland, Assistant Director, Policy.
 - b** In October 2017, Dame Caroline Swift spoke at a session of the Royal College of GPs annual conference, alongside John Davey, GMC Regional Liaison Adviser.
- 28** The MPTS arranged a case management meeting with the three largest medical defence organisations (Medical Defence Union, Medical Protection Society and The Medical and Dental Defence Union of Scotland) to discuss our work to reduce the number of cases that adjourn part-heard.
- 29** A User Group meeting was held in October 2017, attended by medical defence organisations, legal firms that regularly represent doctors, and representatives of the GMC's Fitness to Practise Directorate and GMC Legal.



M8 – Report of the Medical Practitioners Tribunal Service Committee

M8 – Annex A

Hearing outcomes January – September 2017

Medical practitioners tribunals

New MPT hearing outcomes	2015	2016	Q1-3 2017
Impaired: Erasure	72	70	44
Impaired: Suspension	94	93	49
Impaired: Conditions	24	17	10
Impaired: No action	2	2	3
Not impaired: warning	6	11	9
Not impaired	38	34	22
Voluntary erasure	1	2	0
Undertakings	1	0	0
Total	238	229	137

Non-compliance hearing outcomes	2015	2016	Q1-3 2017
Suspension	-	2	6
Conditions	-	5	0

Total	-	7	6
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Restoration hearing outcomes	2015	2016	Q1-3 2017
Application granted	3	6	8
Application refused	12	9	10
Total	15	15	18

Interim orders

New interim orders tribunal hearing outcomes	2015	2016	Q1-3 2017
Suspension	49	58	32
Conditions	359	233	182
No action	114	48	51
Total	522	339	265

Number of review hearings

	2015	2016	Q1-3 2017
Medical practitioners tribunal review hearing	157	171	121
Medical practitioners tribunal review on the papers	-	4	6
Interim orders tribunal review hearing	1445	860	418
Interim orders tribunal review on the papers	-	277	257
Total	1602	1312	802



M8 – Report of the Medical Practitioners Tribunal Service Committee

M8 – Annex B

Resources summary

Financial performance in 2017

- 1 The 2017 MPTS budget was £9.4m and we are currently forecasting to spend £8.8m by the year end. The reasons for this underspend include:
 - Lower headcount than budget, as between late 2016 and March 2017 a number of staff left the Operations team, usually to other roles in the MPTS and GMC.
 - A reduced number of hearing days and a slight reduction in hearing average length, which reduced the amount spent on tribunal members' fees and expenses.
 - The introduction of Legally Qualified Chairs, reducing the number of Legal Assessor days required.

Draft budget for 2018

- 2 The MPTS is proposing a 2018 draft budget of £8.5m. This includes:
 - Reducing the number of planned hearing days, based on forecasts agreed with colleagues in the Fitness to Practise Directorate, saving just over £300,000.
 - Removing from the budget the recruitment, induction and training of the pool of Legally Qualified Chairs, as this was completed in 2017.
 - The creation of three additional Tribunal Clerk posts.
 - Additional £8,000 for a joint training project with the Nursing & Midwifery Council.

- Transferring the MPTS Communications team from the Strategy & Communication Directorate budget, and the Graduate Trainee from the Resources and Quality Assurance Directorate budget.