

Meeting of the s.40A Panel to consider the case of Dr Mackenzie (6046440)

Held on 22 October 2025

Panel members present ('the Panel')

Charlie Massey, Chief Executive (in the Chair)

Pushpinder Mangat, Medical Director and Director of Education and Standards

Anthony Omo, General Counsel and Director of Fitness to Practise

In attendance

Jim Percival, Deputy General Counsel and Principal Legal Adviser

Alex Hudson, Senior Legal Adviser

Sophie Brookes, Assistant Director Corporate (Panel Secretary)

Purpose of this note

- 1 This meeting note records a summary of the Panel's consideration of the relevant decision of the Medical Practitioners Tribunal ('MPT') which considered the case in respect of Dr Mackenzie ('the Decision'), and the Panel's decision on behalf of the General Medical Council ('GMC') as to whether or not to exercise the power to appeal the Decision pursuant to section 40A Medical Act 1983 (as amended) ('the Act').

The relevant decision

- 2 Deputy General Counsel confirmed that the Decision was a relevant decision for the purposes of s.40A of the Act. The Decision was a decision under s.35D giving a direction for suspension, within the meaning of s.40A(1)(a)(i).

Consideration

- 3 The Panel considered the record of the MPT's determination and the legal advice in detail.
- 4 The Panel expressed concern that the MPT had been too reassured by the doctor's remediation despite the chronology of events including a previous complaint and examples of

repeated behaviour. And the MPT did not seem to assess the risk of repetition in relation to the prescribing issues.

- 5 It was noted that the MPT had misapplied elements of the Sanctions Guidance and acted inconsistently when considering the doctor's behaviour.
- 6 It had been brought to the Panel's attention that GMC counsel incorrectly submitted for a suspension at the MPT hearing when the GMC's instruction was to seek erasure. While this was considered unfortunate, it was not seen as an adequate reason for the MPT's findings or their failure to adequately consider erasure given the nature of the case.
- 7 The Panel therefore decided to appeal the MPT's decision pursuant to s.40A of the Act.



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Charlie Massey (Chair)

24 November 2025

Dated

Background

- 8 This case concerns the determination of an MPT, which concluded on 1 October 2025, considering the matter under Part 4 of the General Medical Council (Fitness to Practise) Rules 2004 ('the Rules').
- 9 The determination of the MPT, which includes the background, allegations and the MPT's determinations on Facts, Impairment and Sanction, can be accessed [here](#).

The GMC's power to appeal pursuant to s.40A

- 10 With effect from 31 December 2015, the GMC acquired the power to appeal to the High Court (or equivalent courts in Scotland and Northern Ireland where relevant) against relevant decisions of a MPT if it considers that the decision is not sufficient (whether as to a finding or a penalty or both) for the protection of the public.
- 11 The basis upon which the GMC will consider whether or not to exercise this power to appeal is described in "[Appeals by the GMC pursuant to s.40A of the Medical Act 1983 \('s.40A appeals'\) – Guidance for Decision-makers](#)" ('the Guidance').
- 12 Decisions concerning the exercise of the s.40A power to appeal were originally delegated by the Council to the Registrar. However, following recommendations from Sir Norman Williams' Review Council agreed that decision-making in prospective appeals involving decisions of MPTs be delegated to a three person Executive Panel comprising: the Chief Executive and Registrar as Chair; the Medical Director and Director of Education and Standards; and the

Director of Fitness to Practise (or their nominated Deputies if not available).

- 13** As the Guidance makes clear, when considering whether to bring a s.40A appeal in a particular case, it will be necessary to consider the following questions:
- a. Based on their assessment of all of the information held, and in the particular circumstances of the case, and having regard to the factors set out in the Guidance, does the Panel consider that the MPT's decision is not sufficient to protect the public?
 - b. If the Panel is of the view, on its assessment of all the information held, in the particular circumstances of the case, that there are grounds to consider that the MPT's decision is not sufficient, it will consider whether exercising the power of appeal would further, rather than undermine, the achievement of the over-arching objective.
 - c. If the answer is yes, then the GMC may exercise its power of appeal.
 - d. In considering that question the Panel will be required to consider and weigh a number of competing factors (including its assessment of the prospects of success of the appeal, and the nature and importance of the issues which would be aired).