

# Meeting of the s.40A Panel to consider the case of Dr Andrej Grajn (7518406)

Held on 11 November 2025

## Panel members present ('the Panel')

Charlie Massey, Chief Executive (in the Chair)

Pushpinder Mangat, Medical Director and Director, Education and Standards

Anthony Omo, General Counsel and Director of Fitness to Practise

## In attendance

Jim Percival, Deputy General Counsel and Principal Legal Adviser

Jacqui Eden, Senior Legal Adviser

Katherine Ince, Head of Office of the Chair and Chief Executive (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 Doctor's case ('the decision'), and the Panel's decision on behalf of the General Medical Council 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 The 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 was concerned that in considering whether Dr Grajn's fitness to practise was impaired, that the MPT appeared to have failed to take into account the substantive issue of the underlying conduct which resulted in the determination by the Queensland Civil and Administrative Tribunal ('QCAT'), namely a relationship with a vulnerable patient; therefore failing to fully address the seriousness of the conduct and Dr Grajn's insight, remediation and

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risk of repetition in respect of the same. Rather, the MPT focussed on Dr Grajn’s failure to notify the GMC and a failure to notify his employer of the overseas determination. This approach was also noted to be reflected in the MPT’s decision on sanction.

- 5 The Panel noted that Dr Grajn had failed to demonstrate insight and remediation in respect of the conduct found by QCAT and noted that he had not acknowledged that conducting a relationship with his former vulnerable patient was wrong. It was noted that the doctor’s focus appeared to be on challenging the jurisdiction of QCAT to consider the conduct that was found proven against him.
- 6 The Panel considered that the MPT erred in its engagement with the Sanction Guidance on erasure, and that they demonstrated reluctance to follow the guidance in this case, which indicated that erasure was the appropriate outcome.
- 7 Based on their assessment of all the relevant information, the Panel concluded that the outcome of the MPT was not sufficient to protect the public and that the exercise of the power of appeal would further, rather than undermine, the achievement of the overarching objective.
- 8 The Panel therefore decided to appeal the MPT’s decision pursuant to section 40A of the Act.



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**Charlie Massey (Chair)**

28 November 2025  
**Dated**

### **Background**

- 9 This case concerns the determination of an MPT, which concluded on 15 October 2025, considering the matter under Part 4 of the General Medical Council (Fitness to Practise) Rules 2004 (‘the Rules’).
- 10 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 General Medical Council’s power to appeal pursuant to s.40A**

- 11 With effect from 31 December 2015, the General Medical Council 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.
- 12 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

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appeals’) – Guidance for Decision-makers” (‘the Guidance’).

- 13** Decisions concerning the exercise of the s40A 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).
- 14** 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).