

Response from the General Medical Council (GMC) to the Nursing and Midwifery Council's (NMC) consultation on improvements to their Fitness to Practise process

Question 1: To what extent do you agree or disagree with our proposal to introduce the power to appoint legally qualified chairs, who can provide legal advice to the panel which they chair?

Response: Strongly agree

Comments:

We strongly agree with your proposal to introduce the power to appoint legally qualified chairs (LQCs) so that you have greater flexibility and the ability to reduce the costs associated with running hearings.

Rule 6 of the [General Medical Council \(Constitution of Panels, Tribunals and Investigation Committee\) Rules 2015](#) and Rule 56(1)(a) of the [General Medical Council \(Fitness to Practise\) \(Anaesthesia Associates and Physician Associates\) Rules 2024](#) (AAPA Rules 2024) provide us with the powers to appoint a legally qualified person as a chair of a tribunal.

The MPTS first started using LQCs in doctor hearings in 2016. The MPTS [Criteria for the appointment of LQCs](#) sets out the criteria a person must satisfy to be eligible for selection to serve as a LQC of a tribunal. Since the introduction of LQCs, our experience is that using them has introduced efficiencies and improved the in-hearing management of cases.

We note that you don't intend to move away from using legal assessors altogether and we support this approach. Under both legal frameworks we operate under, there are circumstances in which a legal assessor can still be appointed. Schedule 4, paragraph 7 (1B) of the Medical Act 1983, requires a legal assessor to be appointed where the chair of the tribunal is not a legally qualified person. There is also the discretion to appoint a legal assessor in any other case where it's considered appropriate to do so. Under Rule 57 of the AAPA Rules 2024, a legally qualified person must be appointed to advise the tribunal in hearings where the chair is not a legally qualified person.

Although the MPTS has not had reason to empanel a tribunal with a legal assessor since December 2023, retaining the ability to do so is still considered useful. The MPTS [Policy on the use of LQCs](#) provides further information.

We also agree that your proposal to include a requirement in the rules for all parties to be informed of any legal advice given by a LQC, reflecting the requirements for legal advice given by a legal assessor, is fair, proportionate and transparent. We have similar provisions in our legal framework, for example see Rule 58 of the AAPA Rules 2024.

Question 2: To what extent do you agree or disagree with our proposed approach to broaden and strengthen our case management powers?

Response: Agree

Comments:

Overall, we agree with your proposed approach to broaden and strengthen your case management powers. Our current case management powers allow us to deal with case preparation matters and issues arising between the parties ahead of the hearing which supports the efficient running of the proceedings and saves in-hearing time. In particular, the ability to resolve preliminary matters at a preliminary hearing is used very successfully by the MPTS and undoubtedly assists the effective running of the subsequent substantive hearing.

We have provided specific comments on each element of your proposed approach below.

Allowing a LQC to issue case management directions without having to arrange a preliminary meeting

We operate a case management model whereby case management directions can be given by MPTS case managers in advance of a hearing (see Rule 16 of the [General Medical Council \(Fitness to Practise\) Rules Order of Council 2004](#) (FTP Rules 2004) and Rule 31 of the [AAPA 2024 Rules](#)). MPTS case managers are legally qualified and must meet the published [Criteria for the appointment of case managers](#).

Whilst, under both our legal frameworks, case management directions can also be given by the Chair of a tribunal where the Chair is appointed as a case manager for proceedings before that tribunal, or the tribunal itself, our experience is that having dedicated MPTS case managers is operationally efficient.

Although in practice, most case management directions for new hearings are given by an MPTS case manager at a pre-hearing meeting, there is the flexibility for them to issue directions without holding a meeting. In these circumstances, once issued, to ensure fairness parties are invited to provide comments and are given the opportunity to request a pre-hearing meeting to discuss them. We will also consider whether we need to invite written representations from the parties having regard to the individual circumstances of the matter in issue and the case prior to issuing directions on the papers.

We support your proposal to introduce a similar flexibility but note that your consultation document doesn't provide any specific details about how you will ensure the approach to issuing case management directions without holding a preliminary meeting is fair. However, we agree with the proposed approach in draft Rule 17A(3) that where directions are given, written confirmation must be sent promptly to the parties, as this will achieve transparency.

Power for a Committee panel to decide arguments on points of law or on the admissibility of evidence at a preliminary meeting

In our adjudication processes we distinguish between pre-hearing meetings (under Rule 16) and preliminary hearings (under Rule 17). Pre-hearing meetings are conducted by an MPTS case manager to discuss hearing preparation with the parties and for them to issue relevant case management directions. For doctors, while an MPTS case manager can make directions for the provision of skeleton arguments, Rule 16(6) limits the ability to give a direction determining a preliminary legal argument, or to decide the admissibility of evidence, to a tribunal.

When introducing new rules setting out the adjudication process relating to physician associates and anaesthesia associates, MPTS case managers have been given enhanced powers to determine preliminary legal arguments (Rule 41(1) of the AAPA Rules 2024). As we are still early on in our regulation of these professional groups, we do not yet have operational experience of using this power, which we intend will be appropriately and carefully exercised having regard to the nature of the matter to be determined. We anticipate that having this power may introduce further efficiencies.

Preliminary hearings must be listed in doctor cases to determine preliminary legal arguments and may be listed at the discretion of the MPTS case manager in PA and AA cases. Both parties have the right to attend and can be represented. In PA and AA cases where an MPTS case manager decides a preliminary legal argument we anticipate the parties having an opportunity to provide skeleton arguments and / or make written representations to support fairness.

Again, we broadly support your proposal to introduce this flexibility and note that draft Rule 18 in the keeling schedule provides for the parties to attend a preliminary meeting which supports an approach that is fair.

Binding case management directions

The proposed changes are similar to Rule 7A of the FTP Rules 2004 and Rule 31(7) of the AAPA Rules 2024. Making it clear in rules that case management directions are binding provides certainty to the parties and supports the efficient running of the proceedings and saves in-hearing time.

We note that under draft Rule 17A(4) your proposed approach is for all directions to be binding unless the Committee panel considers that there has been a material change of circumstances or it is not in the interests of justice for the party to be bound by the direction. We consider this supports a fair, proportionate and transparent approach for the parties and we therefore support your proposal to introduce Rule 17A(4).

Extending the Committee panel's power to refuse to admit evidence not served in compliance with any direction

The proposed changes are similar to Rule 16A of the FTP Rules 2004 and Rule 32(2) of the AAPA Rules 2024 which, in summary, provide that tribunal may refuse to admit evidence where there has been a failure to comply with a direction made, or a requirement under, the rules.

Making it clear in rules that the Committee panel may refuse to admit evidence not served in compliance with any direction provides clarity to both parties on the consequences of not actively or appropriately complying with any direction. Extending the power to all directions may also be a useful deterrent. We therefore agree with your proposal to expand Rule 31 in this way.

Non-compliance of directions

The proposed changes are similar to Rule 16A of the FTP Rules 2004 and Rule 32 of the AAPA Rules 2024. Although a tribunal may draw adverse inferences where there has been a failure to comply with a direction made or a requirement under the rules, in practice this power is not frequently utilised at hearings. This may be due to our registrants seeing the consequences of not complying with a direction as being significant which makes it a useful deterrent. We therefore support your proposal to expand Rule 31 to include this power.

For feedback on the specific drafting intended to give effect to these proposals, please see our response to question eight.

Question 3: To what extent do you agree or disagree with our proposed change to allow us to share documents via an online account or portal where the registrant has agreed to this?

Response: Agree

Comments:

We agree with your proposed change to allow documents to be shared via an online account or portal where the registrant has agreed to this so that accessibility and clarity for your registrants can be improved, along with security protection. We note that draft Rule 34(3)(c) in the keeling schedule states that the recipient has to agree to accept communications via the account before notice or a document can be served on them, which supports a fair approach.

We do not have the power to serve notice to doctors via an online account under the [FTP rules 2004](#), but we do use online accounts and a secure portal called GMC Connect to share information during the fitness to practise process where appropriate to do so. For example, we use GMC Connect to manage the secure transfer of information with individuals or organisations such as Responsible Officers, GMC associates, expert witnesses and legal organisations. We can also use our Secure File Transfer System to share information where GMC Connect isn't suitable, for example when sharing very large bundles of documents which would otherwise need to be split into multiple parts. Both of these systems provide us with a secure way to exchange information and allow us to easily share large amounts of information.

The introduction of the [AAPA Rules 2024](#) provided us with an opportunity to modernise our own approach to sharing documentation with our registrants. Rule 74(3)(e) provides us with increased flexibility to serve notifications under the rules by placing them on the associate's online account where they have agreed to accept communications in this way. We consider there to be many potential benefits associated with this approach, such as more instantaneous receipt, not being limited to a maximum email attachment size and a reduced risk of information security breaches.

We therefore broadly support your proposal but note that your consultation document doesn't provide any specific details around how you will operationalise this power. We would suggest considering matters such as how you will record the registrant's agreement, how you will notify the registrant that something has been placed into their account, and what audit trail you will have to prove service by this method.

Question 4: To what extent do you agree or disagree with our proposal to amend the rules so that it is no longer a requirement to invite representations at the end of the process if no further regulatory action is necessary? (The registrant will continue to have an opportunity to view the material and make representations in response, before the case examiners can refer the case to the Fitness to Practise Committee, recommend an undertaking, issue a warning or give advice.)

Response: Agree

Comments:

We agree with the proposal to amend Rules 6B and 6C so that it is no longer a requirement to invite representations at the end of the investigation process if no further regulatory action is

necessary. We note that your aim is to enable more efficient case progression and support you having the flexibility to move a case to closure as quickly as possible where it is appropriate to do so. This will be beneficial for registrants as it reduces the impact of the fitness to practise process and avoids subjecting them to further unnecessary stress in circumstances where it is clear there is no case for them to answer.

Whilst we broadly agree with your proposal, we note that your consultation document doesn't explain how you will operationalise this power fairly. For example, you may wish to consider establishing a process to cover the scenario where the registrant has not been invited to make representations at the end of the process, but the case examiners have now considered the matter and don't agree that the case should be closed. It would be helpful to consider how and when disclosure of the materials will then be made to the registrant, and whether they will have the opportunity to make representations before the final decision is made.

For feedback on the specific drafting intended to give effect to this proposal, please see our response to question eight.

Question 5: To what extent do you agree or disagree with our proposal to replace the fixed requirement to respond in 28 days with a more flexible timeframe of at least 28 days?

Response: Neither agree nor disagree

Comments:

We neither agree nor disagree with your proposal to replace the current fixed requirement to respond in 28 days with a more flexible timeframe of at least 28 days. We note the aim is to give you greater flexibility and responsiveness for individual case needs, considering the complexity of the case, the volume of material, urgency, and reasonable adjustments.

Both our legal frameworks include fixed timescales. The benefit of this is that it provides certainty. Under Rule 7(1)(c) of the [FTP Rules 2004](#), after receiving a referral of an allegation for consideration by the case examiners under Rule 8, we will write to the doctor inviting them to respond to the allegation with written representations '*within the period of 28 days*'. Although there is no explicit power to extend this fixed timeframe, in practice we will consider doing so where it is reasonable in light of the individual circumstances of the case.

The introduction of the [AAPA Rules 2024](#) provided us with an opportunity to consider replacing fixed timeframes with a more flexible approach, similar to the one you are proposing. We decided not to do this because it would introduce an additional decision point into the process for every case which could result in delay to case progression.

On balance, we preferred the option of retaining a fixed timescale for consistency and operational efficiency but introducing flexibility by giving decision makers the ability to extend the timescale to respond where appropriate to do so. Therefore, although fixed timeframes in which the associate must respond are specified in the AAPA Rules, provisions have been included to provide the Regulator and the case examiners with the power to extend the period specified (Rule 5(4), 6(10), 14(5), 22(5), 23(4), 29(3), 67(5) and 70(3)).

A benefit of the approach that we've taken is that an additional decision on timescales will only need to be made where information is available which suggests that more time may be needed.

Such information may come to light through the Regulator's own enquiries, via a third party or by a registrant or their representative making a request for more time.

Guidance is given to support decision-makers exercise this discretion. For example, paragraphs 52-58 in [Decisions at the case examiner stage \(Physician Associates and Anaesthesia Associates\)](#) provides further detail on when it may be fair and proportionate to extend the timeframe for an associate to provide written representations as part of the accepted outcome process.

Whilst we do agree with your stated aim to have greater flexibility and responsiveness, we are not clear from your consultation document whether you have considered alternative approaches in terms of how you can best achieve this. In addition, if you do proceed with your proposed approach, we are unable to comment fully on the impact it may have as the detailed guidance on the factors which may mean a longer period is fair and reasonable in the circumstances is yet to be developed.

Question 6: To what extent do you agree or disagree with our proposal to provide flexibility to shorten the 28 day notice period for Fitness to Practise meetings or hearings in certain circumstances?

Response: Strongly agree

Comments:

We strongly agree with your proposal to provide flexibility under Rule 11(2) to shorten the 28 day notice period for Fitness to Practise meetings or hearings where the registrant consents to a shorter period, or where a shorter period is justified in the public interest, to enable a swifter case conclusion. Although our fitness to practise processes differ from yours, we consider that the proposal appears to be fair and proportionate.

We understand that at a Fitness to Practise meeting or hearing, the panel makes a decision about a nurse, midwife or nursing associate's fitness to practise. However, at a meeting, the panel makes its decision based on the documents and evidence that have been submitted without the attendance of the parties, whereas at a hearing the parties can attend and call live evidence.

At the end of an investigation into a concern about a doctor's fitness to practise, two GMC case examiners will decide if there is a realistic prospect that the doctor's fitness to practise is impaired to a degree requiring restrictive action on their registration, or if a warning is required (Rule 8). Where the realistic prospect test is met, the case examiners may refer the case to an MPT hearing if undertakings are not appropriate. The initial consideration of an allegation that a doctor's fitness to practise is impaired will always be at a hearing and we do not hold the equivalent of your Fitness to Practise meetings.

Where a matter has been referred to a hearing, under Rule 15 of the [FTP Rules 2004](#) we already have the flexibility that you are proposing to introduce: notice must be given to the doctor at least 28 days before a hearing, unless the doctor consents to a lesser period of notice being given or it is considered in the public interest for there to be such a lesser period.

Similarly, under Rule 36(4) [AAPA Rules 2024](#) notice must be served not less than 28 days before the hearing unless it is in the interest of justice for the notice period to be less than 28 days, or the associate contents to shorter notice.

In practice, we find this discretion beneficial as it avoids delaying the start of a case in certain circumstances. Where a registrant consents to a lesser period of notice being given, it can lead to a swifter case conclusion and / or avoid an adjournment which limits the impact of the fitness to practise process which we know can be stressful for all involved. In cases where we consider that it is in the public interest for a lesser notice period to be given, we may still try to obtain the agreement of the parties. However, this is not always possible or practicable.

Question 7: To what extent do you agree or disagree with the proposed change to allow our Committees to better support vulnerable witnesses?

Response: Agree

Comments:

We agree with the proposed changes to replace the narrow definition and dated terminology currently used in relation to vulnerable witnesses and to clarify the Committee's powers, allowing them to better recognise and respond to different types of vulnerability.

We note you have said in the consultation document that the changes you want to make mirror the approach we have set out in Rule 43 of the [AAPA Rules 2024](#). However, some of the introductions to the AAPA Rules 2024 have not been fully mirrored in the keeling schedule and we are unsure whether this was intentional. Therefore, we are unable to strongly agree with the proposal.

The introduction of new rules in December 2024 provided us with an opportunity to review our approach in relation to vulnerable witnesses and incorporate additional safeguards for vulnerable witnesses that have been introduced through other legislative change in recent years. For example, we replicated the protection provided by the Domestic Abuse Act 2021, to enable special measures to be available to a witness where the alleged behaviour against the witness amounts to domestic abuse. This takes into account the significant impact that this type of behaviour can have on a witness, on their ability or willingness to engage in a hearing and on the quality of their evidence.

The amendment to Rule 23(1) in the keeling schedule mirrors Rule 43(4) of the AAPA Rules 2024. Under this rule, the case manager or tribunal may direct that a witness be considered a vulnerable witness, taking into account the interests of a witness and all of the circumstances of the case or matter to be determined. We agree that this change will allow for a holistic and person-centred assessment which proactively considers the wellbeing and welfare of the individual witness and all the circumstances of the case.

The amendment to Rule 23(2) also mirrors Rule 43(5)(b) of the AAPA Rules 2024. Where a witness is treated as vulnerable, the case manager may direct, or the tribunal may adopt, any measure that they consider desirable to enable the tribunal to receive evidence from the witness. We agree that this change will allow the Committee to adopt such adjustments it considers necessary to enable it to receive evidence from a vulnerable witness, while maintaining the duty to ensure proceedings are fair and just.

However, we would encourage you to also consider mirroring Rule 43(3) of the AAPA Rules 2024 at Rule 23(4) to ensure that where the matter relates to domestic abuse, the witness will be treated as vulnerable and therefore cannot be cross examined directly by an unrepresented registrant. As explained above, this is an important additional safeguard in such cases.

For feedback on the specific drafting intended to give effect to this proposal, please see our response to question eight.

Question 8: For each change, please say how effectively or ineffectively the drafting reflects the policy as set out in the previous questions?

We have reviewed the keeling schedule and overall consider that the drafting achieves the policy intent. However, we have several queries or suggestions on the specific wording of the changes to the rules as drafted that you may wish to consider.

Rule 6C(1A) – We wonder if instead of using wording that is a double negative, rewording this amendment to *‘Before the Case Examiners decide that...they must be satisfied that’* may make it more accessible to the reader?

Rule 6C(1B) – We suggest removing *‘has been able to’* and replacing this with *‘has obtained’*, unless you consider the ability for the Registrar to obtain is important? Simpler drafting could read *‘Before making a decision, the Case Examiners must consider information relevant to their consideration of the case, including any representations from the registrant.’*

Rule 11(3)(l) and Rule 11A(2)(e) – We query the change in these rules from *‘inviting’* to *‘directing’* the registrant to state in writing whether any admissions are made in respect of the allegation. We consider that it is for the registrant to decide what, if any, evidence to present in defence of the allegations and as such it does not seem appropriate for this to be a binding direction.

Rule 17A(2)(b) – If the intention is that case management directions are given during the preliminary meeting itself, then we wonder if the reference to the Chair *‘holding a preliminary meeting’* could be changed to *‘by the Chair at a preliminary meeting held under Rule 18’* for greater clarity?

Rule 17A(3)(b) – We suggest that a very minor amendment to this rule to insert the word *‘all’* could make it clearer who the directions are sent to i.e. *‘send written confirmation of such directions to all the parties promptly’*.

Rule 18(5)(k) – We query whether *‘direction’* is the correct term to describe what are essentially determinations by the Committee on legal points or the admissibility of evidence, as the Committee are not technically *‘directing’* that specific activity takes place, instead they have decided the issue. By moving sub-paragraph (k) from (5) and having it as a separate sub-paragraph (6) these matters would not have to be described as directions which is otherwise potentially confusing to the reader.

Rule 23(1) – We find the following text to be slightly unclear: *‘all the circumstances of a case or matter to be determined’* on the basis that neither *‘case’* or *‘matter’* are defined terms within the rules. This means it is not clear whether they are to be used interchangeably or if they are covering different types of matters a Committee might be considering. If your intention is for *‘case’* and *‘matter’* to be used interchangeably, one term rather than two would be preferable. If not, it may be helpful to define one or both, which is the approach we’ve taken in our rules.

Rule 23(2) – We consider that the inclusion of the wording *‘and upon hearing representations from the parties’* in this rule appears to assume that representations will be made. As this won’t always happen, or be possible, in practice, we suggest a more accurate description should reflect

that the parties will have been given an opportunity to provide representations and the Committee will consider any, if made.

Question 9: When thinking about the proposed changes to Fitness to Practise rules, can you identify any potential impacts – positive or negative – on some individuals more than others based on their protected characteristics? By protected characteristics we mean age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We have not seen an equalities impact assessment or details of what was considered to inform the proposed changes, and we don't have any detailed knowledge on your registrant base. We cannot therefore comment on whether the proposals will have any positive or negative impacts on groups or individuals based on their protected characteristics.

Question 10: Can you identify any positive or negative impacts the proposed changes might have on the Welsh language or Welsh speakers? Could the proposals be revised in any way to increase opportunities for people to use the Welsh language and to help treat it no less favourably than English?

We have not seen an equalities impact assessment or details of what was considered to inform the proposed changes. We cannot therefore comment on whether the changes will have any positive or negative impacts on the Welsh language or Welsh speakers.

In terms of opportunities for people to use Welsh language, we thought it may be helpful to explain the approach we take. [Our commitment to Welsh language speakers](#) at the GMC, and at the [MPTS](#) sets out that when we contact registrants in relation to an investigation, we will actively offer to facilitate their language preference in meetings and scheduled telephone calls and actively offer to provide any copies of forms and documents we produce in relation to the investigation or related legal proceedings in Welsh. We will also actively offer to facilitate language preferences during a hearing. For example, by making sure that simultaneous translation from Welsh to English is available during a registrant's oral submissions or evidence.

20 January 2026