

9. Do you consider that the FRC should change its regulatory arrangements to allow for the civil standard of proof to be applied at Stage 1 (Facts) of the disciplinary process? Please answer Yes or No.

Whilst the General Medical Council (GMC) remains neutral on the issue of whether the FRC should change its regulatory arrangements, we have set out below the reasons why we changed the standard of proof in fitness to practise hearings for doctors from the criminal to the civil standard on 31 May 2008, following approval by the Privy Council.

The majority of professional tribunals and other health care regulators already applied the civil standard of proof pre-2008, and our move followed a recommendation made by the Chief Medical Officer in 2006 in *Good Doctors Safer Patients*, as well as a 2007 White Paper entitled *Trust Assurance and Safety* in which the Government recommended that the civil standard of proof be the common standard of proof for all regulatory bodies in fitness to practise proceedings.

We made the change because we considered the application of the civil standard of proof more accurately reflected the function of the GMC Fitness to Practise panels, now called Medical Practitioners Tribunals. The Tribunal is not a criminal court and is not applying the criminal law, and many tribunals consider matters relating to health and performance as well as misconduct. The Court of Appeal also explained at the time that the use of the criminal standard of proof in areas other than the criminal law was very much the exception. It may also be helpful to note that even before the change, we already used the civil standard of proof in proceedings before our Investigation Committee, Registration Panels and where there was a dispute as to facts at Registration Appeals Panels.

10. Do you consider that a change in the standard of proof could create any adverse impacts for any of those with protected characteristics under the Equality Act? Please answer Yes or No.

We would recommend that the FRC carries out an Equality Impact Assessment prior to implementing any policy change to assess this.