To consider

Consultation on Publication and disclosure policy

Issue

1. A review of our policy on what we publish and disclose about Fitness to Practise and Interim Orders Panel decisions. We propose to consult on key changes in June 2015. The changes are:

   a. The introduction of time limits on how long we display sanctions on a doctor’s record.

   b. Displaying historical information on sanctions from 1994-2005 on the records of doctors who are still registered.

   c. Ensuring the information we display about appeal outcomes is as transparent as possible.

   d. Providing greater explanation of our decision where cases conclude in undertakings without a panel hearing.

Recommendation

2. The Strategy and Policy Board is asked to consider the draft consultation document (at Annex A), for submission to Council for approval at its meeting on 2 June 2015.
Consultation on our Publication and disclosure policy

Issue

3 Our Publication and Disclosure Policy sets out our general approach to the routine dissemination of fitness to practise information. We are in the process of reviewing the Policy and our planned consultation seeks views on a number of changes proposed.

4 Our current policy of displaying sanctions on a doctor’s record on the List of Registered Medical Practitioners (LRMP) indefinitely is potentially disproportionate. We are therefore proposing to introduce time limits dependent upon the sanction imposed and on whether the doctor remains registered. Our remaining proposals are driven by the desire for greater transparency and clarity.

Proposal 1 – introducing time limits on how long we display sanctions on a doctor’s record

5 This proposal was previously agreed for consultation by the Board at its meeting on 22 July 2014.

Proposal 2 - displaying historical fitness to practise information from 1994-2005 on LRMP on the records of doctors who are still registered

6 This proposal was also previously agreed for consultation by the Board at its meeting on 22 July 2014.

Proposal 3 - ensuring the information we display about appeal outcomes is as transparent as possible

7 The information we display about a hearing outcome is intended to help people understand why certain action was taken, or not taken, to protect the public. Where the decision on a case is later appealed, it can be difficult to present a clear story.

8 The detail of our proposals in relation to fitness to practise appeals is set out on pages 9 to 14 of the consultation document at Annex A. We aim to ensure that a member of the public who has been following a fitness to practise case can understand what has happened at final outcome. Key changes are:

   a Where an appeal is successful, reference to the original decision and any sanctions will be removed from the doctor’s record, but a note will be added to the doctor’s record for 12 months stating that the doctor was found not impaired on appeal. A similar note will be displayed on the Recent Decisions page of the Medical Practitioners Tribunal Service’s (MPTS) website. Currently no reference is made to the FtP hearing or appeal on the doctor’s record or MPTS website.
b Where an appeal is unsuccessful, the fact that there was an appeal, but that it was not successful will be noted on the doctor’s record for 12 months from the date of the appeal together with the original decision and any sanction. Currently all reference to the appeal is removed.

c Where an appeal is withdrawn, the fact that an appeal was made and withdrawn will be added to the doctor’s record for 12 months from the date of the appeal. Currently all reference to the appeal is removed.

9 Our approach to appeals of interim orders is unchanged but we will include this for the first time in our Publication and Disclosure Policy. Our approach to displaying information about appeals of interim orders is set out on pages 15 to 17 of the consultation document at Annex A.

Proposal 4 - providing greater explanation of the decision where cases conclude in undertakings without a panel hearing

10 Currently, where a doctor has agreed undertakings, a list of the undertakings is displayed on the LRMP with no detail of the concerns or the decision rationale. The number of cases being resolved through consensual disposal is increasing, and it is important that the public can understand the decisions that have been taken with regard to a doctor’s registration in response to serious concerns. We therefore propose to display a short summary alongside the undertakings to include an overview of the concerns and an explanation of why the case examiners consider undertakings a proportionate outcome, with any aggravating or mitigating factors.

11 The detail of this proposal is set out on pages 17 to 18 of the consultation paper at Annex A. Subject to the Board’s views, the consultation document will be submitted to Council for approval at its meeting on 2 June 2015.
Supporting information

How this issue relates to the corporate strategy and business plan

12 Strategic aim one: to make the best use of intelligence about doctors and the healthcare environment to ensure good standards and identify risks to patients; and Strategic aim five: to work better together to improve our overall effectiveness, our responsiveness and the delivery of our regulatory functions.

How the issues support the principles of better regulation

13 These proposals seek to strike a balance between transparency and proportionality.

How the action will be evaluated

14 We are tendering for an independent assessor to quality assure our analysis of responses to the consultation and our report on the findings.

What equality and diversity considerations relate to this issue

15 The proposal to transfer historical data on to LRMP, for some doctors, will mean information on fitness to practise history being available on a public online database for the first time. An analysis of the data of doctors who will have additional data displayed showed that the following groups are over-represented: doctors aged between 50-80, male doctors and international medical graduates (black and minority ethnic doctors and EEA doctors are not over represented in this group). However, until now there has been a discrepancy between doctors with sanctions after 2005 and before 2005 and this change will bring consistency.

16 Our proposals to move from a policy of indefinite disclosure to introduce time limits for removal of fitness to practise information will benefit doctors with fitness to practise sanctions. This will disproportionately benefit doctors who are overrepresented in our fitness to practise procedures. It will also reduce the adverse impact of our proposals to publish additional fitness to practise history prior to 2005 and for some doctors this may only be for a few years.

If you have any questions about this paper please contact: Anna Rowland, Assistant Director of Policy, Business Transformation and Safeguarding, arowland@gmc-uk.org, 020 7189 5077.
Draft consultation document: Changes to the information we display and disclose when we have investigated concerns about doctors
Changes to the information we display and disclose when we have investigated concerns about doctors
About this consultation

When a serious concern is raised about a doctor’s behaviour, health or performance, we investigate to see if the doctor is putting the safety of patients, or the public’s confidence in doctors, at risk. We are consulting on changes to the information we display and disclose about these doctors.

What information do we currently disclose?

We have to publish a range of our decisions about a doctor’s fitness to practise in line with the Medical Act 1983.¹ We have a discretionary power to withhold any information about the physical or mental health of a person that we consider to be confidential. We also have a discretionary power to publish or disclose any information about a doctor to any enquirer, where we consider it to be in the public interest.²

We are also subject to a range of legislative duties in relation to information governance, including the Data Protection Act 1998, the Human Rights Act 1998, and the Freedom of Information Act 2000.

Our current approach to publishing and disclosing this information is set out in the annex.

In June 2012, the Medical Practitioners Tribunal Service (MPTS) took over running hearings about doctors. It follows the same principles as the General Medical Council (GMC) in relation to publication and disclosure. The MPTS has its own website which provides information relating to fitness to practise and interim orders panel hearings.

What information do we display on the medical register?

The medical register – known as the List of Registered Medical Practitioners – is an online database of all doctors registered with the GMC. It can be accessed from our public website, enabling members of the public to search for information about the registration of individual doctors. All sanctions currently attached to a doctor’s registration are displayed on their individual record, together with relevant hearing decisions.

The medical register also displays details of a doctor’s fitness to practise history from 20 October 2005, which is when the electronic register was introduced. This includes historical information about sanctions on a doctor’s registration that no longer apply, but were in place on 20 October 2005 or were subsequently imposed. We can give details of any sanctions issued before 20 October 2005 on request.

¹ This requirement is set out in section 35B(4) of the Act and covers decisions by fitness to practise panels, interim orders panels, the Investigation Committee and undertakings agreed with doctors.
² This requirement is set out in section 35B(2) of the Act.
Information that relates solely to a doctor’s health, and interim orders where we close the case with no action are not displayed on the online register or disclosed to enquirers. Warnings that are more than five years old are also not displayed and are only disclosed to employers.

What is the scope of the review?

We are reviewing our policy on the information we display and disclose following a fitness to practise investigation, to make sure that it is proportionate and provides transparency about the decisions we take. This policy deals with the routine publication and disclosure of fitness to practise information. We will still continue to consider use of our discretionary powers in individual circumstances on a case-by-case basis, in line with our legislative duties described above.

The consultation covers information routinely displayed about fitness to practise decisions on the medical register on our website, and on the recent decisions page on the MPTS website.

(http://www.mpts-uk.org/decisions/fitness_to_practise_decisions.asp)

It does not include proposals on displaying information about warnings. We recently consulted on this as part of our review of our sanctions guidance for doctors. (http://www.gmc-uk.org/concerns/fitness_to_practise_consultations.asp#Reviewingour)

We remain committed to the principles that underpin our current policy – being transparent and open about our processes and decisions, and accessible for enquirers seeking information about a doctor’s registration. We believe that openness about the action we take in response to serious concerns about doctors is in the interests of the public and the medical profession. However, we want to make sure that our policy is proportionate in balancing the public interest with the individual interests of the doctor who has been investigated.

Our proposed changes

- Introducing limits on the length of time that sanctions\(^\text{3}\) on a doctor’s registration will be displayed on the medical register and disclosed to general enquirers. At present, all sanctions (excluding warnings) are displayed and disclosed indefinitely (pages 5–7).

- Displaying historical data on the medical register about sanctions that were imposed during 1994–2005, where the doctors are still registered. At present,

\(^3\) This covers erasure or suspension from the medical register, conditions imposed on a doctor’s registration, and undertakings agreed with a doctor.
the online medical register contains data only from 2005 - the year it was introduced (pages 8–9).

- Where a doctor appeals the decision of a fitness to practise panel, making sure that the information we provide on the outcome of the case is as transparent as possible (pages 9–14).

- Where a doctor appeals the decision of an interim orders panel, clarifying our policy on what information will be displayed (pages 15-17).

- Providing greater transparency and detail in cases where we agree undertakings with a doctor without a fitness to practise panel hearing (pages 17–18).

**How to take part**

Answer the questions online on our consultation website: [www.gmc-uk.org/xxxxx](http://www.gmc-uk.org/xxxxx).

Alternatively, you can answer the questions using the text boxes on pages x–x of this consultation document and either email your completed response to us at ftpconsultation@gmc-uk.org or post it to us at:

Fitness to Practise Policy team  
General Medical Council  
350 Euston Road  
London NW1 3JN.

This consultation runs from **26 June** to **18 September 2015**.

**Find out more**

You can find further information about our fitness to practise processes on our website at [www.gmc-uk.org/concerns](http://www.gmc-uk.org/concerns).
Introducing limits to the length of time that sanctions will be displayed on the medical register or disclosed

The current position

All sanctions on a doctor’s registration, imposed by either a fitness to practise panel or an interim orders panel, remain on their record on the medical register indefinitely, even after the sanction no longer applies. These sanctions include erasure, suspension, conditions and any undertakings agreed with a doctor. This is regardless of whether the doctor remains registered with the GMC. The only exceptions to this are information solely relating to a doctor’s health, and interim orders where a case is closed with no finding of impairment or no warning.4

Reason for change

Transparency and openness about how we deal with serious concerns about doctors is in the public interest and in the interests of the medical profession. However, we want to strike an appropriate balance in relation to matters that took place a long time ago, or where a doctor has given up their registration and is no longer seeking work as a doctor.

Our proposed approach

We propose to introduce a range of limits for the length of time that sanctions will be displayed on a doctor’s record on the medical register or disclosed to general enquirers. The period for which we display and disclose the information will depend on the sanction imposed, and on whether the doctor remains registered with the GMC. When the time limits expire, this information would not be available by searching the medical register and would not be provided to general enquirers.

However, we would still provide information on current and expired sanctions to employers that are seeking information on the fitness to practise of doctors to whom they are offering work. This is because we believe it is necessary for employers to have a full picture of an employee’s history of fitness to practise issues to protect patients and ensure proper standards of care.

We would also continue to provide information to overseas regulators on request to make sure that overseas regulators and employers are able to obtain the same level of information from us about a doctor’s fitness to practise as they currently do from the medical register. This is to minimise the risk of doctors with sanctions for serious

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4 Warnings are displayed on a doctor’s record on the medical register for five years and disclosed to any enquirers for that period of time. After five years, warnings are no longer displayed on the medical register or disclosed to general enquirers. However, they are kept on record and disclosed to employers on request indefinitely. As mentioned earlier, the display and disclosure of warnings is not within the scope of this consultation.
concerns in the UK going on to practise abroad without the appropriate authorities in those countries being aware of their fitness to practise history.

We will continue to consider specific requests for information on a case-by-case basis.

**Proposed time limits**

**Doctors not currently registered**

<table>
<thead>
<tr>
<th>Sanction</th>
<th>Time limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Doctor was erased by a fitness to practise panel</td>
<td>Ten years from the date the doctor was erased from the medical register.</td>
</tr>
<tr>
<td>Doctor received a sanction other than erasure (suspension, conditions,</td>
<td>Five years from the date the doctor left the register subject to a maximum</td>
</tr>
<tr>
<td>undertakings)</td>
<td>publication period of 20 years.</td>
</tr>
</tbody>
</table>

We impose a sanction on a doctor’s registration only when we find serious concerns about their fitness to practise. In light of that, displaying or disclosing the sanction after a doctor has left the medical register is important to maintain confidence in the medical profession through transparency and openness. As we erase a doctor in only the most serious cases, where the concerns are fundamentally incompatible with the doctor continuing to be registered, we need to display or disclose this information for a longer period. This also provides a safeguard should an erased doctor continue to practise medicine despite no longer being registered. However, in both these situations, we think that the need to display and disclose information in the public interest declines over time, and the doctor’s right to pursue alternative employment without interference increases.

**Registered doctors**

<table>
<thead>
<tr>
<th>Sanction</th>
<th>Time limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Doctor was erased by a fitness to practise panel and has been restored</td>
<td>As long as the doctor is registered with the GMC</td>
</tr>
<tr>
<td>to the medical register</td>
<td></td>
</tr>
<tr>
<td>Doctor received a sanction other than erasure (suspension, conditions,</td>
<td>20 years from the date the sanction expires or the undertakings are revoked</td>
</tr>
<tr>
<td>undertakings)</td>
<td></td>
</tr>
</tbody>
</table>
We think that the need to be transparent and open about historical sanctions is more important for doctors who remain registered than for those who are no longer registered. In these cases, it is proportionate to display and disclose the sanctions for a significant period of time to maintain confidence in the medical profession. For sanctions other than erasure, we have suggested that 20 years since the sanction expired is an appropriate period. After this time, we think the need to display and disclose the sanction in the public interest declines and indefinite publication is not necessary.

The need for transparency is most critical in cases where a doctor has previously been erased from the medical register. In a small number of cases, a doctor who has rehabilitated can be restored to the medical register. As these doctors are now able to work with patients, and in view of the seriousness of the original concerns, we think it is proportionate to display the doctor’s fitness to practise history for as long as the doctor remains on the medical register.

1 Do you think the time limits described above provide the right balance between being transparent and open in the public interest and being fair to individual doctors?

Yes/No/Not sure

Do you have any comments on the time limits proposed?

2 Do you have any other comments on the issues discussed in this section?
Displaying historical data on the medical register about sanctions that were imposed during 1994–2005 [H2]

The current position

Fitness to practise information on the online medical register dates from 20 October 2005, when the electronic register was introduced. It includes sanctions that no longer apply, but were in place on 20 October 2005 or were subsequently imposed. We can provide information on request about sanctions imposed before 20 October 2005, but this information is not available to search publicly.

Reason for change

We believe that our approach to publication of fitness to practise sanctions should be consistent for all doctors who are still registered with the GMC and as transparent and accessible as possible to maintain confidence in the medical profession. We therefore propose to display information about sanctions imposed before 20 October 2005 on the medical register, even if they have expired. This puts doctors who received those sanctions in the same position as doctors who had active sanctions at that date or had sanctions imposed after 20 October 2005. We propose to go back only as far as 1994 as we need to make sure the resources required to transfer this data are proportionate and the data we hold from before this time is less likely to have continuing relevance in relation to doctors who are currently registered.

Our proposed approach

We propose that links to the following additional fitness to practise information should be displayed on the medical register for doctors who are currently registered:

- public hearing minutes from the Professional Conduct Committee and the Committee on Professional Performance during 1994–2005
- public hearing minutes for fitness to practise panel hearings that are not already on the medical register and have been held since we introduced our new rules\(^5\) in 2004
- notices of Health Committee hearings held during 1994–2005, although minutes will not be provided.

We have always intended that this information should be available to the public and we have provided it on request. The information was not included on the medical register when it was first introduced due to the volume of data being transferred at the time and not for any reason of principle. Those constraints no longer exist.

\(^5\) These are the rules we follow when investigating complaints and making decisions at hearings about doctors.
3 Do you agree that, in the interests of transparency, we should display information on the medical register about sanctions imposed on a doctor’s registration between 1994–2005, where that doctor is currently registered?

Yes/No/Not sure

Do you have any comments on the proposal?

Increasing transparency in the information we display when a doctor appeals a fitness to practise panel’s decision

The current position

Fitness to practise panels hear evidence and decide whether a doctor’s fitness to practise is impaired. If it is, the panel can impose a sanction of erasing or suspending the doctor from the medical register, or conditions on the doctor’s registration. The panel can also agree undertakings with the doctor and, in cases where the doctor’s fitness to practise is not impaired, give a warning or take no further action.

A doctor can appeal a decision of a fitness to practise panel and interested parties are updated on the progress and outcome of any appeal. If a doctor launches an appeal, their record on the medical register is updated to reflect this. If an appeal is dismissed or withdrawn, the original decision and any sanction are displayed on a doctor’s record, but all mention of the appeal is removed. If an appeal is successful, the original decision and all mention of the appeal are removed from the doctor’s record and from the MPTS recent decisions webpage.

However, as appeals are matters of public record and contribute to the development of the common law, information on both fitness to practise and interim orders appeals is published in appeal circulars, which provide feedback and guidance to MPTS panel members. These are published elsewhere on the MPTS website.

Reason for change

The information we display about a hearing outcome is intended to help people understand why certain action was taken, or not taken, to protect the public and uphold confidence in doctors. Where the decision on a case is later appealed, it can be difficult to present a clear story about the reasons why the final outcome is considered to be in the public interest.
There is concern that gaps in information arising from our current approach may lead to a perception that we are not being transparent in our decision making and may reduce public confidence that sufficient action has been taken to protect the public.

**Our proposed approach**

To improve transparency about case outcomes and to make sure that information on what has happened in a fitness to practise case is as clear and accessible as possible, we propose a number of changes to what we display about appeals of a fitness to practise panel’s decisions. These changes involve information displayed on both the medical register and the MPTS recent decisions webpage.

**Proposed changes**

We set out below the current approach and our proposed changes to what is displayed on both the medical register and the MPTS recent decisions webpage, in the following six scenarios:

- **A – appeal is unsuccessful**
- **B – appeal is successful**
- **C – appeal is partly successful and is sent back to the GMC for a new hearing**
- **D – appeal is partly successful and the original outcome is changed by the appeal court**
- **E – appeal is withdrawn**
- **F – no appeal is made.**

**A – Appeal is unsuccessful**

<table>
<thead>
<tr>
<th>Current approach</th>
<th>The original sanction, the date of the decision and a link to the decision are displayed on the doctor’s record on the medical register. All reference to the appeal is removed and the doctor’s record is amended to show that any sanction is now effective on the doctor’s registration. The decision of the panel hearing is displayed on the MPTS recent decisions webpage for 12 months.</th>
</tr>
</thead>
<tbody>
<tr>
<td>New approach – the online medical register</td>
<td>As now, the original sanction, the date of the decision and a link to the decision will be displayed on the doctor’s record. The fact that there was an appeal but that it was not successful will be noted on the doctor’s record for 12 months.</td>
</tr>
<tr>
<td>New approach – the MPTS recent decisions page</td>
<td>No change – as now, the decision of the original panel hearing is displayed on the MPTS recent decisions webpage for 12 months.</td>
</tr>
</tbody>
</table>
4 Do you agree with the proposal in relation to appeals that are dismissed in scenario A?

Yes/No/Not sure

Do you have any comments on the proposal?


B - Appeal is successful

| Current approach | The original sanction, the date of the decision, the link to the decision, all references to the appeal and any information on interim orders are removed from the doctor’s record on the medical register. The decision of the panel hearing is removed from the MPTS recent decisions webpage. |
| New approach – the online medical register | As now, the original sanction, the date of the decision and a link to the decision will be removed from the doctor’s record. Any information on interim orders will also be removed. A note will be added to the doctor’s record stating that the doctor was found not impaired on appeal, which will remain for 12 months. |
| New approach – MPTS recent decisions page | As now, the decision of the original panel hearing will be removed from the MPTS recent decisions webpage. This will be replaced with a note stating that there was a hearing, that there was an appeal against the decision of that hearing, and that the doctor was found not impaired on appeal. This will remain for 12 months. As now, guidance will continue to be issued to MPTS panel members through appeal circulars, which are publicly available elsewhere on the MPTS website. |

5 Do you agree with the proposal in relation to appeals that are successful in scenario B?

Yes/No/Not sure

Do you have any comments on the proposal?


### C - Appeal is partly successful and is sent back to the GMC for a new hearing

| Current approach | The outcome of the original hearing is removed from the doctor’s record on the medical register. The outcome of the new hearing is displayed on the medical register, and on the MPTS recent decisions webpage for 12 months. In some cases, where it is necessary to make sense of the decision, the appeal decision is displayed alongside the outcome of the further hearing with a brief explanatory note. |
| New approach - the online medical register | As now, the outcome of the original hearing will be removed from the doctor’s record. A note will be added to the doctor’s record, stating that a hearing was held and that, on appeal by the doctor, the case was sent back to the GMC. This will remain for 12 months or until any new hearing has taken place, whichever is the later date. At the end of any new hearing, any sanction will be displayed on the doctor’s record with a link to the decision. |
| New approach - the MPTS recent decisions page | As now, the decision of the original panel hearing will be removed from the MPTS recent decisions webpage. This will be replaced with a note stating that there was a hearing, that there was an appeal against the decision of that hearing, and that the appeal was allowed in part and sent back to the GMC. At the end of any new hearing, the outcome will be displayed as normal on the MPTS recent decisions webpage for 12 months. As now, where it is necessary to make sense of the decision, the appeal decision will be displayed alongside the outcome of the further hearing with a brief explanatory note. |

6 Do you agree with the proposal in relation to appeals that are partly successful and sent back to the GMC for a new hearing in scenario C?

Yes/No/Not sure

Do you have any comments on the proposal?
**D - Appeal is partly successful and the original outcome is changed by the appeal court**

<table>
<thead>
<tr>
<th>Current approach</th>
<th>Cases are dealt with on a case-by-case basis.</th>
</tr>
</thead>
<tbody>
<tr>
<td>New approach – the online medical register</td>
<td>The outcome of the original hearing will be removed from the doctor’s record. Where the appeal results in a doctor’s fitness to practise being found impaired and/or the doctor receiving a sanction, this will be displayed as usual on the doctor’s record. There will be a link to the appeal decision, and where it is necessary to make sense of the decision, the original decision will be published alongside, with a note making clear that the original decision has been superseded by the appeal.</td>
</tr>
<tr>
<td>New approach – MPTS recent decisions page</td>
<td>The outcome of the original hearing will be removed from the MPTS recent decisions webpage and replaced with the appeal decision, which will remain for 12 months from the date of appeal. Where it is necessary to make sense of the decision, the original decision will be displayed alongside the appeal decision. It will be made clear that the original decision has been superseded by the appeal.</td>
</tr>
</tbody>
</table>

7 Do you agree with the proposal in relation to appeals that are part successful and the original outcome is changed by the appeal court in scenario D?

Yes/No/Not sure

Do you have any comments on the proposal?

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**E – Appeal is withdrawn**

<table>
<thead>
<tr>
<th>Current approach</th>
<th>The original sanction, the date of the decision and a link to the decision is displayed on the doctor’s record on the medical register. The decision is displayed on the MPTS recent decisions webpage for 12 months. All reference to the appeal is removed and the doctor’s record is amended to reflect that any sanction is now effective on the doctor’s registration.</th>
</tr>
</thead>
<tbody>
<tr>
<td>New approach – the online medical register</td>
<td>The original sanction, the date of the decision and a link to the decision will be displayed on the doctor’s record. An explanatory note will be added stating that an appeal was</td>
</tr>
</tbody>
</table>

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13
withdrawn by the doctor on a specified date. This will remain for 12 months.

| New approach – the MPTS recent decisions page | No change – the decision of the panel hearing will be displayed on the MPTS recent decisions webpage for 12 months. |

8 Do you agree with the proposal in relation to appeals that are withdrawn in scenario E?

Yes/No/Not sure

Do you have any comments on the proposal?

F – No appeal is made

| Current approach | The original sanction, the date of the decision and a link to the decision is displayed on the doctor's record on the medical register. The decision is displayed on the MPTS recent decisions webpage for 12 months. |
| New approach – the online medical register | The original sanction, the date of the decision and a link to the decision will be displayed on the doctor’s record. A general comment will be added noting that all doctors have a 28-day period to appeal a decision before any sanction takes effect on their registration. |
| New approach – the MPTS recent decisions page | No change – the decision of the panel hearing will be published on the MPTS recent decisions webpage for 12 months. |

9 Do you agree with the proposal in relation to cases where no appeal is made in scenario F?

Yes/No/Not sure

Do you have any comments on the proposal?
Developing our policy on the information we display when a doctor appeals an interim orders panel’s decision

The current position

An interim orders panel hearing considers whether a doctor’s registration should be temporarily restricted while allegations about their practice or conduct are investigated. The panel may suspend or impose conditions on a doctor’s registration for up to 18 months, although this can be extended by applying to the High Court in England, Northern Ireland and Wales or to the Court of Session in Scotland.

Our approach to displaying information about appeals of interim orders is not currently set out in our publication and disclosure policy but we propose going forward to include it. The approach we take is as follows.

If a doctor appeals an interim order, we make no reference to the appeal before it is concluded. If the appeal is dismissed or withdrawn, the original order will continue to be displayed without amendment and with no reference to the appeal on either the medical register or the MPTS website. Decisions on what should be displayed in cases where an appeal is successful or successful in part depend on the nature of the decision taken by the appeal court. Depending on the circumstances, we adopt one of the following three approaches.

Appeal is successful and the court decides the decision should not have been made

<table>
<thead>
<tr>
<th>The online medical register</th>
<th>The original order is removed from the doctor’s record. The doctor’s registration is displayed with no restrictions unless imposed in a separate case. No reference is made to the appeal.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The MPTS recent decisions page</td>
<td>The original order and press release is removed from the MPTS recent decisions webpage.</td>
</tr>
</tbody>
</table>
Appeal is successful and the court does not decide that the original decision should not have been made, but decides that it should no longer have effect

<table>
<thead>
<tr>
<th>The online medical register</th>
<th>The original order is removed from the doctor’s record, but a reference to the order remains in the fitness to practise history section of the doctor’s record.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The MPTS recent decisions page</td>
<td>The panel’s decision will have been included in a press release displayed on the MPTS recent decisions webpage for six weeks and is likely to have been removed by the time an appeal is resolved. If it has not been, then the decision would be removed from the MPTS recent decisions webpage.</td>
</tr>
</tbody>
</table>

Appeal is partly successful and the period of the order or the conditions is changed

<table>
<thead>
<tr>
<th>The online medical register</th>
<th>The original order is removed from the doctor’s record. Where the appeal results in a new order, this is displayed on the doctor’s record.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The MPTS recent decisions page</td>
<td>The original order and the appeal decision is displayed for six weeks from the date of the appeal decision.</td>
</tr>
</tbody>
</table>

As with fitness to practise appeals, information on interim orders appeals is also published in appeal circulars to MPTS panel members to inform decisions in future cases. These are published elsewhere on the MPTS website.

**Our proposed approach**

We are not proposing any changes to the way in which we currently approach displaying interim orders, described above. However, in the interests of transparency and consistency, we believe we should set out our approach in our publication and disclosure policy.

It is worth highlighting that our approach to displaying interim orders differs to that proposed for appeals of fitness to practise panels’ decisions (consultation questions 4–9). This is because interim orders serve a different purpose to the decisions of fitness to practise panels. They aim to keep patients safe while we investigate concerns about the doctor’s fitness to practise, and they are imposed before the panel finds whether the allegations against a doctor are proven. They come into effect immediately and there is no time limit for an appeal – they can be appealed at any point while they are in force.
Do you have any comments on our approach to displaying information about appeals in interim orders cases, as set out in the section above?

Providing greater transparency and detail in cases where we agree undertakings with a doctor without a fitness to practise panel hearing

The current position

Fitness to practise cases can conclude with doctors voluntarily agreeing undertakings to restrict their practice or to take specific action such as retraining. In these cases, we consider that a fitness to practise panel would be likely to find the doctor’s fitness to practise impaired, but that we can resolve the issues without the need for a panel hearing.

The only note on the doctor’s record on the medical register is the list of undertakings. There is no explanation of the concerns that the undertakings are intended to address or why they are considered to be a proportionate response. This differs from the approach to undertakings agreed or conditions imposed by a fitness to practise panel, as the panel’s decision with accompanying reasoning is publicly available through the medical register. For doctors whose fitness to practise is not impaired but who are given a warning, we currently publish more about the reasoning for the decision than we do about doctors given undertakings.

Reason for change

It is important that the public can understand the decisions taken about a doctor’s registration in response to serious concerns.

Following a public consultation in 2011, a report on the outcome of which can be found [here](#), we are taking steps to make sure that we refer cases for a fitness to practise panel hearing only where necessary, which reduces delay and stress for doctors and witnesses involved. Going forward we would like to resolve more cases consensually, including more serious cases where a fitness to practise panel might impose a suspension or erasure, and we received support for this approach when we consulted in 2011. This approach will require legislative change and we are seeking those changes from the Department of Health.
As increasing numbers of cases conclude without a hearing, we believe that transparency is critical to maintaining public confidence about the action we take to respond to serious concerns.

**Proposed change**

In addition to the list of undertakings we currently display on a doctor’s record on the medical register, we propose to display a short summary of the concerns and the reasoning behind our decision to resolve the case consensually in cases where we agree undertakings with a doctor (similar to our current approach to warnings). The proposed summary will include:

- an overview of the concerns
- an explanation of why we consider undertakings are a proportionate outcome
- a note of any aggravating or mitigating factors taken into account in the decision.

The summary will be displayed as a link on the medical register for as long as the undertakings are effective on the doctor’s registration. Once the undertakings are revoked, they will remain in the doctor’s fitness to practise history according to the time limits decided in response to questions 1 and 2 of this consultation. As with panels’ decisions, health information will not be displayed (unless it is at the request of the doctor).

If we go ahead with this proposal, when proposing to doctors that they accept undertakings, we will send the doctor both the list of proposed undertakings and the proposed summary.

**11** Do you agree that we should give greater explanation of the background and reasons for resolving the case consensually when we agree undertakings with a doctor and conclude the case without a fitness to practise panel hearing?

Yes/No/Not sure

Do you have any comments on the proposal?
Equality

We have carefully considered the aims of the equality duty in developing our proposals.

The Equality Act 2010 identifies nine characteristics that are protected by the legislation: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

12. Do you think that any of our proposals will affect people with protected characteristics that are covered by equality legislation? This could include doctors, patients and members of the public.

Yes/No/Not sure

If you have answered yes to this question, please tell us which proposals and what you think the impact might be.

About you