Minutes of the Meeting on 17 May 2016

Members present

Terence Stephenson, Chair

Paul Buckley
Susan Goldsmith
Howard Matthews

Anthony Omo
David Pearl
Neil Roberts

Others present

Vicky Elkin, acting Group Secretary
Chair’s business
1. The Chair welcomed members to the meeting.
2. The Group noted that apologies for absence had been received from Niall Dickson.

Minutes of the meeting on 25 November 2015
3. The Group noted for the record that the minutes of the meeting on 25 November 2015 had been approved, on circulation, by the Group as a true record following the November meeting.

Matters arising
4. The Group received an update on the matter arising related to paragraph 16 of the minutes and the route to revalidation for doctors who have a contract for services requiring a licence to practise but who do not undertake clinical work, and the latest position on a MPTS Suitable Person. The Group noted that Dr Sarah Hull had been approved to act as the Suitable Person for the MPTS, and that Tribunal members would individually decide whether to enter into a commercial arrangement with Dr Hull for the purposes of revalidation.

Draft Report of the Medical Practitioners Tribunal Service Committee
5. The Group considered the draft report of the MPTS Committee, noting the summary on the performance of the MPTS since December 2015, and the work of the MPTS Committee.
6. The Group approved the report for consideration by Council at its meeting on 7 June 2016, subject to including reference to:
   a. Interim Orders Tribunals and Medical Practitioners Tribunals outcomes being reflective of the fact that the number of referrals to Tribunals appeared to be appropriate.
   b. The Quality Assurance Group request to see, in relation to the GMC right of appeal, the final decision of the Registrar and any learning points.
   c. The current delays in receiving the outcomes from the Professional Standards Authority’s routine review of MPTS decisions, noting that it was helpful to include the outcome reports in Tribunal member training.
7. During discussion, the Group noted that:
The MPTS Committee had agreed, at its meeting on 10 May 2016, to make changes to the report to:

i  Amend the Executive Summary to make it clear that all cases are actively case managed; and to summarise the efficiency savings at paragraphs 12 to 14 of the draft report.

ii Update the net efficiency saving figure at paragraph 14 so it would be as up to date as possible before the report was considered by Council.

The Judicial Review brought by the British Medical Association (BMA) in relation to Legally Qualified Chairs had been dismissed, although the BMA had sought permission to appeal. The Group noted that David Pearl would provide an oral update on the issue to Council when presenting the Report of the MPTS Committee on 7 June 2016.

two cases had resulted in a finding of impairment with no further action in 2015. The Group noted that a change in legislation would be required to enable Tribunals to find impairment and also issue a warning.

The number of Interim Orders Tribunals/Interim Orders Panels had reduced from 634 to 522 in the period between 2013 and 2015, which was indicative of the fewer number of Interim Orders referrals that were being made.

**MPTS Risk Register**

8 The Group considered the MPTS Risk Register, and noted the changes that had been made to include more detailed and specific risks under the headings of Strategic, Reputational and Operational risk.

9 During discussion, the Group noted that the residual risk assessment of Risk 13 would be changed to amber and the residual risk assessment of Risk 14 would be changed to green, following the mitigating actions which had been undertaken. The Group noted that this amendment would be subject to checking that this approach aligned with the GMC’s agreed corporate approach to the rating of risks.

**MPTS Section 60 update**

10 The Group considered a report on the implementation of the Section 60 Order amendments to the Medical Act 1983 which came into force on 31 December 2015.

11 During discussion, the Group noted that:
a. The GMC had not yet exercised its right of appeal against MPTS decisions.

b. The first non-compliance hearing was expected in July 2016 which would be chaired by a Legally Qualified Chair, following the new powers which came into force from 31 December 2015 due to the Section 60 Order. The Group noted that it was normal process for a press release to be issued at the same time as a Notice of Hearing, and that the press release would take into account whether the case involved a self-represented doctor.

c. Pre-hearing meetings did not take place in every case, but were usual for hearings that were listed for a period of over ten days. The Group noted that there were currently on average at least six pre-hearing meetings each week.

d. The GMC's Continuous Improvement team would be able to offer assistance if required in examining ways in which MPTS resource could potentially be moved from managing hearings to preparation for hearings.

Any other business

12 The Group noted that its next meeting would take place on 5 December 2016.

The role of tribunals in the wider regulatory system

13 The Group noted a report on plans to strengthen the existing process for Medical Practitioners Tribunal Service Tribunals to share information presented at a hearing that suggests a risk within the remit of the Registrar or another regulator or other body.

Update on the research into referrals to Interim Orders Tribunals

14 The Group noted an update on progress on research commissioned from the Academic Centre for Medical Education at University College London to explore the fairness of decisions taken by GMC staff to refer doctors to Interim Orders Tribunals.

15 The Group noted that the results of phase 1 of the research were expected to be shared with the Group on email circulation by September 2016.

Strategic and policy issues

16 There were no strategic and policy issues to report.
Operational issues – Appeals

17 The Group noted the MPTS Appeals data for the 12 months to 30 April 2016, which was tabled at the meeting. The Group noted that:

a Of the 23 Medical Practitioner Tribunal appeals made by the doctor, none had been successful, and of the 4 Interim Orders Tribunals appeals made by the doctor, one had been successful.

b Of the 12 Professional Standards Authority (PSA) Case Review Meetings that had been held, only three sets of learning points had been received by the MPTS. The Group noted that Niall Dickson had written to the Chief Executive of the PSA to highlight the delay.

c The proportion of cases heard to appeals received was indicative of satisfactory outcomes for Tribunals and for the appropriateness of cases which were referred.

d There had been a case where a Tribunal had made findings of fact on misconduct, but had not found impairment. Following the decision, the doctor had sought a Judicial Review which GMC Legal had decided to not contest and so the Tribunal finding was overturned by way of consent order. The Group noted that care needed to be taken to maintain appropriate separation between the MPTS and the GMC in such matters, but noted that it would be helpful to find a way to communicate the outcome in similar instances as it could be helpful for Tribunal member continuing learning and development.

Communication and engagement

18 There were no communication and engagement matters to report.

Confirmed:

Terence Stephenson, Chair

Approved on circulation