

**GMC/MPTS Liaison Group**

**Minutes of the Meeting on 5 December 2016**

**Members present**

Terence Stephenson, Chair

Paul Buckley  
Susan Goldsmith  
Charlie Massey  
Howard Matthews

Anthony Omo  
David Pearl  
Neil Roberts

**Others present**

Patsy Morrissey, Group Secretary  
Dame Caroline Swift - Observer

## Chair's business

- 1 The Chair welcomed members to the meeting, and in particular Dame Caroline Swift, who attended as an observer prior to taking up her position as Chair of the Medical Practitioners Tribunal Service (MPTS) on 1 January 2017.
- 2 The Group noted that apologies for absence had been received from Mary Morgan-Hyland, Head of Governance, who was due to attend the meeting for item 3 on the agenda.

## Minutes of the meeting on 17 May 2016

- 3 The Group noted for the record that the minutes of the meeting on 17 May 2016 had been approved, on circulation, by the Group as a true record following the May meeting.

## Matters arising

- 4 The Group received an update on the matter arising related to paragraph 14 of the minutes and the research into referrals to Interim Orders Tribunals. The Group noted that the results of phase 1 of the research had been delayed to March 2017 due to the complexity of the redaction of the research materials. In the meantime further options for research related to MPTS Panel decisions would be explored and brought to the Strategy and Policy Board for consideration as required.

## Annual Review of the MPTS Operational Framework

- 5 The Group considered a paper outlining the key findings from the annual review of the Operational Framework.
- 6 The Group:
  - a Noted the outcome of the review.
  - b Agreed the revised Operational Framework, subject to further consideration of the wording at paragraph 12.4 relating to Judicial Reviews.
  - c Agreed to move the annual review of the Operational Framework to a review every two years.
- 7 During discussion, the Group:
  - a Noted the clarification of the role of the GMC's executive boards and the development of MPTS policy. The governance route for MPTS policy decisions

reflected the status of the MPTS as a statutory committee of Council and the potential impact that MPTS policy decisions could have on other areas of work across the GMC.

- b** Agreed that the wording at paragraph 12.4 in relation to judicial review proceedings should be amended to include a sentence relating to communication between the Fitness to Practise Directorate and the MPTS when judicial review proceedings are issued.

### **The Draft Report of the Medical Practitioners Tribunal Service Committee**

- 8** The Group considered the draft report of the MPTS Committee, noting the summary on the performance of the MPTS under David Pearl's leadership since 2012 and an update on activity since the Committee's last report to Council in June 2016.
- 9** The Group approved the report for consideration by Council at its meeting on 14 December 2016.
- 10** During discussion, the Group noted that:
  - a** There has been a decrease in the number of Interim Orders Tribunal referrals to the MPTS. There were a number of factors that contributed to the reduction, including the GMC's work with Responsible Officers and employers to manage concerns at a local level, when appropriate. The reduction in referrals was to be welcomed as in practice it meant that potentially fewer doctors would be removed from providing services and would not face the stress of disciplinary proceedings. Consideration would be given to highlighting this as a good news story at the Council meeting on 14 December 2016 and within the GMC's impact report.
  - b** There had been periodic under-utilisation of MPTS hearing rooms, which had financial implications. Options for offering MPTS hearing rooms for hire to other regulators were being considered and conversations in this regard were on-going with the Nursing and Midwifery Council. Given the degree of uncertainty around utilisation the position would continue to be monitored over the following two years before any decision to reduce hearing room capacity was considered. It was suggested that the GMC and MPTS should explore the possibility of bringing forward some hearing dates, where possible, to improve room utilisation.
  - c** There was no data as yet on the impact of the measures taken to provide additional support to self-represented doctors. While anecdotal feedback from self-represented doctors indicated that they found the additional support useful it was not possible to ascertain if the support made these doctors more effective at representing themselves during hearings.

- d** There was still a level of confusion among doctors as to the level of cover provided by Crown Indemnity Insurance, and in particular that it only extends to clinical negligence and does not cover misconduct or other disciplinary proceedings. It was suggested that the Director of Strategy and Communication should give further consideration to how the GMC could inform doctors of the limitations of Crown Indemnity Insurance while being careful not to promote any individual medical defence organisation.

## **MPTS business plan and budget**

**11** The Group considered the draft MPTS business plan and budget for 2017.

**12** During discussion, the Group noted:

- a** That the efficiencies arising from the S60 changes, including the introduction of reviews on papers and case management, and other process improvements, had resulted in a budget for 2017 that was £1.2m lower than the 2016 budget.
- b** That the budget allocation for the GMC's fitness to practise work had also been similarly reduced.
- c** That a review of the impact of the introduction of case management would be conducted at the end of 2016.
- d** That there had been no applications for costs in 2016.
- e** The plan to introduce high quality video conferencing for hearings with the aim of increasing efficiency for hearings and witnesses. Allowing witnesses to participate via VC was also welcomed by Trusts as this potentially lessened the impact on individual departments, particularly when multiple witnesses from a single department were called. However the success of the new approach would still be dependent on a high quality environment with which to link to.

**13** The GMC business plan and budget, of which the MPTS was a part, would be considered by Council on 14 December 2016.

## **MPTS Risk Register**

**14** The Group considered the MPTS Risk Register, and noted the changes that had been made since its last review in May 2016, including the addition of two new risks relating to the appointment of a new Chair and Assistant Director, and for obtaining appeals information from the High Court.

**15** During discussion, the Group noted that:

- a** A campaign to appoint a substantive Assistant Director, MPTS, would take place in 2017. The Chair of the MPTS would participate in the appointment process.
- b** The Chair of the MPTS and Director of Fitness to Practise would discuss the plans to appoint a new Senior Legal Advisor to the MPTS.
- c** While the risk around tribunal members failing to revalidate had been mitigated by the recent tribunal member recruitment campaign, two hearings had recently been postponed due to the availability of medical tribunal members.
- d** The MPTS Committee would undertake in 2017 a more in-depth review of the risk relating to data security.
- e** The labelling of risk 13 should be checked. While it would be possible to secure a shorthand writer for a hearing, making an update to the register during a systems failure could potentially have a negative impact on doctors and other stakeholders.

**GMC/MPTS Liaison Group meeting schedule and work programme for 2017**

**16** The Group considered and noted its proposed work programme and schedule of meeting dates for 2017.

**17** During discussion, the Group noted that the GMC annual report would be laid before Parliament in July 2017 and that the MPTS report would be laid at the same time.

**Any other business**

**18** The Group noted:

- a** That an agreed descriptor of the MPTS should be developed for inclusion in the next Corporate Strategy, reflecting its role as a statutory committee of the GMC Council not a separate organisation.
- b** That the Chair designate of the MPTS would participate in the campaign to appoint Legal Assessors commencing in January 2017. Plans for the appointment of a senior Legally Qualified Chair with judicial experience to participate in high profile cases and to be more involved in the training programme for LQCs would be explored with the MPTS Committee. Any plans to create a new post within the MPTS would require discussion with the Chief Operating Officer.
- c** That its next meeting would take place on 16 May 2017.

## Strategic and policy issues

19 There were no strategic and policy issues to report.

## Operational issues – Appeals

20 The Group noted the MPTS Appeals data for the period from January 2016 – November 2016, which had been tabled at the meeting. The Group noted that:

- a The GMC had appealed the decision of a MPTS tribunal in four cases.
- b The MPTS had received 10 sets of learning points from the Professional Standards Authority (PSA).
- c The BMA had issued Judicial Review proceedings in relation to the use of Legally Qualified Chairs. The application has been dismissed and permission to appeal had been refused. The BMA had since received permission to appeal the decision.

## Communication and engagement

21 There were no communication and engagement matters to report.

Confirmed:

Denise Platt, Deputy Chair

16 May 2017

Approved on circulation