
DRAFT STATUTORY INSTRUMENTS

2015 No.

The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015

PART 2

The Medical Practitioners Tribunal Service

Assessments of professional performance or health

10.—(1) In paragraph 5A of Schedule 4 to the Medical Act (the cross-heading before which becomes “Professional performance assessments and health assessments”)(**1**), in sub-paragraph (1), in paragraph (a)—

- (a) in sub-paragraph (ii), for “a Fitness to Practise Panel” substitute “a Medical Practitioners Tribunal”, and
- (b) for “an assessment of the standard of a registered person’s professional performance” substitute “an assessment of a kind referred to in sub-paragraph (1A)”.

(2) After sub-paragraph (1) of that paragraph insert—

“(1A) The assessments referred to in sub-paragraph (1) are—

- (a) in the case of a registered person, an assessment of the standard of a person’s professional performance;
- (b) in the case of a person applying under section 41, or by virtue of section 31(8) or 31A(1)(c), for his name to be restored to the register, an assessment of the standard of professional performance of which the person would be capable if the person’s name were to be restored to the register;
- (c) in either case, an assessment of the person’s physical or mental health.”

(3) For sub-paragraph (2) of that paragraph substitute—

“(2) An assessment by virtue of this paragraph is to be carried out in accordance with such directions as the Registrar may give as to—

- (a) whether the assessment is to be carried out by an Assessment Team or by an individual assessor;
 - (b) the form or content of the assessment.
- (2ZA) Where the assessment is to be carried out by an Assessment Team, the Team—
- (a) must include at least one fully registered person selected by the Registrar; and
 - (b) is otherwise to be constituted in accordance with directions given by the Registrar.

(1) Paragraph 5A of Schedule 4 was amended by [S.I. 2014/1011](#).

(2ZB) Where the assessment is to be carried out by an individual assessor, the assessor must be a fully registered person selected by the Registrar.

(2ZC) The General Council may make rules as to—

- (a) the appointment of fully registered persons and of other persons to a list of persons eligible to be members of an Assessment Team and the appointment of fully registered persons to a list of persons eligible to be individual assessors;
- (b) the procedure to be followed in carrying out an assessment by virtue of this paragraph;
- (c) the procedure to be followed following the making of a report on an assessment carried out by virtue of this paragraph.

(2ZD) Where there are rules made under sub-paragraph (2ZC)(a), a person selected under sub-paragraph (2ZA)(a) or (2ZB) must be a person who is included in the applicable list of eligible persons provided for in the rules.

(2ZE) The General Council may make rules authorising the Assessment Team which, or individual assessor who, is to carry out an assessment by virtue of this paragraph to determine the procedure to be followed in carrying out the assessment in so far as it is not provided for in rules under sub-paragraph (2ZC)(b).”

(4) After sub-paragraph (2A) of that paragraph insert—

“(2B) An assessment of a person’s physical or mental health may include an assessment of the person’s physical or mental health at any time prior to the assessment and may include an assessment of the person’s physical or mental health at the time of the assessment.”

(5) For sub-paragraphs (3) and (3A) of that paragraph substitute—

“(3) If the Registrar is of the opinion that a registered person who is required to submit to an assessment by virtue of this paragraph has failed to submit to that assessment or to comply with requirements imposed in respect of the assessment, the Registrar—

- (a) may refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, and
- (b) if he does so, must without delay serve on the person concerned a notification of the making of such a referral.

(3A) If the Investigation Committee are of the opinion that a registered person who is required to submit to an assessment by virtue of this paragraph has failed to submit to that assessment or to comply with requirements imposed in respect of that assessment—

- (a) the Investigation Committee may direct the Registrar to refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and
- (b) the Registrar, having been given a direction under paragraph (a), must make the referral to the MPTS and must without delay serve on the person concerned a notification of the making of the referral.

(3B) Where a matter is referred to the MPTS under sub-paragraph (3) or (3A), the MPTS must arrange for the matter to be considered by a Medical Practitioners Tribunal.

(3C) Where a Medical Practitioners Tribunal, having given a direction by virtue of this paragraph to require a registered person to submit to an assessment, are of the opinion that the person concerned has failed to submit to that assessment or to comply with requirements imposed in respect of that assessment, the Tribunal must consider that matter.

(3D) The Medical Practitioners Tribunal, on their consideration of a matter under sub-paragraph (3B) or (3C), may, if they think fit—

- (a) direct that the person’s registration in the register is to be suspended (that is to say, is not to have effect) during such period not exceeding twelve months as may be specified in the direction; or
 - (b) direct that the person’s registration is to be conditional on the person’s compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Tribunal think fit to impose for the protection of members of the public or in the person’s interests.
- (3E) Where, under sub-paragraph (3D), the Tribunal give a direction for suspension or a direction for conditional registration, the MPTS must without delay serve on the person concerned notification of the direction and of the person’s right to appeal against it under sub-paragraph (5).
- (3F) Where, under sub-paragraph (3D), the Tribunal give a direction for suspension or a direction for conditional registration, or where the Tribunal decide not to give a direction under that sub-paragraph, the MPTS must without delay serve on the Registrar and the Professional Standards Authority for Health and Social Care notification of the direction or decision.
- (3G) While a person’s registration in the register is suspended by virtue of a direction under sub-paragraph (3D)—
- (a) the person is to be treated as not being registered in the register notwithstanding that the person’s name still appears in it, but
 - (b) sections 31A, 35C, 35CC, 35D, 35E and 39 are to continue to apply to the person.”
- (6) In sub-paragraph (5) of that paragraph—
- (a) for “a Fitness to Practise Panel”, in each place it appears, substitute “a Medical Practitioners Tribunal”,
 - (b) for “by virtue of sub-paragraph (3)” substitute “under sub-paragraph (3D)”, and
 - (c) for “the Panel” substitute “the Tribunal”.
- (7) In that sub-paragraph, in paragraph (c)—
- (a) for “the Registrar for him to refer it to” substitute “the MPTS for them to arrange for”, and
 - (b) for “be disposed of” substitute “dispose of it”.
- (8) After that sub-paragraph insert—
- “(5A) Subject to paragraph 9, an appeal under sub-paragraph (5) must be brought before the end of 28 days beginning with the date on which notification of the direction was served under sub-paragraph (3E).”
- (9) In sub-paragraph (6) of that paragraph—
- (a) after “Assessment Team” insert “or an individual assessor”, and
 - (b) in paragraph (b), after “the Team” insert “or the assessor”.
- (10) In sub-paragraphs (7) and (8) of that paragraph—
- (a) after “Assessment Team” insert “or an individual assessor”, and
 - (b) omit “their”.
- (11) In paragraph 5B of Schedule 4 to the Medical Act (issue of warrant), in sub-paragraph (1)—
- (a) after “Assessment Team” insert “or an individual assessor”, and
 - (b) after “the team” insert “or assessor”.
- (12) In sub-paragraph (2) of that paragraph, after “themselves” insert “, or (as the case may be) an individual assessor (who must, if so required, produce documents identifying himself),”.

Draft Legislation: This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 ISBN 978-0-11-113005-6
