

How we would like to see the law change: September 2014

We believe that sanctioning a doctor by removing him/her from the Medical Register is **equivalent to a criminal punishment**:

- It immediately removes all income
- It ruins a reputation making the search for future work extremely difficult or impossible
- Its impact on the family is disastrous

We therefore believe that the adjudication process for an MPTS Fitness to Practice hearing should be improved:

- The MPTS panel should consist of more than three members. Five at least would be more appropriate especially for high profile cases.
- In some cases at least one panel member should have some experience or understanding of the scenario or environment in which the alleged misdemeanour took place e.g. in a war scenario and in a foreign country.
- Only accusations made by the doctor's NHS practice patients in this country should be heard e.g. accusations made by a legal representative of a group of foreign nationals seeking compensation from the British government should be suspect.
- **The judgment should be made on the criminal standards rather than the civil ('beyond all reasonable doubt' rather than 'on the balance of probabilities')**
- Written witness statements presented by a legal representative should not be accepted at face value without the opportunity for cross questioning

The stress caused by the hearing procedure could be eased if the following changes were made:

- If the case has to be reconvened at a later date part way through the proceedings, that date should be agreed before the recess.
- Once the accusation has been made, the hearing should take place a reasonable time afterwards. Five years is too long especially when the event in question took place five years before the accusation was made.

We are critical of the appeals system. Appeals must be made within 28 days.

- After erasure, the first few months at least are taken up with shock and depression
- Suddenly there is no income and no more support from the indemnity provider
- The first priority for a doctor with a family is to find ways to provide for them rather than spend even more money on an appeal
- The MPTS cannot review their own decisions
- The GMC have no powers to review the decisions of the MPTS
- The Professional Standards Authority have no powers to review the way the MPTS and GMC have made decisions
- Any appeal has to be made through the High Court and it is not recommended that the appellant proceed with this if there is no new evidence. No appeal can be made against the panel for simply making the wrong judgement, even though they may have been influenced by the press, the case was not proven beyond all reasonable doubt, there were only three making that judgement, there was absolutely no risk for patients etc.

- The Office of Health Professions Adjudicator no longer exists this would have been where a doctor could have brought his complaints about the procedure of a Fitness to Practice hearing
- There is no body to hear complaints from patients about the decisions of the MPTS if they feel they have not been heard
- The GMC and MPTS report to Government, Government should have power to intervene or review a case if it feels there has been a Miscarriage of Justice