



What is an IOT?

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A tribunal run by the Medical Practitioners Tribunal Service who are the independent adjudicator of cases referred by the GMC. The IOT's remit is to determine whether interim restrictions should be placed on a doctor's registration pending the outcome of the GMC's substantive investigation.

Doctors can be referred to the IOT at any stage of a GMC investigation into their fitness to practise. Cases are commonly considered by the IOT at the outset of a GMC investigation shortly after receipt of the initial complaint or when the GMC obtains information later in their investigation which indicates it may be necessary to restrict that doctor's registration.

The Interim Orders process is therefore separate but runs parallel to the GMC's substantive investigation into a doctor. Consequently, any interim restriction imposed by an IOT in the early stages of

an investigation will end when a final decision is made about the concerns. Many GMC fitness to practise investigations do not involve a referral to the IOT and doctors in those cases can continue to practise unrestricted throughout the investigative process.

What types of cases are referred to the IOT?

Cases are referred to the IOT where the evidence suggests it may be necessary to restrict that doctor's registration for one of the following reasons:

- Protection of members of the public
- Where it is in the public interest to do so
- Where it is in the doctor's own interests

Protection of the public

The protection of the public is a very broad category but routinely arises in clinical complaints or allegations of serious misconduct or criminal acts. For example,

allegations that suggest the doctor's language skills or clinical knowledge are deficient and therefore putting patients at risk. Additionally, allegations that a doctor's behaviour had fallen seriously below the standards required by Good Medical Practise would be relevant. In these cases the IOT is concerned with protecting patients and other member of the public from the risk of repetition of the alleged act.

The public interest

The public interest includes the preservation of confidence in the medical profession and maintenance of good standards of conduct and performance. This often overlaps with public protection.

Public interest is relevant at the Interim Orders stage of a doctor's case because the underlying allegations made against that doctor remain private and are not published. Accordingly, the IOT must consider whether it would damage the public's trust in the profession if the allegations were later found proved and the doctor had been allowed to work unrestricted whilst the allegations were being investigated. It routinely arises in cases where the doctor faces serious criminal allegations such as manslaughter, rape, blackmail, sexual conduct towards a patient, sexual assault and offences involving children. In those cases the IOT can restrict a doctor's practise even where the allegation does not relate to his clinical practise.

The doctor's interests

In cases involving the health of a doctor or serious lack of insight into the concerns raised, the IOT may consider it appropriate to make an interim order in the doctor's own interests. This would include cases of drug and alcohol addiction, depression, and other medical conditions that interfere with a doctor's ability to practise safely.

What information is available to the IOT?

In advance of an IOT hearing the doctor and his legal representatives receive a paginated and indexed copy of the hearing papers. This is produced by the GMC and will include documentation regarding the underlying allegation and any other documents which indicate that an interim order is necessary.

The doctor is entitled to submit additional documentation to the IOT, either in advance of the hearing or at the hearing itself. This might include testimonial letters from colleagues and patients or evidence of CPD courses the doctor has undertaken, relevant to the issues raised in the allegations.

The IOT does not routinely hear oral evidence from witnesses, including the doctor. Instead it makes a decision on the basis of the written material and any oral submissions made by the GMC and the doctor or his legal representative.

What test does the IOT apply?

The IOT effectively carries out a risk assessment, considering whether it is necessary to restrict a doctor's registration whilst the GMC's investigation is on-going. It is important to understand that it does not make any findings of fact and will not decide whether a particular allegation against a doctor is true or not. Instead it assesses the seriousness of the allegation, the evidence before it and the weight that should be attributed to that evidence when deciding whether an interim order is necessary.

The test for the IOT is whether they consider that there may be impairment of the doctor's fitness to practise which poses a real risk to members of the public, or may adversely affect the public interest or the interests of the practitioner. If such a risk is identified an

order will only be made where it is necessary to guard against that risk. The test also requires the IOT to consider the proportionality of any restriction of the doctor's registration given the significant consequences on the doctor's ability to practise and his professional reputation. For that reason, the IOT is required to impose the least restrictive order to guard against the perceived risk.

What orders can the IOT make?

Having considered all of the evidence and any submissions by the parties, the IOT can make one of three decisions: No order, conditions or suspension. In the case of No order, the IOT can determine that it is not necessary to make an order restricting the doctor's registration whilst the GMC investigation continues.

Alternatively, they can impose conditions on the doctor's registration for a maximum period of 18 months. The GMC publish on their website a list of the conditions routinely imposed at IOT hearings, known as the "conditions bank". Doctors can therefore review those in advance of their hearing to understand the sort of conditions that may be considered.

In the most serious cases, the IOT can suspend the doctor's registration for a maximum period of 18 months.

What happens at an IOT hearing?

Although the doctor is not obliged to attend an IOT hearing, urgent advice should be sought from a medical defence organisation or specialist lawyer before deciding not to attend. Doctors are routinely represented by a solicitor or barrister at IOT hearings and will normally have spoken to their legal team in advance of the hearing to discuss the procedure and provide instructions in relation

to the substantive complaint. On the day of the hearing the doctor and his legal team will attend the Medical Practitioners Tribunal Service, which is located in central Manchester.

Interim orders hearing are normally held in private, with members of the public and press excluded from the hearing room. The hearing room is relatively informal and does not resemble a court room. The three tribunal members sit at one end of the room together with a tribunal secretary. There are separate tables for the doctor and his representative and the GMC's legal representative. The hearing is digitally recorded.

The tribunal usually consists of three members, one of whom will be medically qualified. That medical member is not normally selected from the same speciality as the doctor involved. A list of all tribunal members is available on the GMC website and details of the tribunal members will be confirmed in advance of the hearing.

At the outset of the hearing the Tribunal Chair will introduce the members of the tribunal and ensure that the parties have received the hearing bundle. The doctor is asked to confirm his name and GMC registration number. The GMC's legal representative then presents the GMC's case. This involves an explanation of the background to the complaint and why the GMC says that an interim order is necessary. The tribunal will have the opportunity to ask questions.

The doctor or his representative then has an opportunity to make representations in response and to present documents in support of the doctor's submissions.

The tribunal members may ask questions of either side's representatives following which a legally qualified chair provides legal advice

to the tribunal members. The tribunal will then adjourn in order to deliberate in private and the parties leave the hearing room.

The tribunal will produce a written determination and it can often take a couple of hours to receive the decision.

Once a decision has been drafted, all parties return to the hearing room. More recently, the Chair will simply confirm what order, if any, has been made and a copy of the full decision is provided to be read outside of the hearing room. The MPTS' website and the electronic medical register on the GMC's website will record the details of any conditions or the length of a suspension.

What do I do if I am referred to an Interim Orders Tribunal Hearing?

The GMC writes to all doctors that have been referred to the Interim Orders Tribunal. Immediately upon receipt of the GMC's letter, doctors should notify their Medical Defence Organisation or insurance provider and obtain advice about the next steps. It is likely that solicitors will be instructed on the doctor's behalf and meetings will need to be arranged at fairly short notice.

What are the potential implications of an Interim Order?

The implications of an interim order will vary depending upon whether the order is one of conditions or suspension. All interim orders are recorded on the medical register which is available to members of the public online. The imposition of an interim order also triggers a statutory requirement for the GMC to notify all EU medical regulators of the restrictions placed on that doctor's registration within three days of the decision.

If the doctor is given conditions on his registration then it is crucial he complies with those requirements and any deadlines imposed. Failure to do so may lead to the GMC re-calling the doctor to the IOT for consideration of an order for suspension. Interim conditions can also adversely affect private admitting rights for those doctors working in private practise and it is important to review the contractual arrangements with your private healthcare provider to understand whether you are entitled to continue to provide private services under your GMC conditions.

If the doctor is suspended from the register, he must cease clinical practise immediately.

For primary care practitioners, the imposition of an interim order action may be taken affecting the doctor's inclusion on the Performers' List. In the case of hospital doctors, the Trust/Health Board may take action to restrict clinical duties. Separate advice can be obtained from your MDO or solicitor about these implications.



FIND OUT MORE

Lisa Jones
Partner

T: +44 (0)161 838 6346
E: lisa.jones@blmlaw.com

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