



## Health Matters and Medical Evidence Practice Statement

### Introduction

As part of processing and adjudicating fitness to teach cases, GTC Scotland staff, Panels and Conveners may encounter a range of situations in which health matters are a factor that require to be considered. Health matters can be raised in support of hearing postponement/adjournment requests (and similar), private hearing and anonymity applications as well as in mitigation (or explanation) of identified fitness to teach allegation(s). It is also important to be aware that health matters can be raised not just by the Teacher who is the subject of the fitness to teach process but also others involved, for example witnesses.

It is important that health matters are considered carefully and that GTC Scotland staff, Panels and Conveners (as appropriate) are provided with adequate medical evidence to support what is being said about the individual's health. It is also important that, in the interests of fairness of the process, there is a general consistency of approach as to the form and standard of medical evidence that is required throughout.

This practice statement provides guidance to GTC Scotland staff, Panels and Conveners as well as parties to fitness to teach proceedings on medical evidence requirements in order to enable health matters to be properly and fairly considered no matter where in the process they may arise.

Where medical and health matters are being raised as part of a privacy/anonymity application, reference should also be made to the GTC Scotland Privacy and Anonymity Practice Statement.

### Requirements

Medical evidence should take the form of an appropriately detailed letter from a medical practitioner<sup>1</sup> setting out the following:

- A specific diagnosis;
- The severity of the condition(s);
- A **specific** explanation of how the condition(s) impacts upon attendance at the hearing and/or engagement with the hearing process (as well as any recommendations as to reasonable adjustments that could or should be made to facilitate attendance/engagement);
- What the treatment is; and
- What the prognosis is.

The medical practitioner concerned should have an appropriate level of expertise and specialism according to the condition concerned: this will often be a matter of judgement. For example, where matters of mental health are concerned, it would generally be expected that the medical practitioner involved would have a relevant mental health specialism (e.g. in psychiatry).

Panels should scrutinise the circumstances in which the medical practitioner has reached his/her conclusions. The medical practitioner should have reached his/her conclusions following an appropriate examination/consultation methodology in order to ensure he/she is well informed. For example, it would not generally be expected that a medical practitioner would be in a position to provide appropriately detailed medical evidence based on one telephone consultation with the person concerned. Panels should also consider what weight to apply to medical reports that appear to simply rely on information provided by the individual as to his/her circumstances – is there any independent verification of the information provided by the individual to the medical practitioner? Has the medical practitioner had access to the individual's medical records?

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<sup>1</sup> The medical practitioner must be registered currently with the UK General Medical Council with a current licence to practise (or an equivalent that is satisfactory to GTC Scotland)

The strength and quality of medical evidence must correspond to the level and seriousness of the matter at issue. For example, the weight of evidence required for an application for a private hearing/anonymity will be higher than that required for an application for a short extension of time to submit evidence for Panel consideration. An 'unfit for work' document will always be insufficient for any matter that is of a higher level and to which greater seriousness is attached.

If medical evidence that meets the requirements above is not available, an explanation as to why this evidence is unavailable should be provided together with an indication of what evidence may be produced in future and when.

In some circumstances, additional or independent medical evidence may be sought: Panels/Conveners should seek advice from the Servicing Officer in relation to this where they consider this might be necessary.

In all cases, medical evidence should not be treated as determinative. GTC Scotland staff, Panels and Conveners should always carefully consider and weigh up the medical evidence provided in the context of all the other factors relevant to the matter at issue. Panels should bear in mind that the purpose of the medical report is for the medical practitioner to provide an opinion and information regarding the individual's health. It is not for the medical practitioner to usurp the decision-making of the Panel or to act as an advocate for the individual in question. For example, when deliberating on whether a hearing should be held in private, Panels should carefully scrutinise any statement made by the medical practitioner that the hearing should be held in private. That is a matter only for the Panel to determine, having weighed up all of the relevant considerations, of which the individual's health is one. Panels should also consider general statements made by the medical practitioner with caution, such as "it would be difficult for Mr X to attend a public hearing" or "a public hearing will have serious consequences for Mrs A". Specific, detailed evidence should be provided of the likely impact on the individual should a particular course of action be taken.

Where a medical practitioner makes an evaluative statement as to whether the fitness to teach proceedings are necessary or should have commenced, Panels should consider the objectivity of that practitioner and, accordingly, the weight to be applied to his/her report.

The Panel should also consider, where relevant, whether the individual is complying with prescribed/recommended medication and/or treatment. In addition, the Panel should consider whether any health concerns are part of an underlying medical condition or whether they are part of a reaction to the fitness to teach proceedings that could reasonably be expected by any individual.

GTC Scotland staff, Panels and Conveners should remain mindful at all times that medical evidence is sensitive personal information and that it is important to keep the information confidential and appropriately safe and secure.

**Approved 26 September 2018**