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## **Information for witnesses appearing before the Fitness to Practise Panel of the General Medical Council**

The General Medical Council ("GMC") is the body charged with the regulation of the medical profession. Its role is to protect patients and guide doctors. As a statutory body, the GMC's functions and responsibilities are governed by the Medical Act 1983. The GMC has statutory responsibility for maintaining the Medical Register.

You have been asked to appear at a Fitness to Practise Panel hearing as a witness on behalf of the General Medical Council by Field Fisher Waterhouse LLP. We are the GMC's solicitors in connection with this case.

### **The Fitness to Practise Panel**

The Fitness to Practise Panel of the GMC considers two types of case which may lead to a doctor's registration being removed or restricted where it is found that his/her fitness to practise is impaired for one or more of the following reasons

- (a) misconduct;
- (b) deficient professional performance;
- (c) a conviction or caution;
- (d) adverse physical or mental health;
- (e) a determination by another professional regulatory body, within the health or social care field, to the effect that his/her fitness to practise is impaired.

In these cases, if the Fitness to Practise Panel ultimately finds the case against the doctor proved, it has the power to erase the doctor's name from the Medical Register (except in a health case), to suspend the doctor's registration for a period of up to 12 months, or to restrict registration for a period of up to 3 years by making it conditional upon compliance with limitations which the Panel considers necessary for protection of the public or in the doctor's own interests. It may also conclude the case without further action or issue the doctor with a warning. The doctor may also agree to undertakings.

The case will be heard by a Panel of Fitness to Practise Panel members, comprising both medically qualified and lay (non-medically qualified) members. One of the Panel will act as Chairperson.

The Panel will also include a legal assessor, an experienced solicitor or barrister, who sits with the Panel to give impartial advice on points of law. Members of the GMC administrative staff will also be present at the hearing. The proceedings are recorded by a shorthand writer.

The GMC will be represented by Counsel, instructed by Field Fisher Waterhouse LLP. The doctor whose case is being heard is invited to attend the hearing and may be represented by a solicitor or barrister, or by someone else of his/her choice.

Unless there are exceptional reasons, Fitness to Practise Panel hearings take place in public. This means that, in addition to the Panel and the parties involved in the case, members of the public may be present in the public gallery to observe. Members of the press may also be present and may report upon the proceedings.

The Fitness to Practise Panel usually hears all the evidence in public. It will ask the parties and the public to withdraw whilst it deliberates in private at various stages of the hearing. At each stage, once the Panel's deliberations are concluded, the parties and the public will be asked to return and the decisions will be announced.

It is open to the Fitness to Practise Panel to adjourn consideration of a case at any stage while further investigations are carried out.

### **Order of Proceedings at Fitness to Practise Panel Hearings**

1. Counsel for the GMC opens the case by presenting a summary of the background facts.
2. Evidence for the GMC is presented by calling the witnesses.
3. At the conclusion of the GMC's case, the doctor/his representatives may make a submission that:
  - a) insufficient evidence has been adduced upon which the facts alleged could be found proved and/or
  - b) insufficient evidence has been adduced to support a finding of impairment of fitness to practise.
4. Counsel for the GMC responds to the submission. The Panel will then consider the submission. If either is upheld in respect of any charge/s, that charge/s will not proceed further.
5. Witnesses for the Defence may be called. They will be questioned, cross-examined and questioned by the Panel in the same way as the witnesses for the GMC.
6. The Panel decides whether the facts alleged are found proved.
7. The Panel receives further evidence and hears further submissions from the parties as to whether, on the basis of any facts found proved, the doctor's fitness to practise is impaired.
8. The Panel considers and announces its finding on the question of whether the doctor's fitness to practise is impaired and gives reasons for their decision.

9. The Panel receives further evidence and submissions from the parties as to the appropriate sanction, if any, to be imposed or, where the doctor's fitness to practise is not found to be impaired, the question of whether a warning should be imposed.
10. The Panel considers and announces its decision as to the sanction or warning, if any, to be imposed and gives reasons for its decision

### **Your Role as a Witness**

All the arrangements in connection with your attendance as a witness will be made by Field Fisher Waterhouse LLP. The solicitor or investigator dealing with your case will be happy to answer any advance queries you have about the hearing.

With this information sheet, you may have received a witness summons requiring your attendance at the hearing and giving the date and time.

On the day of the hearing when you arrive at the GMC's offices, you will be taken to the witness room by a GMC witness liaison officer. Tea, coffee and newspapers are provided in the witness rooms.

The solicitor or investigator from Field Fisher Waterhouse LLP who is dealing with the case will be at the hearing and will keep you advised of arrangements and progress of the case. The timing of cases can be difficult to predict and it is not usually possible to say at exactly what time each witness will be called to give evidence. Every effort will be made to minimise any changes. The GMC regrets the inevitable inconvenience if a witness has to wait longer than originally expected.

You will be asked to wait in the witness room until the point where you are required to give evidence (point 2 on the order of proceedings set out above). No witness (except an expert witness) is permitted to be present during the hearing before giving evidence. While you are waiting to give evidence you should avoid discussing the case and your evidence with any other witnesses as this might prejudice the proceedings.

When you are called to give evidence you will be brought to the hearing room and directed to the witness desk. The Chairperson of the Panel, whom you will be facing, will introduce him/herself and the other members of the Panel to you. The Panel officer will ask you whether you wish to take the oath on a holy book of your choice, or to make an affirmation as to the truth of your evidence.

You will be asked when giving evidence to speak into the microphone on the witness desk. Please speak clearly and slowly so that the Panel can hear your answers and the shorthand writer can record them.

Counsel for the GMC will ask you questions based on your witness statement. You will not be able to have your witness statement with you when you give evidence. You are however free to read it in the witness room prior to being called. While you are giving evidence, any relevant documents to which Counsel wishes to refer you will be shown to you. Please take your time and read the document carefully.

After questions from the GMC's Counsel, the doctor's legal representative may also wish to ask you questions. In the rare cases where the doctor is representing him/herself, he/she will have the opportunity to ask you questions. Finally, members of the Panel may also wish to ask you questions.

Once your evidence has been completed, you will in most cases be formally released by the Panel. At this stage, you may leave, or you may stay and listen to the rest of the day's proceedings. Field Fisher Waterhouse LLP's representative will advise you where to sit if you decide to remain. Following the hearing, we will inform you of the outcome.

As explained above, Fitness to Practise Panel hearings are usually held in public and therefore may be reported by the press. If you have good reason for not wishing your name to be disclosed, then if you have not already done so, you should now ask Field Fisher Waterhouse LLP whether you can be referred to by an initial, "e.g. Miss A.", in order that your identity is protected. Please notify us immediately if you wish to make such a request.

If you require hotel accommodation, arrangements will be made by Field Fisher Waterhouse LLP who will also arrange for payment of the hotel bill. There are no facilities for the GMC to provide lunch for witnesses on its premises, but there are many cafes and restaurants in the surrounding area.

We confirm that on behalf of the GMC we shall be pleased to reimburse reasonable travel and subsistence expenses which you may incur as a result of your attendance at the hearing. You have been sent with this information sheet the GMC Guidance to Witnesses on Expense Claims, together with an Expenses Claim Form. The GMC Guidance sets out what will and what will not be reimbursed and it is therefore important that you read it before booking your travel or making any other arrangements for your attendance at the hearing. Please note that the claim form should be submitted to us as soon as practicable, preferably within seven days of the hearing and certainly no later than one month. Claims made later than one month after conclusion of the hearing will be paid only in exceptional circumstances.

### **Conclusion**

We hope that the above provides you with an introduction to the Fitness to Practise Panel procedures. If you have any further queries, or if you think any special arrangements may be necessary in your case, then please contact the solicitor or investigator at Field Fisher Waterhouse LLP who is dealing with your case.

**Field Fisher Waterhouse LLP**  
**35 Vine Street**  
**London**  
**EC3N 2AA**

**Tel: +44 (0)207 861 4000**