

GMC: Time Limits to Lodge an Appeal Notice are Strict (Usually 28 Days)

Doctors Defence Service

A doctor who is struck off or suspended by the GMC must (usually) lodge an Appeal Notice within 28 days of the fitness to practise panel's (FTP) decision or lose their right to appeal. The Medical Act 1983, as amended, prescribes a 28 day time limit to lodge an appeal from the point of notification of a panel's decision in Fitness to Practise (FTP) proceedings. The time limit is set out in an Act of Parliament (Primary Statute), and it is therefore likely that such express language will be interpreted narrowly, even taking the Human Rights Act 1988 interpretation-of-legislation provisions into account. Doctors (or their lawyers) may well fail to lodge a Notice of Appeal in time if they do not keep an eye on when the doctor was served with the panel's determination.

If a doctor is present at a hearing, the time may be considered to run from that date, especially if a doctor has signed at the hearing to confirm that they have received the GMC/MPTS determination. Alternatively, the time will run from the date on which the doctor receives a written copy of the decision by post. Even where an Appeal Notice is lodged, if the Appellant has not lodged the requisite fee or applied for an exemption at the same, there is a risk that the appeal Notice will not have been lodged appropriately and be struck out. [See our Doctors Defence Service case digest of: [Naguib v General Medical Council \[2013\] EWHC 1766 \(Admin\)](#)]

In the case of Harrison v General Medical Council [2011] EWHC 1741, Blake J held that the High Court had no power to extend the 28 days period in which an appeal had to be lodged.

Consequently, any appeal lodged outside of the 28 days period, or which had been lodged in a procedurally defective way within that time, could not be considered. The time limit for lodging an appeal notice applies to all sanctions imposed by a [FTP panel](#), where a doctor wishes to challenge the determination. [Full Case Report not available at this time.]



*****UPDATE (July 2013):** Since the case of [Harrison](#) was decided, one of our DDS barristers challenged the position and there is now slightly greater flexibility in the interpretation of the statutory time limits, where it can be demonstrated that the practitioner has acted properly

and there are exceptional circumstances: [R \(Adesina\) v NMC \[2013\] EWCA Civ 818](#)

In [The Nursing and Midwifery Council v Daniels \[2015\] EWCA Civ 225](#) – the Court of Appeal held that there were no exceptional reasons to extend the time limit and the judge below, at first instance, should not have found them. (March 2015)

In [El-Huseini v GMC \[2016\] EWHC 2326 \(Admin\)](#) – the High Court did not permit the appeal to proceed in circumstances where the Appellant had failed to lodge the appropriate court fee the same day (on the last permitted filing day) but subsequently filed an appeal notice with the appropriate fee, out of time.

Other Time Limit Cases: In the case of [Estephane v Health And Care Professions Council \[2017\] EWHC 2146 \(Admin\)](#) – clarification was given about when challenges to factual decisions should be brought on appeal. Challenges to subsequent review hearing determinations, which are an ulterior challenge to the original findings are considered to

be an abuse of court process. (September 2017)

Discussion: Where a doctor has been struck off the register, a doctor will not be able to apply for Restoration for a minimum of five years. Therefore, the strict time-limits to lodge an appeal must be complied with if a doctor is not to suffer adverse consequences by missing the appeal deadline.

Doctors Defence Service advises doctors on the merits of [appealing](#) an adverse GMC FTP panel decision. Our lawyers regularly represent doctors at appeal hearings in the High Court. Some of our lawyers have also appeared in the Court of Appeal, in fitness to practise appeals. To discuss the possibility of bringing an appeal, with an experienced lawyer, use our [Contact Form](#) or call us on: **0800 10 88 739**