

Postponing or Further Adjourning Medical Practitioners Tribunal and Interim Orders Tribunal hearings

Guidance for Decision Makers, Parties and Representatives

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Introduction

1. This guidance is for decision makers, parties and representatives and covers the following areas:
 - ▶ Applications to postpone or further adjourn Medical Practitioners Tribunal (MPT) hearings
 - ▶ Applications to postpone or further adjourn Interim Orders Tribunal (IOT) hearings.
2. References to Rules are to the GMC Fitness to Practise Rules 2004 (as amended), unless otherwise stated.
3. The aim of this guidance is to promote consistency and transparency in the making and deciding of applications for postponement or further adjournment.
4. If, after considering this guidance, parties or representatives have any queries regarding an application to postpone or further adjourn an MPT or IOT hearing, they should contact:
 - ▶ For MPT hearings, the MPTS Case Management Team at:
MPTSCaseManagementTeam@mpts-uk.org
 - ▶ For IOT hearings, the IOT Team at:
iotadmin@mpts-uk.org.

What are postponement and further adjournment applications?

5. Our starting presumption is that all MPT and IOT hearings will proceed as scheduled by the MPTS. However, the Rules allow an MPTS Case Manager to make decisions to postpone or further adjourn MPT or IOT hearings if they consider it appropriate to do so. Further information about the different types of applications and decisions is explained below.
6. The Rules also allow the Tribunal (i.e. the MPT or IOT, as the case may be) to make decisions to adjourn hearings. Adjournment decisions taken by Tribunals are beyond the scope of this guidance.

Postponements

7. Before an MPT or IOT hearing convenes, the parties to the proceedings or the MPTS can apply for the hearing to be postponed. The application will be decided by an MPTS Case Manager. If a postponement is granted, it means that the hearing has been delayed until a later date.
8. The reasons why a postponement application might be made are varied and it is not possible to cover all potential examples here. However, they may include:
 - ▶ The GMC seeking a postponement of an MPT hearing to allow time to investigate further information recently received
 - ▶ The practitioner seeking postponement of an IOT hearing as they wish to attend their hearing but will be on a prebooked flight which cannot be rescheduled
 - ▶ The MPTS applying for postponement of an MPT hearing as a tribunal member has become unavailable due to a medical emergency and no replacement is available during the scheduled hearing dates.
9. Rule 29(1)(b) confirms that a Case Manager may postpone a hearing until such a date and time as they consider fit. Under Rule 29(3B), no hearing will be postponed unless the parties have been given a reasonable opportunity to provide comments on the issue.

Further adjournment

10. A party may request a further adjournment in a hearing which has already started but has adjourned part-heard. The application will be decided by an MPTS Case Manager. If a further adjournment is granted, it means the hearing will not reconvene as scheduled, but will continue at a later date.

11. The reasons why a further adjournment application might be made are varied and it is not possible to cover all potential examples here. However, they may include:
 - ▶ The GMC applying for a further adjournment of an MPT hearing on the basis that a medical emergency means a key witness has become unable to attend the hearing when it reconvenes

 - ▶ The practitioner applying for a further adjournment of an IOT hearing as their representative is required to attend a senior Court and a replacement representative cannot reasonably be found.

Applications concerning MPT hearings

Making an application

12. To make an application, please complete [Form P1](#). The completed application must be sent to: MPTSCaseManagementTeam@mpts-uk.org
13. All applications for postponement or further adjournment should be made as soon as possible and must include:
 - ▶ full reasons about why the application has been made and the length of time the postponement or further adjournment is sought for; and
 - ▶ copies of any supporting evidence. For example, this might include independent medical evidence if the application is based on the health of a participant.
14. Once an application has been received by the MPTS Case Management Team, the other party will be given reasonable time to respond and provide comments. The time allowed will depend upon the time remaining before the hearing takes place. Such comments should specifically address the application made by the applying party and provide sufficient detail to allow a decision to be taken on the application.
15. When both parties have had opportunity to comment, an MPTS Case Manager will consider the application. A written decision will be provided to the parties setting out the MPTS Case Manager's decision and reasoning. If a decision needs to be made urgently and there is insufficient time for a written decision to be prepared, parties may be informed of the MPTS Case Manager's overall decision on the application, with written reasons to follow.
16. If an MPTS Case Manager considers that there is insufficient time remaining for the application to be properly considered at all (i.e. due to the lateness of the application), then parties may be informed that the application will instead be considered as an adjournment application by the MPT when the hearing commences or reconvenes (as applicable).

Factors to be taken into consideration

17. When considering an application to postpone or further adjourn an MPT hearing, an MPTS Case Manager will consider the circumstances of the individual case, the submissions made by both parties and the following non-exhaustive list of factors:

- ▶ Whether the hearing can fairly proceed, including the effect any delay may have on the fairness of the proceedings and upon fairness to all parties
- ▶ The impact and relevance of other ongoing legal proceedings, including criminal proceedings or Coroner's inquests
- ▶ Whether the benefit of granting the application outweighs the effect of delay upon the responding party, any witnesses and the public interest in hearings proceeding as soon as is fairly possible
- ▶ Where a request is based on the need to prepare or to obtain further evidence, the reasonableness of such a request, taking account of the reasons provided, the length of time since the relevant event(s) and the time already afforded to parties to prepare
- ▶ Where a request is based on a representative's availability, the complexity of the case and the nature and extent of that representative's prior involvement
- ▶ Where a request is based on a participant's health, whether independent medical evidence has been provided confirming any relevant medical condition and why that condition prevents participation in the hearing
- ▶ Whether the practitioner is subject to an interim order
- ▶ In Review hearings, the expiry date of the practitioner's existing sanction and whether granting the application would prevent review of the sanction before expiry
- ▶ Any other relevant considerations.

Applications concerning IOT hearings

Making an application

18. To make an application, please complete [Form P2](#). The completed application must be sent to: iotadmin@mpts-uk.org
19. All applications for postponement or further adjournment should be made as soon as possible and must include:
 - ▶ full reasons about why the application has been made and the length of time the postponement or further adjournment is sought for; and
 - ▶ copies of any supporting evidence. For example, this might include independent medical evidence if the application is based on the health of a participant.
20. Once an application has been received by the IOT admin team, the other party will be given reasonable time to respond and provide comments. This time allowed will depend upon the time remaining before the hearing takes place. Such comments should specifically address the application made by the applying party and provide sufficient detail to allow a decision to be taken on the application.
21. When both parties have provided comments, an MPTS Case Manager will consider the application. A written decision will be provided to parties setting out the MPTS Case Manager's decision and reasoning. If a decision needs to be made urgently and there is insufficient time for a written decision to be prepared, parties may be informed of the MPTS Case Manager's overall decision on the application, with written reasons to follow.
22. If an MPTS Case Manager considers that there is insufficient time remaining for the application to be properly considered at all (i.e. due to the lateness of the application), then parties may be informed that the application will instead be considered as an adjournment application by the IOT when the hearing convenes.

Factors to be taken into consideration

23. When considering an application to postpone or further adjourn an IOT hearing, an MPTS Case Manager will take into account the circumstances in the individual case, the submissions made by both parties and the following non-exhaustive list of factors:

- ▶ Whether the hearing can fairly proceed, including the effect any delay may have on the fairness of the proceedings and upon fairness to all parties
- ▶ The need for urgency, including the potential risk to members of the public, the public interest and/or to the practitioner's interests, and whether the benefit of granting the application outweighs the effect of a delay upon both the responding party and the public interest in hearings proceeding as soon as is fairly possible
- ▶ The remit of the IOT being to assess the risk of the practitioner remaining in unrestricted practice, and not to make findings of fact. This factor will be particularly relevant where a request is based on the need to prepare or to obtain further evidence or the outcome of other proceedings, where the reasonableness of such a request will also be an important factors
- ▶ The ability of the IOT to undertake an early review hearing where new information becomes available after the scheduled IOT hearing
- ▶ Where a request is based on a representative's availability, the complexity of the case and the nature and extent of that representative's prior involvement
- ▶ Where a request is based on a participant's health, whether independent medical evidence has been provided confirming any relevant medical condition and why that condition prevents participation in the hearing
- ▶ In Review hearings, whether granting the application would prevent review of the interim order in compliance with statutory requirements
- ▶ Any other relevant considerations.

Frequently asked questions

What happens if I don't respond to a postponement or further adjournment application?

24. If a responding party fails to provide a response by the deadline provided, then a MPTS Case Manager may still make a decision on the application. The responding party will be informed of the decision made.

What happens if the application is granted?

25. Where an application is granted, the relevant MPTS team will contact the parties with arrangements for an alternative hearing date. For MPT hearings, this will be the MPTS Case Management team. For IOT hearings, this will be the IOT Admin team.

What happens if the application is refused?

26. Where an application is refused, the hearing will proceed as scheduled.

How quickly will a decision be made?

27. The MPTS aims to deal with all applications as soon as possible once all relevant information has been received from parties. If a party does not respond within the time specified, the application may be decided in the absence of any response. Failure to follow the guidance set out above (such as failing to provide all required information) will likely result in delay.