

Case management procedure

Guidance for parties and representatives

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Introduction

The Medical Practitioners Tribunal Service (**MPTS**) runs fitness to practise hearings for UK doctors.

The MPTS makes independent, evidence based decisions about a doctor's fitness to practise. It is a statutory committee of the General Medical Council (GMC) but fully independent in its decision making and accountability to Parliament.

The overriding objective of the MPTS in making procedural rules is to ensure that Medical Practitioners Tribunals deal with cases fairly and justly. To assist in meeting this objective, the GMC Fitness to Practise Rules 2004 (as amended) include provisions relating to case management to allow the MPTS to enable and facilitate the fair and just determination of cases.

This guidance is for parties and their representatives, and aims to:

- explain how we apply case management to cases referred to a medical practitioners tribunal;
- help parties to prepare for and participate in the case management procedures.

Glossary

All references in this document to **Rules** are to the [GMC Fitness to Practise Rules 2004 \(as amended\)](#) unless otherwise specified. The following terms are also used in this document:

6-Month Case	Cases where the GMC's investigation, case preparation and disclosure are completed <u>before</u> the Case Examiner decision. The hearing should start within six months of that decision.
9-Month Case	Cases where the GMC's investigation, case preparation and disclosure are completed <u>after</u> the Case Examiner decision. The hearing should start within nine months of that decision.
Case manager	A legally qualified case manager appointed to conduct pre-hearing meetings and give legally binding case management directions in accordance with Rule 16.
CE	GMC case examiner
Direct listing	Short length, straightforward cases such as those relating to convictions, health or performance (where there has been a performance assessment) only.
Directions	Legally binding case management directions issued by a legally qualified case manager in accordance with Rule 16.
Listing instructions	Instructions for hearing preparation issued by the MPTS Listings Team, which will be based on the Rules.
MPT	Medical Practitioners Tribunal
MPTS	Medical Practitioners Tribunal Service
MPTS Listings Team	MPTS staff members appointed to conduct first and second listing telephone conferences.
Non-Compliance Hearing	A hearing before a MPT to consider non-compliance in accordance with Rule 17ZA.
Restoration hearing	A hearing before a MPT to consider whether to restore a practitioner to the medical register following erasure.
Review hearing	A hearing before a MPT to review a practitioner's fitness to practice.

Overview of case management procedure

This section provides a summary of how the MPTS case management procedure works, including when and how case management will apply to your case.

Who manages the case management procedure?

The case management procedure is facilitated by the MPTS, which has responsibility for all aspects of hearing administration and support.

What is case management for?

The case management procedure is intended to:

- Encourage both parties to prepare their case and co-operate with each other in order to keep delays to a minimum
- Facilitate the effective and efficient running of MPTS hearings
- Minimise the stress on doctors and witnesses at a hearing by setting up an effective channel of communication during the pre-hearing period and seeking agreement about a number of key issues.

The case management procedure is not an opportunity to consider the merits of referring a case to a hearing, or to test the evidence before a hearing. The MPTS staff facilitating the case management process cannot make decisions about the facts of a case or whether a referral to hearing should be cancelled.

When will the hearing take place?

The case management procedure is also intended to assist in making sure that a case is heard at the MPTS within set timeframes, known as service targets. The applicable service target will depend on the type of case – see the descriptions in the table below and the information provided in the glossary.

All cases should be listed by the service target date but it is expected that the majority will be listed as soon as possible. Longer and more complex cases are likely to be listed close to the service target date to allow more preparation time. For shorter cases, preparation time will be reduced with a view to listing the case earlier in the interests of all parties.

When do case management procedures apply?

Case management procedures apply to all matters to be heard by a MPT. To ensure that cases are dealt with fairly and justly, the MPTS applies a proportionate approach to case management of each case.

Case description	Typical case management
Direct listings , including review hearings and non-compliance hearings	<ul style="list-style-type: none">■ Listings instructions issued by the MPTS Listings Team in writing without telephone conferences
6-month cases listed for 5 days or less	<ul style="list-style-type: none">■ First listing telephone conference■ Second listing telephone conference
6-month cases listed for 6 days or more	<ul style="list-style-type: none">■ First listing telephone conference■ Pre-hearing meeting
9-month cases of any duration	<ul style="list-style-type: none">■ First listing telephone conference■ Pre-hearing meeting

In addition to the guidelines above, the MPTS will carefully consider the appropriate level of case management for all cases where a party does not have legal representation. In such cases, the MPTS will consider whether it would be beneficial for a listings telephone conference and/or a pre-hearing meeting to be held.

Is attendance at a listings telephone conference or pre-hearing meeting compulsory?

Participation in case management procedures is voluntary, although the MPTS strongly encourages all parties to participate. A failure or delay in participation will not delay the listing of a hearing.

What happens?

In the sections that follow, the guidance outlines what happens in each type of case management procedure.

Generally, case management involves at least two discussions between the parties, chaired by a MPTS staff member. In most cases, these discussions will take place

over the telephone. Guidance on how to dial into the telephone conference facility is provided at **Annex D**.

The case management procedure will usually result in the parties being issued with:

- Listings instructions, which are instructions for hearing preparation issued by the MPTS Listings Team and are based on the Rules;
- Where a pre-hearing meeting is held, legally binding Directions made by a legally qualified case manager.

The aim of listings instructions and directions is to provide a framework for the parties to prepare their cases and exchange information to ensure efficient use of hearing time. The MPT will be provided with a copy of any listings instructions and directions made in the case.

Complying with Rules and directions

The MPT will expect parties to have complied with any listings instructions and directions made in the case, unless there has been a material change of circumstances.

If a party does not comply with listings instructions and/or directions, the MPT has the discretion to:

- Draw adverse inferences;
- Refuse to admit the evidence;
- Award costs.

For more information on the potential consequences of not complying with listings instructions and/or directions, see the guidance we provide to MPTs. Self-represented doctors may also find our factsheets on drawing adverse inferences/ excluding evidence and costs helpful. Available from www.mpts-uk.org/unrepdoctors

How much preparation time will the GMC be allowed?

The amount of preparation time given to the GMC will depend on the type of case:

- For 6-month cases, the GMC's case preparation and disclosure are completed prior to the Case Examiner decision. It is therefore expected that the GMC will require little or no further time to prepare;
- For 9-month cases, the GMC's case preparation and disclosure are completed after the Case Examiner decision. It is therefore expected that the GMC will require preparation time which is in proportion to the amount of preparation to be undertaken.

There may also be occasions where information arising from, for example, the disclosure of a doctor's case or the receipt of fresh allegations, will require the GMC to carry out further investigations. In such circumstances the GMC will need to identify a proportionate amount of preparation time required to complete its investigations.

How much preparation time will the doctor be allowed?

The amount of preparation time required by the doctor will be determined by the complexity of the case, usually estimated in terms of the number of GMC witnesses identified. It is expected that the doctor's preparation will commence as soon as practicable but no later than the full disclosure of the GMC case - in many cases some preparation should be possible before this time.

Direct listings

For direct listings, including review and non-compliance hearings, the MPTS will not usually hold listing telephone conferences or a pre-hearing meeting unless the MPTS deems it necessary to do so. Either party may request that the MPTS considers holding a listing telephone conference or pre-hearing meeting if they believe it is necessary and desirable to do so.

Listing the hearing

When the case has been referred to a MPT, the GMC Investigation Officer will request a hearing date and will provide the MPTS Listings Team with initial information regarding the length and timing of the hearing.

The MPTS Listings Team will then set a hearing date with the GMC Investigation Officer and the doctor or their representative.

Listings instructions

Once a hearing is listed, listings instructions will be issued to the parties for all new cases. The listings instructions will remind the parties of some of the key Rules each party must comply with to ensure that they are fully prepared for the hearing.

A failure to comply with the Rules may have serious consequences – for further information, please see the ‘Complying with Rules and directions’ section above.

First listing telephone conference

All cases which are not direct listings will have a first listing telephone conference.

Timescales

Where possible, the MPTS works to the indicative timeline outlined below:

Action	Timescale
GMC Investigation Officer to refer case to MPTS Listings Team to commence case management procedure.	7 days from CE decision
MPTS Listings Team to contact parties to arrange first listing telephone conference.	14 days from CE decision
First listing telephone conference between parties, chaired by MPTS Listings Team.	21 to 28 days from CE decision
A record of the discussion to be prepared by the MPTS Listings Team and circulated to parties.	Within 3 days of first listing telephone conference

What will happen

The first listing telephone conference will be chaired by the MPTS Listings Team and will involve the GMC Investigation Officer, the GMC solicitor, the doctor and/or their legal representative.

The parties will be offered a date and time for the telephone conference in line with the timescales set out above. The telephone conference will go ahead even if only one party agrees to participate. Where a doctor has legal representation, their solicitor will normally take part.

A standard agenda of the matters which will usually be discussed at a first listing telephone conference is shown at **Annex A**. Guidance on how to dial into the telephone conference facility is provided at **Annex D**.

Listings instructions

As a result of the first listing telephone conference, the parties will be issued with listings instructions. The listings instructions will remind the parties of some of the key Rules each party must comply with to ensure that they are fully prepared for the hearing.

A failure to comply with the Rules may have serious consequences – for further information, please see the 'Complying with Rules and directions' section above.

Points to note

- At the first listing telephone conference, the MPTS Listings Team will confirm whether the case will next be considered at a second listing telephone conference or at a pre-hearing meeting. However, either party may request a pre-hearing meeting if they wish to do so.
- The MPTS Listings Team will prepare a record of the first listing telephone conference and circulate it to all parties, whether or not they took part. This record will be limited to key aspects of the discussion only and is not intended to be a verbatim record. Participants may request amendments to the record if they don't think it reflects the discussion accurately.
- The listing date will be decided during the discussion, taking into account the criteria detailed in the MPTS listing criteria – see **Annex E**. If parties wish to list the matter outside of the service target, this cannot ordinarily be resolved during the first listing telephone conference. After the hearing is listed, parties may make written representations on the matter to the MPTS Listings Manager as outlined at **Annex E**.
- When providing a time estimate for a hearing, parties should take account of all stages of the hearing, including:
 - any preliminary arguments;
 - presentation of the GMC's case and the doctor's case;
 - submissions on impairment and sanction;
 - the time the MPT will require for its in-camera deliberations and drafting of its decisions at the various stages.
- In cases where the hearing length is estimated at 30 days or more, an additional allocation of approximately ten per cent may be added for this.

Second listing telephone conference

Cases which have a first listing telephone conference, but do not meet the criteria for a pre-hearing meeting, will be considered at a second listing telephone conference.

Timescales

Where possible, the MPTS works to the indicative timeline outlined below:

Action	Timescale
Second listing telephone conference between parties, chaired by MPTS Listings Team.	Approximately mid-way through overall preparation period
A record of the discussion to be prepared by the MPTS Listings Team and circulated to parties.	Within 3 days of second listing telephone conference

What will happen

The second listing telephone conference will be chaired by the MPTS Listings Team and will involve the GMC Investigation Officer, the GMC solicitor, the doctor and/or their legal representative.

The date and time for the telephone conference will be agreed at the First Listing Telephone Conference. The telephone conference will go ahead even if only one party agrees to participate.

A standard agenda of the matters which will usually be discussed at a second listing telephone conference is shown at **Annex B**. Guidance on how to dial into the telephone conference facility is provided at **Annex D**.

Listings instructions

As a result of the second listing telephone conference, the parties may be issued with additional listings instructions. The listings instructions will remind the parties of some of the key Rules each party must comply with to ensure that they are fully prepared for the hearing.

A failure to comply with the Rules may have serious consequences – for further information, please see the ‘Complying with Rules and directions’ section above.

Points to note

Parties should also note:

- If any issues remain outstanding at this stage, the MPTS Listings Team may arrange an additional listing telephone conference or refer the matter for a pre-hearing meeting.
- The MPTS Listings Team will prepare a record of the second listing telephone conference and circulate it to all parties, whether or not they took part. This record will be limited to key aspects of the discussion only and is not intended to be a verbatim record. Participants may request amendments to the record if they don't think it reflects the discussion accurately.

Pre-hearing meeting

Cases which have a first listing telephone conference and meet the criteria for a pre-hearing meeting will be considered at a meeting (usually held by telephone conference) with a legally qualified case manager.

Timescales

Where possible, the MPTS works to the indicative timeline outlined below:

Action	Timescale
Pre-hearing meeting case chaired by a case manager to confirm hearing dates and to consider any legal and procedural issues within the case manager remit.	Approximately mid-way through overall preparation period
A record of the discussion and directions made to be prepared by the case manager and circulated to parties.	Within 7 days of the pre-hearing meeting

What will happen

The pre-hearing meeting will be chaired by a case manager and will involve the GMC Investigation Officer, the GMC solicitor, the doctor and/or their legal representative.

The date and time for the Pre-Hearing Meeting will usually be agreed at the first listing telephone conference, or at the time that the need for a pre-hearing meeting is identified. The pre-hearing meeting will go ahead even if only one party agrees to participate.

A standard agenda of the matters which will usually be discussed at a pre-hearing meeting is shown at **Annex C**. Guidance on how to dial into the telephone conference facility is provided at **Annex D**.

Directions

As a result of the pre-hearing meeting, the parties will be issued with directions made by the case manager. These directions are **legally binding**, and a failure to comply with those directions may have serious consequences – for further information, please see the ‘Complying with Rules and directions’ section above.

Copies of all directions will be provided to the MPT. Where the case manager has issued a direction in relation to a particular issue, MPTs must proceed in accordance

with that direction unless there is a material change in circumstances or it is otherwise in the interests of justice to proceed differently.

Points to note

Parties should also note:

- The GMC must, not less than 7 days prior to the pre-hearing meeting, provide any information requested by the case manager to allow the case manager time to gain an understanding of the issues in the case.
- Both parties are expected to be open and transparent regarding their hearing preparation so that the case manager can properly evaluate whether the listing length is appropriate and can make directions to ensure that MPTS hearing resources are used effectively.
- The case manager will prepare a record of the pre-hearing meeting and will arrange for it to be circulated to all parties, whether or not they took part. This record will be limited to key aspects of the discussion only and is not intended to be a verbatim record. Participants may request amendments to the record if they don't think it reflects the discussion accurately.

Frequently asked questions

What happens to the records of listing telephone conferences and pre-hearing meetings? Will the MPT see them?

Copies of all records of listings telephone conferences and pre-hearing meetings will be provided to the MPT. If a party believes that a record needs to be redacted for any reason (for example, if the scope of the investigation discussed at a first listing telephone conference has significantly reduced by the time the case reaches the hearing) before being shown to a MPT, the party must advise the MPTS Listings Team as soon as possible and not less than 21 days prior to the hearing.

My case has been listed for hearing, but I would like to apply for a postponement. How do I make a postponement application?

It is expected that parties will work towards the provisional listing date, however, it is accepted that there will be occasions when it is necessary to reschedule hearing dates. Where this can be done within the existing service target and both parties are agreed this can be managed by the MPTS Listings Team. Where a change would take a hearing outside service target or parties are not in agreement, then an application should be made to the Tribunals Manager, taking into account the guidance 'Criteria for deciding on the listing of MPTS hearings' at **Annex E**.

Once a Notice of Hearing has been issued, applications for postponement will be dealt with by a case manager appointed for that purpose, following the guidance [The postponement of an interim orders tribunal or a medical practitioners tribunal hearing under Rule 29](#).

My case has been listed for a hearing, but I would like to apply for it to be held at a venue somewhere other than the MPTS hearing centre in Manchester. Can I make an application for this?

MPT hearings are all listed to be held at the hearing centre in Manchester. On an exceptional basis, consideration can be given to holding fitness to practise hearings outside Manchester, taking into account the guidance [Holding hearings outside Manchester on an exceptional basis](#).

My case involves allegations against more than one practitioner. How will this be dealt with? Can the cases be heard together?

A party may apply for the joining of the cases against two or more doctors, or the joining of two or more allegations against the same doctor, pursuant to Rule 32. An application for joinder can be considered by the case manager or by the MPT.

My hearing has been postponed. What happens to the listings instructions and/or directions which were issued to parties in preparation for the postponed hearing?

The listings instructions and/or directions (as applicable) continue to apply. Where appropriate, you may invited to participate in further case management telephone conferences prior to the relisted hearing and updated listings instructions and/or directions may be issued to ensure the effective running of the relisted hearing.

My hearing had adjourned. What happens to the listings instructions and/or directions which were issued to parties in preparation for the adjourned hearing?

The listings instructions and/or directions (as applicable) continue to apply. You may also have been issued with directions by the MPT when it decided to adjourn the hearing, which both parties are expected to comply with.

Where appropriate, you may also invited to participate in further case management telephone conferences prior to the reconvened hearing and updated listings instructions and/or directions may be issued to ensure the effective running of the reconvened hearing.

Annex A – Agenda for first listing telephone conference

Parties must be prepared to discuss the following matters:

- 1 Status of GMC investigation and disclosure**, including details of any further investigation to be undertaken (for example, obtaining witness statements, expert reports and/or other documents) and a timescale for completion.
- 2 Timetable for preparation of the doctor's case**, including details of preparation to be undertaken (for example, obtaining witness statements, expert reports and/or other documents).
- 3 Whether any preliminary legal arguments** will be raised at the hearing.
- 4 Whether the case involves any vulnerable witnesses** or anyone attending who requires a **reasonable adjustment** to be made.
- 5 The estimated hearing length** and to agree a **provisional hearing date**.

Annex B – Agenda for second listing telephone conference

Parties must be prepared to discuss the following matters:

- 1 Status of GMC investigation and disclosure**, including details of any outstanding disclosure (for example, witness statements, expert reports and/or other documents) and, if not, a timescale for completion.
- Update on **timetable for preparation of the doctor's case**, including details of preparation to be undertaken (for example, obtaining witness statements, expert reports and/or other documents).
- Whether any **preliminary legal arguments** will be raised at the hearing.
- Whether the case involves any **vulnerable witnesses** or anyone attending who requires a **reasonable adjustment** to be made.
- Confirmation of the **hearing dates and length**.
- Whether any witnesses wish to attend by **video or telephone link**.
- Whether any party requires **any other facilities** required at hearing (for example, video/tape/CD/DVD player).

Annex C – Agenda for pre-hearing meeting

Parties must be prepared to discuss the following matters:

- 1 **Status of GMC investigation and disclosure**, including details of any outstanding disclosure (for example, witness statements, expert reports and/or other documents) and, if not, a timescale for completion.
- 2 Update on **preparation of the doctor's case**, including details of preparation completed and yet to be undertaken (for example, obtaining witness statements, expert reports and/or other documents).
- 3 Whether any **preliminary legal arguments** will be raised at the hearing.
- 4 Whether any **admissions** will be made by the doctor, and a timescale for confirming any admissions in writing.
- 5 Whether the case involves any **vulnerable witnesses** or anyone attending who requires a **reasonable adjustment** to be made.
- 6 Consideration of **joinder** (meaning the joining of the cases against two or more doctors, or the joining of two or more allegations against the same doctor, pursuant to Rule 32) where relevant.
- 7 Review and confirmation or adjustment to the **hearing dates and length**.
- 8 Whether any witnesses wish to attend by **video or telephone link**.
- 9 Whether any party requires **any other facilities** required at hearing (for example, video/tape/CD/DVD player).
- 10 **Any other matters regarding hearing preparation**, such as hearing bundle preparation and confirmation of witness attendance.

Annex D – How to use the MPTS telephone conference facility

The MPTS uses a BT MeetMe telephone conferencing facility.

Parties will be notified in advance of the date and time of the telephone conference. Once the conference has been arranged, the MPTS will contact parties directly with the telephone number, participant pass code and instructions on how to dial in.

Points to note

- The telephone conference cannot begin until a member of the MPTS Listings Team (as chair) has joined the call.
- The cost to participants dialling into the telephone conference facility will be that of a local rate telephone call. The conference call costs will be borne by the MPTS.
- It is important to call in at the agreed time to ensure efficient use of MPTS time and resources.
- Participants can use additional features during the telephone conference:
 - Dialling *0 Signals BT co-ordinator for assistance;
 - Dialling *4 Automatically adjusts the volume of your line;
 - Dialling *6 Mutes your telephone line (useful for noisy connections)

Annex E – Criteria for deciding on the listing of MPTS hearings

The MPTS aims to list hearings in a way that enables MPTs to deal with cases fairly and justly, in accordance with the overriding objective. This means listing hearings to take place as soon as reasonably practicable, and within agreed service targets, while allowing enough time for all parties to prepare.

Listing criteria

The following guidance and criteria are applied when making listing decisions:

- 1** The MPTS will always aim to list within service target. If a case is outside the service target, it should be listed in the earliest slot available.
- 2** Where an interim order - particularly an interim suspension order - has been imposed on a doctor's registration, wherever possible, the cases should be given priority, and listed prior to the expiry date of the order.
- 3** The issue of counsel availability may be raised when listing dates are discussed. While parties may understandably prefer to appoint particular counsel, the MPTS cannot accept the additional constraints of acceding to such requests when managing the overall number of hearings. However, in exceptional circumstances, the following factors may be taken into consideration:
 - a** The complexity of the case;
 - b** The period of delay if counsel availability were taken into account;
 - c** The extent of relevant counsel's previous involvement in the case;
 - d** The existence of other proceedings in which counsel has been instructed, and the degree of overlap between the issues in the various proceedings;
 - e** The availability of junior and senior counsel, where instructed.
- 4** Where there are valid issues relating to the attendance of individual witnesses, arrangements can be considered to allow them to give evidence by video-link.

Applying to change a hearing date

Once a hearing has been listed, a party can make written representations for a change of hearing date. All requests will be dealt with on their own merits. Written representations must be received by the MPTS Listings Team within 14 days of the date upon which the case was listed, or as soon as possible when there has been a

change in circumstances. All applications should be supported wherever possible by supplementary documentation.

Any such requests made before the formal Notice of Hearing is issued, will be considered by the MPTS Listings Manager in the first instance. Further requests may be referred to the Assistant Director (MPTS) for a decision.

Depending on hearing room availability, it may be necessary to reschedule the hearing to an earlier date. An earlier hearing date will only be arranged where at least 28 days notice can be given, unless parties agree to waive this.

Published: 31 December 2015
Amended: 16 September 2016