

MPTS Recording of hearings and transcripts guidance

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Guidelines

Overview

1. Rule 39 of the Fitness to Practise Rules 2004 states:
‘Notes and transcript of proceedings
39. ...
(2) The MPTS shall arrange for the proceedings of the Tribunal to be recorded by electronic or other means.
(3) Any party to the proceedings shall, on application to the Registrar or MPTS (as the case may be), be furnished with a copy of the written transcript of any part of the proceedings at which he was entitled to be present.
(4) Paragraphs (1) to (3) shall not apply to the deliberations of the Committee or Tribunal.’
2. To ensure that this requirement is met, we operate digital recording in all hearings using Microsoft Teams. This guidance has been produced to clarify the responsibilities of tribunals and staff in relation to digital recording and the processes that must be followed to create a complete and accurate record of every hearing. It also outlines the process to be followed where requests are made to review the record of a hearing.

Recording hearings

3. MPTS staff are responsible for turning the recording system on and off and for ensuring that audio files are saved appropriately.
4. At the outset the chair will announce that the hearing is being recorded and, if the hearing is virtual, that everyone should have their microphones switched on when they speak. The ambient microphones in the rooms at SJB will pick up all audio.
5. The tribunal chair and MPTS staff member are jointly responsible for ensuring that hearings are recorded and checking the red light appears on the top left of the Teams meeting or screen in the hearing room throughout the day. The chair should be notified immediately should anything appear out of the ordinary, so that the recording can be reviewed.

6. The chair must allow MPTS staff sufficient time to ensure that the recording has been activated and should check that they are satisfied that the recording is in progress before the hearing begins.
7. When the tribunal goes into camera, or at the end of the day, the digital recording will be stopped. The chair and MPTS staff member are jointly responsible for ensuring that the recording is stopped.
8. Periodic checks of the digital recording are conducted by the tribunal chair and MPTS staff throughout the day to ensure an accurate recording is obtained.

Microphones in virtual hearings

9. In virtual hearings, it is essential that microphones are switched on so that other participants can hear, and the speaker's input is recorded. Participants should ensure their microphone is switched off when not speaking so unnecessary background sound is not captured as part of the recording.
10. The tribunal and MPTS staff are jointly responsible for monitoring the use of microphones.

Transcripts

11. Hearing transcripts are prepared by external transcription companies. To assist the transcribers, it is essential that the chair states clearly on the record whether the hearing is in public or private session and make additional statements if the status of the hearing changes. The chair must also announce clearly that the tribunal is moving to deliberate in camera to distinguish those discussions from private sessions. Following in camera deliberations, the chair must announce for the record that the hearing is resuming and whether it is in public or private session.
12. It is essential that witnesses give verbal responses to the questions put to them so that responses are recorded. A witness may need to give their evidence through an intermediary such as a communicator or interpreter, (for example, a sign language interpreter if the witness is deaf). In these circumstances, the translated response by the intermediary will be recorded. If a witness has no speech, and communicates through an aid, (for example, a computer), then the response will be read out by a member of MPTS staff so it can be recorded.

13. The recording of the hearing will only be provided to external transcription companies for transcripts to be produced, where required.

Digital recording - playback facility

14. Teams has a facility for playback. However, playback is not a substitute for tribunals and parties taking comprehensive notes and, therefore, playback will only be permitted in exceptional cases.
15. If playback is requested by either party or by the tribunal, a written application must be made to the MPTS Head of Operations and Development providing reasons for the request.
16. The decision rests solely with the MPTS Head of Operations and Development.
17. If a request is granted, playback would usually be undertaken in private session.
18. The operation of playback can be disruptive and time consuming to identify the audio and video clip. The impact on the continuation of the hearing and other hearings will be taken into consideration where a request for playback is made.
19. Counsel and/or their instructing representative may be present to identify the beginning of the audio and video clip that is required but the recording must be played with all participants present. Before the recording is played, the chair should announce on the record that a specific part of the proceedings will be played back in response to a request.

Handing down and/or announcing determinations

20. Rule 17(2) of the Fitness to Practise Rules 2004, as amended, sets out the procedure to be followed at a medical practitioners tribunal hearing. Sub rules explicitly state that the tribunal must 'announce' its decisions on findings of fact, in respect of applications under rule 17(2)(g), impairment, sanction and immediate orders.
21. Similarly, Rule 27(4)(g) states that the interim orders tribunal shall announce its decision, and shall give its reasons for that decision. This also applies to non-compliance (Rule 17ZA(e), (g), (h), (i)) and restoration hearings (Rule 24(2)(f)).
22. Medical practitioners tribunals and interim orders tribunals 'hand down' determinations rather than reading them out. This is when the tribunal

announces the outcome, so that it is on the record. In exceptional circumstances, for example where a party to the hearing has a disability that might prevent them from understanding the determination if they do not have access to a full explanation, it may be appropriate to read the determination in full.

23. The transcript will include any summary (as set out above) and any concluding remarks. We will provide the full determinations to the transcribers for inclusion in the transcript - it is essential, therefore, that the tribunal proof-reads the determination fully before handing it down.

Hearing transcripts

24. We do not release the recording of a hearing. Instead, the transcript is the official record of the hearing. Transcripts are provided on request and free of charge to the following:
 - ▶ Parties to the hearing (the doctor, the GMC or their representatives).
 - ▶ The person who made the complaint to the GMC.
 - ▶ A witness where their experience formed all or part of the allegations against the doctor
 - ▶ Healthcare regulators.
25. Other witnesses are only entitled to a transcript of their own evidence free of charge. However, several variables affect whether a charge is levied and responsibility for the final decision lies with the Corporate Services, Information & Insight Manager.
26. Only parties may receive a transcript of any part of the proceedings. All other requests are processed under the provisions of UK General Data Protection Regulation, the Freedom of Information Act 2000 (or legislation governing the rights of other organisations and may exclude all matters considered in private, and / or contain redactions.
27. Transcripts are provided within 20 working days unless parties indicate an intention to litigate any matter arising from the hearing in respect of which the transcript has been requested.
28. Parties can ask to be provided with a transcript before the end of a hearing, and these will be produced on the standard turnaround time. Any request to expedite or provide transcripts on a continuous basis will be considered but are likely only to be granted on an exceptional basis.

29. Transcripts are only provided to those not identified at paragraph 24 above in line with the Publication and Disclosure Policy, ie where the Record of Determinations continues to be published. Under the provisions afforded by the Freedom of Information Act 2000 we charge enquirers the cost to us of producing and checking the transcript (this cost will be significantly less if a transcript was requested previously - please see Publication Scheme). If a copy is required in an alternative format because of a disability this would be a 'reasonable adjustment', and we will not apply an additional charge for providing it in this format.
30. Whilst we may provide parties or other organisations with a transcript before a hearing has concluded, it remains MPTS policy that no other request will be approved. The only exception is where a refusal would place an injured party with a disability at a disadvantage. For example, where a hearing is held at St James's building and the injured party wishes to hear the evidence of the GMC expert, but their disability prevents them from attending in person. In these circumstances, providing a transcript of the expert's evidence prior to the hearing concluding may be considered as a 'reasonable adjustment.' Any requests should be forwarded to the Corporate Services, Information & Insight Manager
31. Parties receive the verbatim transcript. In all other instances certain checks will be carried out and, where necessary, anonymisation and / or redaction applied to the transcript before it is released. MPTS policy is that the digital recording will not be released.
32. There will be no transcripts of cases which are reviewed on the papers.
33. Transcripts in an alternative format, for example, large print for the visually impaired can be produced. Please follow the process for written translations to make the necessary arrangements.
34. If we receive a query regarding the accuracy or completeness of a transcript, we will check this against the digital recording and ask our transcription company to do the same. The digital recording will not be released.

Use of mobile devices in hearing rooms

35. As is now the practice in courts and tribunals elsewhere, those attending MPTS hearings held in public may use electronic devices to tweet, email or text,

providing they do not disrupt or record proceedings. It is not permitted to make or receive telephone calls whilst in the hearing room.

Making recordings

36. Parties to the hearing, and others present, are not permitted to make their own recordings of any MPTS proceedings.

Annex A - The provision of continuous daily and expedited transcripts – exception policy

Continuous transcripts

1. Transcripts incur significant costs, and so requests for continuous transcripts are granted on an exception basis only.
2. A request can be made at any time, including prior to the hearing, and must cover all points salient to the reason why the request is considered to be exceptional. These may include matters relating to complex evidence or legal argument. However, no request for continuous transcripts in lieu of taking detailed notes during a hearing will be considered exceptional, except where the party is the self-represented doctor, and the hearing is considered complex.
3. Each request will be considered on a case by case and will be subject to the capacity of our transcription company. It should be noted that in most other jurisdictions daily transcripts are not made available, regardless of the complexity of the case. If a request is granted, transcripts will be provided on the morning of the following day **at the earliest**. Recordings cannot be accessed until they are stopped and transfer of files to our transcription company is not immediate. Therefore, it may take up to 2 days to provide a transcript. To minimise costs transcripts will only be provided up to the end of the findings of fact stage, and we ask tribunals to inform the tribunal clerk if they are no longer required before this date.

Expedited transcripts

4. Expedited transcripts for all or part of a day's hearing (for example, that relating to the evidence given by a specific witness) may also be provided. Again, these are on an exception basis only and must include a reasonable explanation for the request. There are no fixed criteria - other than being subject to the capacity of our transcription company, - each request will be considered on a case-by-case basis.

Reasonable adjustments

5. An application for daily/expedited transcripts may be considered where it is requested as a reasonable adjustment. Such adjustments are made on a case-by-case basis, and suitable supporting information should be provided. Daily or

expedited transcripts produced as a reasonable adjustment will be provided free of charge.

Document history

Revision	Date
1.0	1 st October 2024