

MPTS Recording of Hearings and Transcripts Guidance

Contents

Introduction	2
Purpose.....	2
Guidelines	2
Overview.....	2
Recording hearings	3
Digital recording - playback facility.....	4
Handing down and/or announcing determinations	4
Hearing transcripts.....	6
Technical support	7
Use of mobile devices in hearing rooms.....	7
Annex A - The provision of daily and expedited transcripts – exception policy	8
Daily transcripts.....	8
Expedited transcripts.....	8

Introduction

Purpose

- 1** This guidance has been developed by the Medical Practitioners Tribunal Service (MPTS) for use by MPTS staff, medical practitioners tribunals and interim orders tribunals in all hearings. It sets out the procedures to be followed for the digital recording of hearings. It also contains guidance on the processes the MPTS follows where requests are made in relation to the record of a hearing.
- 2** The guidance is a 'living document', which will be updated and revised as the need arises. Please email any comments or suggestions for updates or to tribunaldevelopmentsection@mpts-uk.org.

Guidelines

Overview

- 3** Rule 39 of the Fitness to Practise Rules 2004 states:

'Notes and transcript of proceedings

39. (1) The Registrar shall arrange for the proceedings of the Committee to be recorded by electronic or other means.

(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.'

- 4** To ensure that this requirement is met, the MPTS operates digital recording in all hearings. 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.
- 5** Under the Equality Act 2010 we must make 'reasonable adjustments' for disabled people. This guidance includes what MPTS staff should do to ensure that we meet this legal requirement when recording hearings.

Recording hearings

- 6** MPTS staff perform routine checks before a hearing commences each morning to ensure that the recording equipment and microphones are fully operational. They are responsible for turning the recording system on and off and for ensuring that audio files are saved appropriately. At the outset the Chair will announce that the hearing is being recorded and that everyone should have their microphones switched on when they speak.
- 7** It is both the tribunal chair and MPTS staff member who are responsible for ensuring that hearings are recorded.
- 8** Chairs must allow MPTS staff sufficient time to ensure that the recording has been activated and should check that the MPTS staff member is satisfied that the recording is in progress before the hearing begins. When the tribunal goes into camera, or at the end of the day, digital recording will be stopped, and the chair and MPTS staff member are jointly responsible for ensuring that the recording is stopped.
- 9** Periodic checks of the digital recording will be conducted by the tribunal chair and MPTS staff throughout the day to ensure an accurate recording is obtained.

Microphones

- 10** It is essential that microphones are switched on so that the speaker's input is recorded and the sound is amplified. There are labels on each of the microphones to remind speakers to switch them on when speaking, and visual reminders are posted within the hearing room. The microphone bases are fitted with lights to indicate that the speaker has switched on their microphone.
- 11** The tribunal, legal assessor and MPTS staff member are jointly responsible for monitoring the use of microphones and the red light on the wall of the hearing room throughout the day, and should notify the chair immediately, should anything appear out of the ordinary, so that the recording can be reviewed.
- 12** Hearing transcripts are prepared by external transcription companies. In order to assist the transcribers, it is essential that chairs state clearly on the record whether the hearing is in public or private session, and make additional statements if the status of the hearing changes. Chairs 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.
- 13** 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.

- 14** The recording of the hearing will be provided electronically to external transcription companies for transcripts to be produced, where required, and it is the transcript that is the official record of the hearing.

Digital recording - playback facility

- 15** The equipment used for recording MPTS hearings 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.
- 16** If playback is requested by either party or by the tribunal, a written application must be made to the MPTS Head of Operations providing reasons for the request. If the request for playback is made as a 'reasonable adjustment' for a disabled person, then this request should be considered in line with the MPTS reasonable adjustments policy. Request for playback may be appropriate, for example, if someone has a brain injury or a learning disability, and cannot recall what has been said previously.
- 17** The decision rests solely with Operations Section senior managers.
- 18** If a request is granted, playback may only be undertaken with the parties, tribunal and legal assessor and, if the hearing is being held in public, any press or public present.
- 19** The operation of playback can be disruptive and time consuming as the recording of the hearing must stop while the audio clip is identified. The impact on the continuation of the hearing and other hearings will be taken into consideration where a request for playback is made.
- 20** Counsel and/or their instructing representative may be present to identify the beginning of the audio 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. Following the playback, the recording must be re-started and the chair should announce that the hearing is continuing.

Handing down and/or announcing determinations

- 21** 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.

- 22** 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)).
- 23** Medical practitioners tribunals and interim orders tribunals have developed a system of 'handing down' determinations rather than reading them out. However, tribunals cannot hand down a determination in every circumstance. At the very least the tribunal must announce the outcome, for example 'The tribunal has decided to impose (interim) conditions on your registration for a period of 12 months. A copy of the tribunal's full determination setting out the reasons for its decision will now be handed down.'
- 24** The transcript will include any summary (as set out above) and any concluding remarks. The MPTS 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.
- 25** It is a matter for each tribunal to decide whether to hand down a determination or to read it out in full but we would expect that determinations will **not** be handed down when:
 - the doctor is present (whether represented or not) or
 - there is anyone in the press or public area
 - 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.
- 26** This is because it is important for those attending the hearing, either as a party or as observers, to understand the determination reached. Announcing determinations also provides a clear indication to attendees of the different stages of the hearing and the point at which the chair declares that the hearing has concluded.
- 27** Where a determination is handed down, the tribunal, legal assessor and MPTS staff member **must** remain in the hearing room while the parties read the determination. Only typographical or factual errors identified in the determination, at that time, will be corrected once the determination is handed down.

Hearing transcripts

- 28** Transcripts are not produced for all hearings. Most IOT transcripts and most transcripts relating to MPT hearings which adjourn part heard during the facts stage are routinely produced (the latter will be considered on a case by case basis). Transcripts of other types of hearing, such as non-compliance hearings, restoration hearings or review hearings, which adjourn part heard, or of new MPT hearings which adjourned part heard after the tribunal has gone into camera on the facts, are not general produced. We have the facility to obtain simultaneous transcripts (write-outs) and/or expedited transcripts), but these will be produced on an exceptional basis only and require authorisation from an Operations Section senior manager (see Annex A).
- 29** There will be no transcripts of cases which are reviewed on the papers.
- 30** Sometimes we are asked for the transcript of a hearing. Before we can release the transcript, we check that it is correct and does not include any references to confidential information. Once the written transcript has been checked, this is the official record of the hearing. The digital recording will not be released.
- 31** The parties to a hearing, that is, the doctor who is the subject of the hearing and the GMC (or their representatives) can ask for a copy of a hearing transcript, which will be provided, free of charge, after the end of a hearing. Transcripts may be provided to parties on request before the end of a hearing, however the requesting party will normally be required to bear the cost of production and checking and the granting of any request will be subject to the availability of resources (please also see above with regard to part heard hearings). If the hearing was held in public, the person who made the complaint can also ask for a copy, which will be provided, free of charge, after the end of a hearing.
- 32** 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.
- 33** Transcripts are only provided to enquirers (other than the parties to the hearing to the hearing) where this is in line with the [Publication and Disclosure Policy](#) introduced on 26 February 2018 ie where the Record of Determinations continues to be published. The production and checking of transcripts is time-consuming so we only provide copies free of charge to the parties and complainants. If public transcripts are to be provided to anyone else, we apply a charge to cover the cost to us of producing and checking the transcript. If anyone else needs the copy in an alternative format because of a disability this would be a 'reasonable adjustment', and we should not apply an additional charge for providing it in this format.

- 34** On receipt of a request, if we do not already have a copy of the transcript we will obtain a quotation from our transcript providers. There will be a further charge for checking the transcript. Details of our transcript charging policy can be found on the [GMC publications scheme](#).
- 35** If we receive a query regarding the accuracy or completeness of a transcript we will take steps to check the written transcript against the digital recording. The digital recording will not be released.

Technical support

- 36** Support from the IS team is available from 08:00 – 18:00 daily, and arrangements are in place for the team to provide prompt assistance while hearings are proceeding. Any disruption to hearings is kept to a minimum and, if possible, any technical problems are addressed by remote access or out of hours. It may sometimes be necessary to adjourn a hearing for a short time while the technical problem is dealt with.

Use of mobile devices in hearing rooms

- 37** Most of our medical practitioners tribunals are held in public and the media are free to attend and report on proceedings. As is now the practice in courts and tribunals elsewhere, people attending MPTS hearings may use electronic devices, providing they do not disrupt or record proceedings.
- 38** It is acceptable for journalists and members of the public to use smartphones and Blackberries to tweet, email and text during a public hearing, providing they do not cause a disturbance. It is not permitted to make or receive telephone calls whilst in the hearing room.

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

Daily transcripts

- 1** Daily transcripts are not usually provided for medical practitioners tribunal hearings.
- 2** On an exception basis only, and on request, daily transcripts may be provided, particularly if a case involves complex evidence or legal argument and where a doctor is present but not represented.
- 3** There are no fixed criteria - each request will be considered on a case by case basis. It should be noted that in most other jurisdictions daily transcripts are not made available, regardless of the complexity of the case.
- 4** If a request for daily transcripts is acceded to, daily transcripts will be provided only up to the end of the findings of fact stage.

Expedited transcripts

- 5** 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 on an exception basis only, and on request. There are no fixed criteria - each request will be considered on a case by case basis.