

Criteria for appointment of legal assessors

Background

1. The Medical Practitioners Tribunal Service (MPTS) is the statutory committee of The General Medical Council (GMC) responsible for providing a hearings service that is efficient, effective and clearly separate from the investigatory role of the Fitness to Practise Directorate.
2. The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 requires publication of the criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment as a legal assessor).
3. This document constitutes the publication of those criteria.

Legal assessors

4. The MPTS appoints legal assessors who advise its medical practitioners tribunals and interim orders tribunals on questions of law as to evidence or procedure arising in the proceedings before them and to advise on the drafting of decisions in accordance with Schedule 4 Paragraph 7 to the Act. In order to avoid any perception of bias, legal assessors may not represent any parties in the proceedings before the tribunals nor in any proceedings relating to an appeal against a decision by the Committee/tribunal.

Criteria for appointment

5. There is a statutory requirement that legal assessors have at least a 5 year general qualification within the meaning of section 71 of the Court and Legal Services Act 1990, or be an advocate or solicitor in Scotland of at least 5 years' standing, or be a member of the Bar of Northern Ireland or solicitor in the Supreme Court in Northern Ireland of at least 5 years' standing.

6. Legal assessors must be in good standing with their regulator and hold a valid practising certificate.
7. Legal assessors must complete annual MPTS training in order to sit.
8. The ideal legal assessor possesses the competencies outlined in the Role profile at Annex A.
9. Applicants must be able to demonstrate the following qualities and abilities:
 - **Legal knowledge and experience:** Sound knowledge of civil or criminal law in England and Wales, the Human Rights Act and other relevant legislation and current knowledge of relevant Court decisions.
 - **Integrity:** Personal integrity – have the respect and trust of others – absence of any matter that might bring you or the MPTS into disrepute.
 - **Confidentiality:** Respect for confidentiality in relation to both evidence and to the panel’s deliberations.
 - **Comprehension:** Ability to understand complex issues, identify and comprehend relevant facts and arguments – ability to discriminate between the important and the trivial – ability to concentrate.
 - **Communication and interpersonal skills:** Ability to communicate effectively. Ability to relate to and work with others – regard for the views of others – good drafting skills.
 - **Maturity and sound temperament:** Mature approach – unflappability – a strong sense of fairness – courtesy.
 - **Sound judgment:** Common sense – ability to think logically, used to weighing arguments and making thoughtful and unbiased decisions.
 - **Objectivity** – the recognition and setting aside of prejudices.
 - **Social awareness:** Respect for all individuals regardless of their ethnic origin, race, colour, gender, religion, disability, lawful sexual preference or age.
 - **Commitment and reliability:** Reliability – ability to offer requisite time – sufficiently good health.

Annex A

Legal Assessor role profile

The ideal Legal Assessor is

- Experienced and knowledgeable: knows our procedures, how they differ from other healthcare regulators; understands how the tribunal may operate most effectively within the flexibilities and limitations of those procedures; familiar with the relevant Court appeal cases; able and willing to advise on style and adequacy of reasons for decisions.
- Approachable: establishes a good rapport with the Chair and tribunal members, is willing to discuss and explain the law generally, helpful towards the Chair with advice on how to apply procedures most effectively (especially when unusual circumstances arise).
- Quick thinking and resourceful: when unexpected issues arise, able to deal with them positively in a way that takes the process forward as well as protecting the rights of the respondent.
- Independent-minded: prudent without being excessively cautious and defensive; up to date but advising the Tribunal on the law as it stands and on their powers as constrained by the current state of our procedure rules.
- Authoritative without being authoritarian: respected by all parties, willing and able to discuss and/or facilitate agreements between Counsel over ways forward; prepared to intervene to manage relationships between Counsel or their behaviour towards witnesses, when/if these deteriorate.
- Patient, unflappable, courteous to all: a calming influence who engenders confidence in the process, among all parties (not least the Chair).
- Fair: must be (and be perceived by all sides to be) scrupulously fair: especially when medical practitioners appear unrepresented. The Legal Assessor may have to explain the procedures to unrepresented doctors in order to ensure that their rights are protected.
- A good communicator: clear, concise; able to express their meaning with the minimum of legal jargon; able to present the issues and options to the panel in unambiguous terms; well-prepared to remind the Tribunal of their duty when finding facts (burden and standard of proof, credibility issues, etc).