

# MPTS Committee

Agenda and papers

Meeting:

14 February 2024



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## MPTS Committee meeting

**Wednesday 14 February 2024**

**10:00-13:00, Room 7E**

**St James's Buildings, Oxford Road**

**M1 6FQ**

## Agenda

- 1** Welcome and apologies for absence
- 2** Declaration of interests
- 3** Minutes of the previous meeting held Wednesday 15 November 2023.
- 4** Chair's report (oral)
- 5** Executive Manager's report including MPTS risk register, performance data and appeals  
**Break for tea / coffee**
- 6** Update from Quality Assurance Group
- 7** Adjournments quarterly update
- 8** Any other business
- 9** Date and time of next meeting: Wednesday 8 May 2024, 10:00 – 13:00



Agenda item: **03**

Report title: **Minutes of the meeting on 15 November 2023**

Considered by: **MPTS Committee**

Action: **To approve**

### **Members present**

Deborah Taylor, Chair  
Gill Edelman  
Jacky Hayden  
Joy Hamilton  
Simon Mackenzie

### **Others present**

Gavin Brown, Executive Manager (apart from item 9)  
Niall Kelly, Corporate Governance Officer and acting Committee Secretary (apart from item 9)

Colin Barker, Head of MPTS Communications and Corporate Affairs (Item 5 &6)

Mark Hibbert, Tribunals Manager (observing – apart from item 9)  
Michelle Stacey, Tribunals Manager (observing – apart from item 9)

## **Welcome and apologies for absence (agenda item 1)**

- 1** The Chair welcomed members of the Committee and observers to the meeting.
- 2** There were no apologies for absence.

## **Declaration of interests (agenda item 2)**

- 3** No interests were declared.

## **Minutes of the previous meeting held on 11 May 2023 (agenda item 3)**

- 4** The Committee approved the minutes of the meeting held in September 2023 and reviewed the action log.
- 5** The Committee determined that the outstanding actions from the previous meeting had been completed.

## **Matters arising.**

- 6** The Committee agreed that:
  - ▶ The Committee's afternoon session in February 2024 will consider how best to gain Tribunal Members' feedback on a range of issues.
  - ▶ A qualitative and quantitative approach may be appropriate and possible areas to explore could include learning and development, mentoring, the efficacy of in person and virtual interactions, the use of technology, the drafting of determinations, and how to increase tribunal member availability to sit on longer hearings.
  - ▶ The MPTS Learning & Development Manager, who will be joining the organisation in mid-January 2024, would be invited to take part in the discussion.
  - ▶ It would be helpful for Tribunal Members to be informed when their decisions were being appealed and the subsequent outcome of the appeal. Subsequently it has been ascertained that this is already being done, with the information being available via the MPTS Associates website, where appeal decisions remain online for 6 months.

## **Chair's report (agenda item 4)**

- 7** The Chair updated the Committee on the meetings they had attended, including introductory sessions with new GMC Council members, and the Tribunal Member annual training events which had taken place in the last few months.

- 8** The Committee discussed initial thoughts concerning the training topics for 2024.
- 9** It was suggested that training dates should be set and issued as early as possible to ensure in person attendance.
- 10** The Committee discussed the MPTS's approach to external communications.
- 11** It was agreed that Committee members would be sent the standard external presentation and consider their involvement with regards to stakeholder management.
- 12** The increasing role of social media along with the sharing of annual statistics with interested parties was also discussed.
- 13** The Chair highlighted that the reorganisation of the MPTS will be beneficial in achieving a cross-fertilisation of experience and helping move towards a more coherent end to end journey of a case through the MPTS.

### **Executive Manager's report (agenda item 5)**

Gavin Brown presented this report.

- 14** The collaborative work being undertaken with the GMC on referrals was discussed along with assurance in respect of the 2024 budget.
- 15** The feedback from the People Survey and next steps were reviewed and it was agreed that progress on actions relating to this would be discussed in February 2024.
- 16** In respect of the Opportunities and Risks Register it was suggested that in future a 'date added' column should be included.
- 17** Prior to February 2024's meeting, Committee members agreed to provide further observations on the composition and ordering of the Register.
- 18** It was also suggested that a discussion of cyber-security may be useful in future.

### **Report of the MPTS Committee to GMC Council (agenda item 6)**

Colin Barker presented this report.

- 19** The Committee approved the report.
- 20** The Chair requested that those cases where the doctor was found impaired, but no action taken be shared with them for review.

### **Adjournments quarterly update (agenda item 7)**

- 21** Discussion of this paper was held at the afternoon session on adjournments.

## **Review of the MPTS Committee’s Work Programme for 2024 (agenda item 8)**

Niall Kelly presented this report.

- 22** The Committee reviewed and approved the Forward Work Programme for 2024.
- 23** It was agreed that the afternoon sessions were proving useful, and the approach taken to gaining Tribunal Member feedback, along with further discussion of the actions arising from the People Survey, would provide the topics for February 2024.

## **Annual review of MPTS Committee effectiveness (agenda item 9)**

- 24** During the discussion, the Committee:
- ▶ Determined that it is effectively fulfilling its terms of reference.
  - ▶ Agreed that members would have responsibility for inputting on different aspects of the Committee’s work.

## **Any other business (agenda item 10)**

- 25** The Committee expressed its gratitude to Joy Hamilton for her contribution to its work.

## **Date and time of next meeting**

- 26** Date and time of next meeting: 14 February 2024, 10:00 – 13:00. Meeting is to be held in person at St James’s Building followed by an afternoon seminar.

Confirmed:

## Proposed actions from the MPTS Committee Meeting

Date of meeting	Agenda item	Ref	Summary	Person responsible	Status	Update	Date last updated
15-Nov-23			Share the standard external stakeholder presentation with MPTS Committee Members	Colin Barker	Completed	Shared with the Committee on 11 December 23.	02/02/2024
15-Nov-23			In future add a 'date added' column to the Opportunities and Risk Register	Gavin Brown	Completed	Column is included in updated Risk Register as of 14 February 24 meeting.	02/02/2024
15-Nov-23			Prior to February's meeting provide further observations on the composition and ordering of the Opportunities and Risk Register	Committee	Completed	Shared with Gavin to provide basis for updated Risk Register, to be presented at 14 February meeting	02/02/2024
15-Nov-23			Provide the MPTS Chair with determinations for hearings where the doctor was found impaired, but no action was taken	Colin Barker	Completed	Shared with the Committee on 11 December 23 with an update on 19 December 23.	02/02/2024
15-Nov-23			Arrange February 2024's Committee workshop that will discuss Tribunal Members feedback and progress on the actions arising from the People Survey	Niall Kelly	Completed	Meeting has been created and invitation were sent out.	02/02/2024





Agenda item:	<b>05</b>
Report title:	<b>Executive Manager’s report</b>
Report by:	<b>Gavin Brown, Executive Manager,</b> <a href="mailto:gavin.brown@mpts-uk.org">gavin.brown@mpts-uk.org</a> , 0161 240 8126
Considered by:	<b>MPTS Committee</b>
Action:	<b>To consider</b>

### **Executive summary**

- ▶ This report provides the Committee with an update on the work of the MPTS.
- ▶ It includes an operational update, learning points from appeals, the approach to the management of tribunal members, as well as the MPTS risk register.

### **Recommendation**

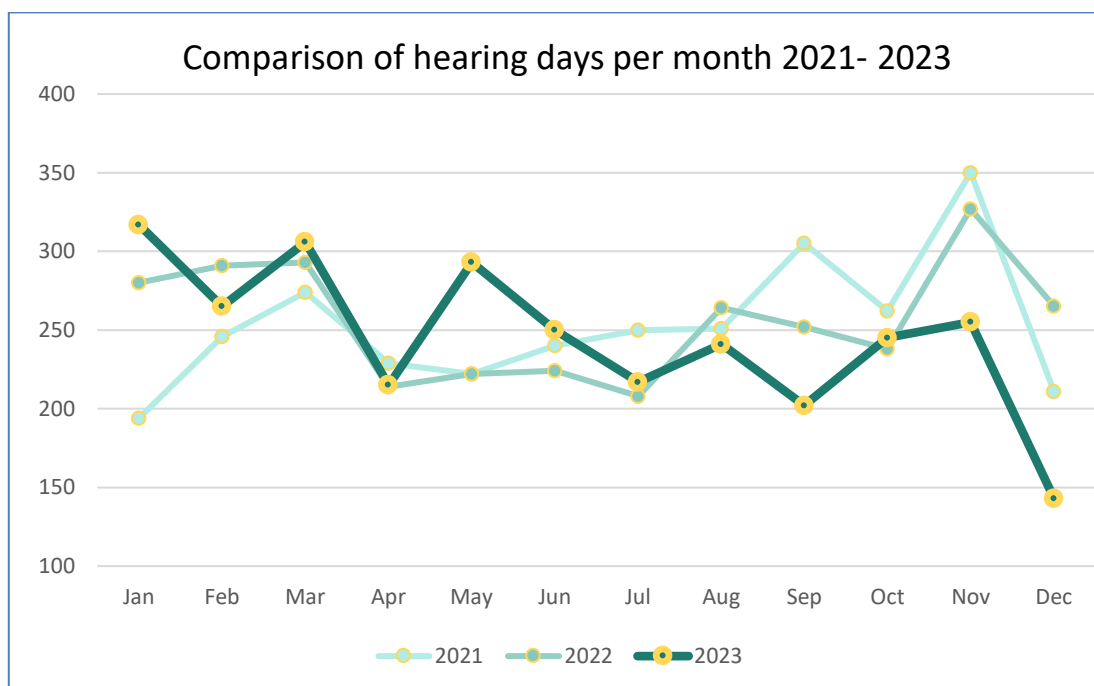
- ▶ The Committee is asked to consider the report and its annexes.

## Operational update

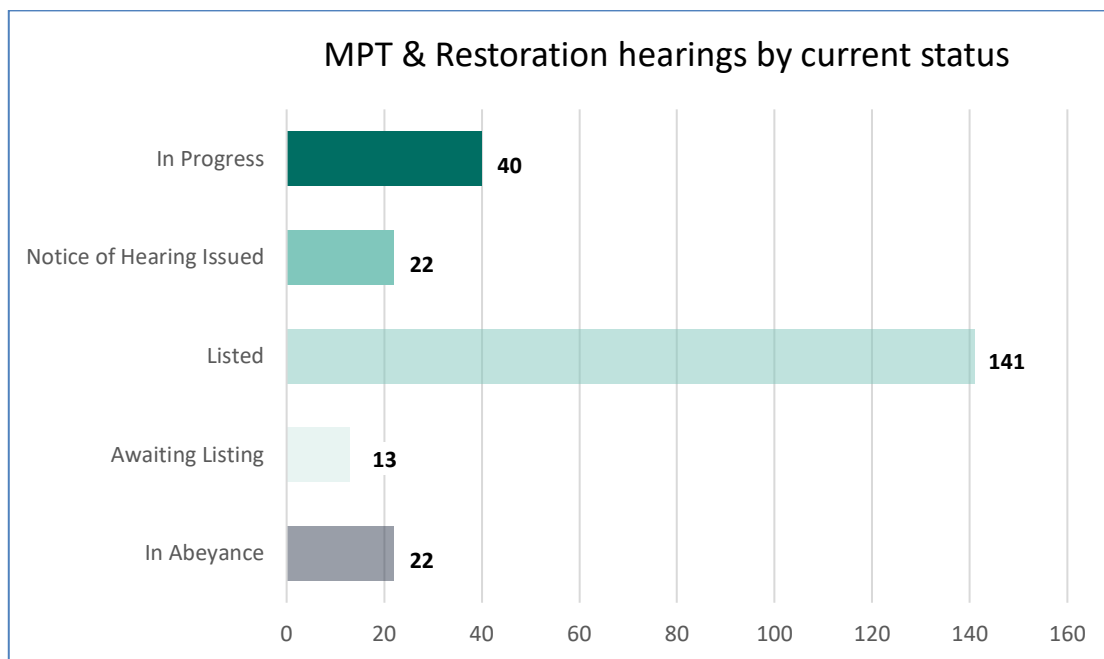
- 1** Since the last Committee meeting on 15 November 2023, we have continued to run a mix of in person, hybrid (where parties attend in person or virtually) and virtual hearings.
- 2** The 2023 MPTS budget was based on a staggered reduction in the number of hearing days - in line with our recovery from the pandemic.
- 3** Although we continued to see a fluctuation in the number of hearing days per month, the reasons for which are detailed below, on average in 2023 we held 246 hearing days each month against our budget of 233.

Month	Budget	Actual
January	265	317
February	265	265
March	265	306
April	265	215
May	254	293
June	243	250
July	233	217
August	222	241
September	211	202
October	211	245
November	211	255
December	155	143

- 4** The chart below graphically illustrates the number of hearing days we held in 2023 compared to previous years.



- 5** The main reasons hearings do not take place as scheduled are that circumstances cause a Case Examiner to decide that the GMC can appropriately conclude its investigation by other means and the hearing is cancelled or an MPTS Case Manager grants a postponement or further adjournment (on application by the GMC, doctor, joint or MPTS).
- 6** There are also instances where a hearing takes place as scheduled but closes before the scheduled end date because the tribunal either grants an adjournment (on application by the GMC, doctor or joint) or can reach a decision earlier than planned (either on the initial or reconvened sitting).



- 7** The chart shows that at the end of 2023, the MPTS’s total live hearing workload was 238. At the end of 2022, the live hearing workload was 293.
- 8** We are currently able to offer a listing date between 7 and 9 months of a GMC referral depending on the length of hearing required.
- 9** Our provisional year end spend for 2023 is 2.3% higher than budget.
- 10** The primary reason for the increased expenditure is that number of hearing days that were held were 9.4%, or 22 days per month, higher than budgeted.

	Provisional 2023 full year			
	Budget	Actual	Variance	% Variance
Total Expenditure	£9,769,730	£9,992,367	(222,637)	(2.3)
Hearing Days (including reviews on the papers)	2,800	3,063	(263)	(9.4)

- 11** Looking ahead to the rest of 2024, based on the overall MPTS budget that was discussed at November’s Committee meeting, we have set the following schedule of hearing days per month.

	January to November	December	Total
<i>Physical Hearings</i>			
MPT Hearing Days	82	61	963
IOT Hearing Days	0	0	0
Total	82	61	963
<i>Virtual Hearings</i>			
MPT Hearing Days	95	70	1115
IOT Hearing Days	21	16	247
Total	116	86	1362
Reviews on the papers	11	8	129
Monthly Total Days	198	147	2325

## Appeals

- 12** Since the last update to the MPTS Committee on 15 November 2023, additional learning points arising from judgments given in appeals / challenges to tribunal decisions from 1 October 2023 to 31 December 2023, include the following:

- a** When assessing the credibility of alleged victims of sexual misconduct (and considering lapse of time between the events and when they were reported) the tribunal must appreciate that it may take several years for victims of sexual abuse to come to terms with what has happened to them. [Roy v General Medical Council \[2023\] EWHC 2659 \(Admin\)](#)
- b** Some general reminders in relation to evidence:
- ▶ the veracity of a witness’s evidence should be tested by reference to objective facts, proved independently, and by reference to documents. The witness’s credibility should not be assessed exclusively on their demeanour when giving evidence. [Roy v General Medical Council \[2023\] EWHC 2659 \(Admin\)](#);
  - ▶ tribunals should not start with an assumption or presumption that a witness was credible or telling the truth and should not simply accept or give undue weight to the witness's subjective interpretation [Kamran Ali v General Medical Council \[2023\] EWHC 2984 \(Admin\)](#);
  - ▶ when a doctor and a witness provide fundamentally incompatible versions of events, the tribunal can determine credibility and reliability against: the background of any admissions by the parties; the contemporaneous documents (which can be damning for a party and undermine their

evidence in chief); and any consistencies and inconsistencies in their evidence [Roy v General Medical Council \[2023\] EWHC 2659 \(Admin\)](#);

- ▶ tribunals can properly place "substantial reliance" on oral evidence in the absence of corroborating documentary evidence [Kamran Ali v General Medical Council \[2023\] EWHC 2984 \(Admin\)](#) [reiterating *Byrne v General Medical Council [2021] EWHC 2237*]
  - ▶ witness statements should be treated with caution where the witness had limited involvement in the relevant events *and* there is a long passage of time since the events [Roy v General Medical Council \[2023\] EWHC 2659 \(Admin\)](#).
- c** As part of the duty to give reasons, a tribunal is not required to refer to every submission or all the evidence before it. [Kamran Ali v General Medical Council \[2023\] EWHC 2984 \(Admin\)](#)
- d** [Shah Shahin Ali v General Medical Council \[2023\] EWHC 2400 \(KB\)](#) reiterated some principles in relation to impairment:
- ▶ insight is defined in the case of *Sawati v GMC [2022] EWHC 283 (Admin)* as “*an acknowledgment or appreciation of failings*”. Insight (or lack of it) applies whatever the risk of repetition. Its purpose is to allow the risk of reoffending (however low) to be recognised and avoided;
  - ▶ where a practitioner denies the underlying misconduct, they can demonstrate that even though they dispute that their conduct was wrong, they have put in place the necessary strategies to recognise it if it arose and prevent it.
- e** [General Medical Council v Rezk \[2023\] EWHC 3228 \(Admin\)](#) provided a reminder of principles which tribunals should take into account when considering sanction:
- ▶ It is insufficient for a tribunal to only state that they’ve taken into account earlier findings (eg on impairment) when considering sanction. At sanction stage, tribunals should specifically identify aggravating/mitigating factors and expressly address issues such as whether public confidence and professional standards would be damaged if no sanction was imposed (a reiteration of *GMC v Chandra [2018] EWCA Civ 1898*);
  - ▶ when identifying the aggravating factors, a tribunal should consider the impact (of the misconduct) on the victim(s);
  - ▶ tribunals should consider sanction in order of least restrictive to most and therefore first consider whether there are exceptional circumstances to justify taking no action. Failure to follow this approach may mean that tribunals are pre-disposed to find exceptional circumstances because they

have already decided that conditions nor suspension would not be a proportionate sanction;

- ▶ exceptional circumstances (in taking no action) are unusual, special and uncommon, so such cases are likely to be very rare. A finding that for example, a doctor has been a diligent, conscientious and professional doctor on a training programme which he is completing in an exemplary fashion is not “*unusual, special or uncommon*”.

**f** [Shah Shahin Ali v General Medical Council \[2023\] EWHC 2400 \(KB\)](#) provided a number of reminders in relation to review hearings:

- ▶ where a review hearing adjourns part-heard **before a finding (of impairment, or failure to comply with a condition) has been made**: The tribunal *must* consider whether to extend the conditions or suspension (Rule 22 (5)(a)) of the Fitness to Practise Rules 2004);
- ▶ where a review hearing adjourns part-heard **after a finding (of impairment, or failure to comply with a condition) has been made**: The tribunal *can* extend the conditions or suspension (*although there is no express provision requiring them to consider whether to do so*). In these circumstances, the tribunal has jurisdiction provided the facts warrant the exercise of that jurisdiction. It is not obligatory for a reviewing tribunal to hear further evidence or submissions on sanction before extending the period of suspension or conditions.
- ▶ the principles as to how to approach review hearings as set out in the case of *Yusuff v GMC [2018] EWHC 13 (Admin)*, including that findings of fact are not to be re-opened and how the tribunal should consider the question of whether a practitioner’s fitness to practise remains impaired.

**g** [Onwude v General Medical Council \[2023\] EWHC 2807 \(Admin\)](#) set out a useful general reminder in relation to IOTs - it is not the function of the IOT to make any findings of fact in relation to the underlying allegations. The only function of the IOT is to assess risk, assuming that the allegations were well-founded and to determine whether an interim order is necessary in accordance with the guidance given by the case of *General Medical Council v Hiew [2007] EWCA Civ 369*.

## Our approach to the management of tribunal members

- 13** We appoint our tribunal members through open competition against five competencies.
- 14** The five competencies are: intellectual and analytical ability, decision making and sound judgment, working with others, communication skills, integrity and sound temperament and confidentiality, fairness, equality, diversity, and inclusion.

- 15** We assist tribunal members, during their appointment, with their individual development through the provision of 360-degree feedback and direct observation. They also attend annual training and are issued with tribunal and appeals circulars.
- 16** Feedback from each concluded hearing is reviewed weekly by a team within the Operations & Development section, and any themes are addressed directly with the individual it relates to. This enables tribunal members to reflect on the learning to take forward, including in the use of MPTS guidance. Feedback is monitored to ensure that we intervene at the right time.
- 17** Each tribunal member receives an annual performance summary which outlines work undertaken, any learning or observations completed in the period, and a summary of the behaviours displayed against the competencies.
- 18** They may also receive feedback from the Quality Assurance Group, both in response to any queries they have raised through the report they submit at the end of each hearing or in respect of observations on their determinations.
- 19** Tribunal members are kept informed when their decisions are appealed and the subsequent outcome of the appeal. The information is available via the MPTS Associates website, where appeal decisions remain online for 6 months.
- 20** Where formal complaints or concerns are raised regarding tribunal members performance, conduct or capability we follow the process set out in our Customer complaints policy which is available in English ([Customer complaints policy \(English\)](#)) and Welsh ([Customer complaints policy \(Welsh\)](#)) on our website.

## Opportunities and threats

- 21** An updated MPTS register can be found at Annex A and the MPTS Committee’s Work Programme for 2024 at Annex B.
- 22** A risk is defined as the possibility of an event that could affect the achievement of objectives. For the MPTS this means events that could affect fulfilment of our statutory purposes or impact our financial stability and / or reputation.
- 23** Risk management helps us to identify threats to the organisation and the delivery of our strategy and is central part of our internal control and corporate governance arrangements.
- 24** We use risk registers to classify each threat and identify mitigating actions to reduce both the impact and the likelihood of the risk occurring.

- 25** Strategic and operational risks are recorded in a single corporate register that is shared across the business.
- 26** The MPTS register has a regular review cycle that encompasses scrutiny from the MPTS’s Corporate Services, Information and Insight Manager and Senior Management Team, along with the MPTS Committee, and GMC / MPTS Liaison Group. Risks are owned by the Executive Manager of the MPTS.
- 27** A risk register is set up for MPTS projects to keep track of all identified risks. These risks are also assessed against the matrix reproduced below.
- 28** The MPTS project team, which is part of our Operations & Development section, holds regular meetings to monitor these risks to ensure appropriate mitigating actions are implemented and updated where required.
- 29** The project lead will escalate risks, as necessary, to the senior responsible owner of the project. The senior responsible owner has overall responsibility for ensuring these risks are actively managed.
- 30** When necessary, the risks are escalated to MPTS Senior Management Team and included on the MPTS register.
- 31** Examples of MPTS projects that have their own risk registers include Welsh language standards and the appointment of legally qualified chairs and medical tribunal members.
- 32** By continuing to monitor risks and assess the effectiveness of the mitigating actions, we ensure that any changes to the status of any threats or their potential impact are managed accordingly.
- 33** Our risk methodology is as follows.
1. **Identify the risk** - what could happen to prevent delivery of our objectives.
  2. **inherent risk assessment** - assess what it would mean to the MPTS if the risk occurred and became an issue.
  3. **mitigating actions** - consider & implement the actions required to reduce the likelihood of the risk happening or limit the impact of the risk if it did occur.
  4. **residual risk assessment** – reassess the likelihood of the risk happening and the impact if it did occur.
  5. **evaluate** – should more be done to reduce the risk (appetite dependant).
  6. **monitor** – continually review the potential of new risks and the effectiveness of current mitigating actions.
- 34** In addition to learning from experience and sharing knowledge about similar risks occurring previously, the MPTS uses a matrix to assess the likelihood and impact of a risk.



		Impact		
		Minor	Moderate	Major
<b>Likelihood</b>	<b>Unlikely</b> Possible, but unlikely to occur. (<40% chance)	<b>Low</b>	<b>Low</b>	<b>Significant</b>
	<b>Quite likely</b> More than possible (40-60% chance)	<b>Low</b>	<b>Significant</b>	<b>Critical</b>
	<b>Highly likely</b> Much more likely than not to occur (>60% chance)	<b>Significant</b>	<b>Critical</b>	<b>Critical</b>

**35** The MPTS classifies impact as follows:

	Operational functions	Achievement of Strategic Aims	Reputation	Timeframe of effect
<b>Minor</b>	Limited disruption to operational functions and/or intended outcomes e.g. a missed SLA which can be handled with short term temporary resource	Almost no adverse impact on the achievement of strategic aim(s), e.g. most partners are on board and willing to work with us but one or two specific challenges	Little/limited adverse impact, e.g. critical hot spot media stories which quickly move on	Short term, expected to last only a few days or week
<b>Moderate</b>	Very concerning disruption to operational functions and/or intended outcomes	Achievement of strategic aim(s) disrupted or inhibited	Very concerning adverse impact	More enduring but still time-bound, could last for several weeks
<b>Major</b>	Operational functionality critically impaired e.g. issue is likely to impact on many people (externally or internally) or last for an extended period	Strategic aim(s) severely compromised or cannot be achieved, e.g. stakeholders actively campaigning against our policy position	Highly damaging adverse impact, e.g. we hold data which we have not acted on to prevent patient harm e.g.	Potentially long-lasting, impact may be felt for months or even longer



Agenda item:	<b>05B</b>
Report title:	<b>Reminder of the MPTS Committee’s Work Programme for 2024</b>
Report by:	<b>Niall Kelly, Corporate Governance Officer, <a href="mailto:MPTSCommittee@mpts-uk.org">MPTSCommittee@mpts-uk.org</a>, 0161 240 3004</b>
Considered by:	<b>MPTS Committee</b>
Action:	<b>To note for the discussion of the risk register</b>

### **Executive summary**

- ▶ The work programme covers the duties and activities of the MPTS Committee as outlined in the Committee’s statement of purpose

### **Recommendation/s**

- ▶ To note for the discussion of the risk register

**1** Below is the MPTS Committee work programme for 2024.

<b>Date:</b> Wednesday 14 February 2024	<b>Meeting:</b> MPTS Committee
<ul style="list-style-type: none"> <li>▶ Chair’s report (oral)</li> <li>▶ Executive Manager’s report including the MPTS risk register, performance data, and priorities, plans, and projects (a-k and n)</li> <li>▶ Update on appeals (a, f)</li> <li>▶ Update from the Quality Assurance Group (f, g)</li> <li>▶ Adjourments quarterly update (f)</li> <li>▶ Tribunal members training update (b, c)</li> </ul>	

<b>Date:</b> Thursday 8 May 2024	<b>Meeting:</b> MPTS Committee
<ul style="list-style-type: none"> <li>▶ Chair’s report (oral)</li> <li>▶ Executive Manager’s report including the MPTS risk register, performance data, and review of compliments and complaints (a-k)</li> <li>▶ Report of the MPTS Committee to GMC Council (a-l)</li> <li>▶ MPTS annual report to Parliament (l)</li> <li>▶ Adjourments quarterly update (f)</li> <li>▶ Review of MPTS Committee’s work programme for 2024 (a)</li> </ul>	

<b>Date:</b> Wednesday 11 September 2024	<b>Meeting:</b> MPTS Committee
<ul style="list-style-type: none"> <li>▶ Chair’s report (oral)</li> <li>▶ Executive Manager’s report including the MPTS risk register, performance data, and priorities, plans, and projects (a-k and n)</li> <li>▶ Annual review of the MPTS vision (m)</li> <li>▶ Tribunal Members’ resourcing updates (a)</li> </ul>	

- ▶ Update from the Quality Assurance Group (f, g)
- ▶ Adjourments quarterly update (f)
- ▶ Annual review of case management (g)

**Date:** Wednesday 13 November 2024**Meeting:** MPTS Committee

- ▶ Chair’s report (oral)
- ▶ Executive Manager’s report including the MPTS risk register and performance data (a-k)
- ▶ Report of the MPTS Committee to GMC Council (a-l)
- ▶ Adjourments quarterly update (f)
- ▶ Review of the MPTS Committee’s work programme for 2025 (a)
- ▶ Annual review of MPTS Committee effectiveness

**Table 1. MPTS Committee’s duties and activities for 2024** (as set out in the Committee’s statement of purpose and additional items from the MPTS vision and MPTS projects).

MPTS Committee’s duties and activities	Assurance Route
<b>a</b> The delivery of a hearings service that demonstrates efficiency and effectiveness.	Executive Manager’s report and updates from the Quality Assurance Group.
<b>b</b> The appointment of Medical Practitioners and Interim Orders Tribunal members (including chairs) and that appropriate systems for the appointment, training, assessment and, where required, the removal of tribunal members, are in place.	Papers on recruitment campaigns, training and appraisal as required.  Tribunal members training update scheduled for February 2024.
<b>c</b> The appointment of legal assessors and that appropriate systems for the appointment, training, assessment and, where required, the removal of legal assessors are in place.	Papers on recruitment campaigns, training and appraisal as required.  Tribunal members training update scheduled for February 2024.
<b>d</b> Maintenance of a system for declaration and registration and publication of Committee members’ private interests.	Declaration of interests of Committee members’ private interests available on the MPTS website and updated as required.  Declaration of interests is an agenda item for every meeting.
<b>e</b> Consideration of matters by a Medical Practitioners Tribunal / Interim Orders Tribunals.	Executive Manager’s report.
<b>f</b> High quality standards of decision making by Medical Practitioners Tribunal / Interim Orders Tribunals are maintained.	Included in the Quality Assurance Group updates to the Committee.
<b>g</b> High quality standards of case management by case managers are maintained.	Annual review of case management scheduled for September 2024.
<b>h</b> The setting and maintenance of guidance for the MPTS tribunals, case	Guidance requiring consideration by the MPTS Committee to be added to

managers and legal assessors, as required.	the work programme as required.
<b>i</b> That the MPTS applies the equality and diversity strategies and policies of the GMC.	Integral part of Committee’s consideration and decision-making.  Updates on equality and diversity part of the Executive Manager’s report.
<b>j</b> Notification of Medical Practitioners Tribunal and Interim Orders Tribunal decisions as required by the Medical Act.	Executive Managers report.
<b>k</b> Effective liaison with all users of the hearings service provided by the MPTS.	Included in the Executive Manager’s report and papers on engagement activities as required.
<b>l</b> An annual report which meets the requirement of Section 52B of the Medical Act 1983 as amended.	Annual report to Parliament scheduled on the work programme for May 2024.
<b>m</b> From the MPTS vision:  <ul style="list-style-type: none"> <li>▶ Makes high quality, well-reasoned, independent decisions to protect the public.</li> <li>▶ Treats all tribunal service users with respect and fairness.</li> <li>▶ Uses modern technology to enhance the efficiency and effectiveness of running hearings.</li> <li>▶ Shares its knowledge and makes a positive contribution to the future direction of adjudication.</li> </ul>	Annual review of the MPTS vision scheduled on the work programme for September 2024.
<b>n</b> MPTS priorities and delivery of projects	Review of project delivery and discussion of future priorities and plans in February and September 2024.



Agenda item: **06**

Report title: **Quality Assurance Group review**

Report by: **Vaishali Fitton, Senior Legal Adviser, MPTS**  
[Vaishali.fitton@mpts-uk.org](mailto:Vaishali.fitton@mpts-uk.org), 0161 2407106

Considered by: **MPTS Committee**

Action: **To note**

### **Executive summary**

This paper provides an overview of the outputs of the Quality Assurance Group (QAG) meetings held since the last update to the MPTS Committee in February 2023.

The paper summarises the themes identified, and the actions taken.

### **Recommendation**

- ▶ The MPTS Committee is asked to note the outputs of QAG meetings during this period.

## Introduction

- 1 During the period under review a total of 1887 MPTS hearings commenced.
- 2 This number includes Medical Practitioners (MPT), Interim Orders (IOT), and Non-compliance hearings (NCH).
- 3 Of these, 228 were selected for the QAG to review.
- 4 It is important to note that the QAG only reviews decisions once the appeal period has passed.

## MPT Decisions

- 5 In 2023 QAG reviewed 15% of MPT decisions (included within this number are restoration hearings).
- 6 A higher percentage of new MPTs (17%) were discussed in comparison to MPT Reviews (9%).

	MPT	MPT Review	Total
Total decisions	382	151	533
Cases reviewed by QAG	65	13	78
% reviewed against total MPT cases for 2023	17%	9%	15%

- 7 Overall, in this period, QAG concluded that the standard of decision drafting remained good with a relatively low number of learning points identified.
- 8 The learning points that were identified included:
  - ▶ how to approach the anonymisation of witnesses, particularly in hearings involving allegations of a sexual nature.
  - ▶ the importance / purpose of directing a review hearing particularly where the tribunal is not satisfied that there has been full insight and remediation.
  - ▶ a certificate of conviction is conclusive evidence of the offence and tribunals should not go behind convictions.
  - ▶ a reminder of the relevant legislation and rules in relation to the different routes by which a doctor may apply for restoration (following disciplinary, administrative, or voluntary erasure).
  - ▶ in relation to drafting determinations generally, the importance of:



- ▶ clarity when explaining case law.
- ▶ focussing determinations on the information that relates to, and supports, the tribunal’s decision making.
- ▶ referencing conditions correctly.
- ▶ considering aggravating factors before mitigating factors and avoiding double counting factors.
- ▶ issues surrounding the admission / admissibility of witness evidence and when witness statements need to be considered as hearsay.

- 9 As a follow-up guidance was provided to tribunal members clarifying the *Guidance on Warnings* to assist in the practical application of that guidance.
- 10 There continued to be very few themes identified and most of the learning points were either addressed through annual training or learning points circulars.
- 11 Due to timings, the learning point relating to witness evidence and hearsay will be addressed in 2024.

## IOT Decisions

- 12 In this period, QAG reviewed 19% of new IOT decisions, and 8% of IOT decisions overall.

	IOT new	IOT Review	Total
Total decisions	254	1060	<b>1314</b>
Cases reviewed by QAG	48	58	<b>106</b>
% reviewed against total cases for 2023	19%	6%	<b>8%</b>

- 13 Since last year’s update to the Committee, IOT determinations have continued to remain of a good standard and learning points have been limited.
- 14 Areas for learning included when to refer to a Tribunal for a hearing when considering an IOT Review on the Papers and consistency of imposing conditions from the bank.
- 15 In October 2023 the Imposing interim orders guidance was updated. The main areas of change were concerning freedom of expression and changes in relation to sexual misconduct cases.

16 These changes were highlighted to all tribunal members in a circular.

### **Non-compliance hearings**

17 There were 22 non-compliance hearings in 2023.

18 All completed non-compliance hearing decisions were reviewed by the QAG, and no significant learning points were identified.

### **Feedback**

19 We continue to consider all appeals, as well as the rationale leading to the appeal.

20 In addition, the QAG considers learning points from the Professional Standards Authority and the GMC for those cases that do not meet their respective thresholds for appealing.

21 We encourage referrals to the QAG from MPTS colleagues and in respect of the volumes reviewed above, 22 cases were from this source.

### **Outputs**

22 Learning points identified at QAG prior to the final annual training sessions in Autumn 2023, were addressed within the training.

23 E- Learning modules were also issued to supplement learning from case law.

24 In addition to the formal training QAG provided, seventeen circulars (written summaries to provide guidance and support) addressing learning points, updates to guidance and case law were issued. They included:

- ▶ specific learning points from QAG,
- ▶ clarification on services of notices and notices of hearing,
- ▶ immediate order decisions and when they take effect,
- ▶ hearing recordings,
- ▶ clarifying the guidance on warnings,
- ▶ taking/receiving witness evidence from abroad,
- ▶ changes to the guidance on imposing an interim order,
- ▶ five circulars on specific judgments further to appeals.

- 25** The learning points identified at QAG are shared with the MPTS Committee, GMC / MPTS Liaison Group, GMC Council and reported upon in our Annual Report to Parliament.

## **Audit**

- 26** Following the restructure at the MPTS in September 2023, the third (and final) recommendation from external audit into the QAG processes (which took place in September 2022 by BDO LLP), to review the QAG's terms of reference, has been rescheduled for this year.



Agenda item: **07**

Report title: **Adjudgments Quarterly Update**

Report by: **Samantha Bedford, Head of Case Management,**  
[samantha.bedford@mpts-uk.org](mailto:samantha.bedford@mpts-uk.org), 0161 240 7112

Considered by: **MPTS Committee**

Action: **To note**

### **Executive summary**

This report:

- ▶ Summarises the key data and themes arising from hearings adjourning in Quarter 4 2023;
- ▶ Identifies actions to be taken forward by the MPTS.

### **Recommendation**

- ▶ The Committee is asked to note the update

# Adjourments Quarterly Review: Q4 2023

## Scope of review

- 1 Each month a cross-section of staff members from Operations and Case Management meet to identify themes and issues arising from adjourned MPT hearings. Our review takes account of evidence from internal sources, including hearing commentary and case management documents.
- 2 Our findings and recommendations are disseminated to the relevant MPTS teams for action and monitored via an actions log.

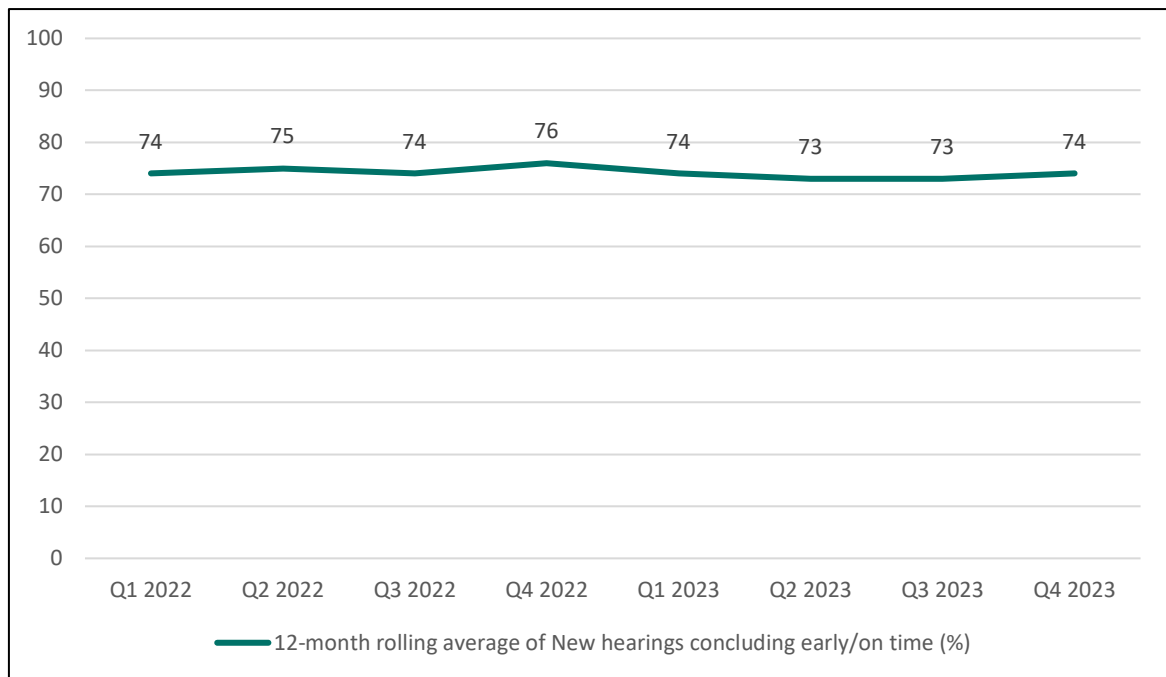
## Terminology

- 3 Where a hearing does not conclude in a single listing, we look at whether it was:
  - a. **A split-listed hearing**, where a hearing is listed to be held in multiple sessions (for example, due to case management intervention or as a reasonable adjustment);
  - b. **An unplanned adjournment**, which occurs where circumstances arise in the hearing that led to an adjournment.
- 4 Our review determines whether each unplanned adjournment was unavoidable or was potentially avoidable:
  - a. **Unavoidable unplanned adjournments** arise for reasons that could not reasonably have been foreseen. For example, where a participant is unwell, or if a Tribunal directs the practitioner to undergo an assessment of their health, language or performance;
  - b. **Potentially avoidable unplanned adjournments** arise where our review finds that parties, the Tribunal or the MPTS (or a combination) could have **potentially** foreseen and taken action to avoid an adjournment.

## New MPT hearings

- 5 To put adjournments in context, we look at data regarding all New MPT hearings, including those concluding early or on time. Hearings may conclude early as a result of the findings made by the MPT or where the time required to complete the hearing was otherwise overestimated.
- 6 In Q4 2023, **74%** of all New MPT hearings concluded either early or on time: **32 (40%)** hearings concluded early and **30 (37%)** hearings concluded on time.
- 7 Of the **19 (23%)** of New MPT hearings that did not conclude in a single session, **11 (13%)** were split-listed hearings and **8 (10%)** adjourned on an unplanned basis.

8 The chart below shows the 12-month rolling average for the number of New MPT hearings concluding either early or on time, for the most recent 24-month period.



9 The chart below shows the percentage of the New MPT hearings workload concluding on time, split-listed or adjourning for the most recent 24-month period, with the unplanned adjournments shown as unavoidable or potentially avoidable.



## Other MPT hearing types

- 10** A total of 16 of other MPT hearing types **adjourned unplanned** in Q4/2023. The table below indicates the number of unplanned adjournments across the MPT hearing types:

Hearing Type	Unplanned Adjournment	Split-Listed Hearing
Review Hearings	8	0
Remittal Hearings	1	0
Non-Compliance Hearings	1	0
Restoration Hearings	4	0
New & Review Hearings	2	0
Preliminary Hearings	0	0

## Themes emerging from adjourned hearings

- 11** The following themes, which we consider to be potentially avoidable and/or foreseeable, arise from our analysis of the adjourned MPT hearings in Q4 2023:

- a. **MPT deliberations and timekeeping** – There were instances where MPTs took time to complete their deliberations which appeared potentially disproportionate to the issue(s) under consideration (Q4/02, Q4/05, Q4/12, Q4/14, Q4/19, Q4/20, Q4/21, Q4/22), or where hearing time could have been managed more effectively (Q4/06, Q4/20, Q4/21, Q4/23, Q4/31, Q4/35).
- b. **Delays potentially caused by GMC** – There were instances where avoidable delays appear to have been caused by issues relating to GMC preparation or presentation of evidence (Q4/02, Q4/05, Q4/07, Q4/15, Q4/26, Q4/29).
- c. **Delays potentially caused by doctor/defence** – There were instances where doctor/defence preparation was incomplete or delayed progress during the hearing (Q4/12, Q4/19, Q4/22, Q4/24, Q4/30).
- d. **Delays caused by overseas witness evidence** – There were instances where the parties wished to call evidence from witnesses based overseas without having obtained permission from the relevant country (Q4/17, Q4/28, Q4/32).

- 12** References “QX/XX” are used above as identifiers for specific hearings. Anonymised identifiers have been used for the purposes of this paper as they may relate to matters which have not yet concluded.

## Identified action points

- 13** The review identified a number of actions from the analysis of Q3 adjournments, as outlined below. Any actions relating to identifiable individuals have been amended to ensure confidentiality.
- a. Actions relating to MPTS:
    - i Two hearings identified where issues regarding hearing management will be notified to Tribunal Development for review and potential feedback to Tribunals.
    - ii Case Management to review when further health evidence became known to parties in one hearing and whether issues could have been resolved pre-hearing.
    - iii Case Management to review determinations in three hearings, when concluded, and consider whether a referral to the Quality Assurance Group is required.
    - iv Operations to consider review hearing template determinations and/or training on appropriate length of background sections.
  - b. MPTS to provide feedback to GMC Legal on issues including: bundle preparation issues in one hearing; further disclosure of evidence in one hearing; incorrect confirmation of compliance with case management directions in one hearing; lack of joint expert report and/or request for additional hearing days in one hearing.