

## Tribunal Circular

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To: MPTS Associates

CC: Tribunal Clerks

### Tribunal member conflicts

This circular sets out a reminder for tribunal members, the importance of raising identified or potential conflicts of interest at the earliest stage possible with the [Empanelment team](#). If conflicts are not raised early enough, there is a potential that hearings will not be able to proceed.

### Conflicts of interest

A tribunal member should be aware of the possibility of any personal conflicts of interest and declare any such conflicts to the MPTS as soon as is reasonably practicable, preferably prior to the commencement of the hearing.

A conflict of interest arises where a tribunal member has an interest which might influence, or be perceived to influence, their judgment in carrying out their tribunal member duties. They should consider whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased" *Porter v McGill 2002*.

The [Conflicts of interest policy](#) sets out that a tribunal member has a responsibility at all times to advise [us](#) of any appointments or changes to their personal circumstances which may in turn cause potential conflicts of interest.

### **Attending an MPT hearing as a witness**

On rare occasions it may be that a tribunal member has been asked to appear as a witness – in any capacity- at a MPTS hearing. This would be unusual, and the tribunal member should carefully consider whether they are the only person able to carry out that requirement. In the event that being a witness to proceedings is unavoidable, the tribunal member should notify the Empanelment team as soon as possible, regardless of a confirmed hearing date, as this could have an impact on future listings due to any further conflicts of interest that could arise .

If any support is required regarding these situations, please contact the [Head of Operations and Development](#).

### **Recusal**

When empanelled on a hearing, a tribunal member should familiarise themselves with the bundle, and any other supporting documents to identify any conflicts at the earliest opportunity so that these can be addressed prior to the hearing commencement. On occasion, conflicts of interest may not become apparent until the morning of a hearing. The [managing MPT hearings](#) guidance reminds a tribunal that these should be dealt with as they arise and that all tribunal members should remain present until a decision has been made including for any decisions regarding adjournments if this is necessary. If the tribunal determines that recusal is appropriate, the tribunal is required to give its reasoned decision in writing.

If you wish to discuss any of the matters raised with regards to conflicts, please get in touch with the development team.

Kind regards

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