

Hearing Bundles for Medical Practitioners Tribunal Hearings

Guidance for Decision Makers, Parties and Representatives

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Introduction

This guidance is provided for parties, representatives and decision makers, and sets out our requirements for hearing bundles used in Medical Practitioners Tribunal (MPT) hearings.

To help in the efficient running of our hearings, we require hearing bundles to be made available to tribunal members in advance of all MPT hearings so that they can familiarise themselves with the contents before the hearing starts. This removes or significantly reduces the reading time required during the hearing, resulting in time and cost savings.

Providing hearing bundles in advance also improves the ability of parties to timetable witness evidence by removing the uncertainty around the amount of MPT reading time required.

References to:

- ▶ rules are references to the GMC Fitness to Practise Rules 2004 (as amended) unless otherwise stated;
- ▶ the parties are references to the GMC and the doctor whose case is under consideration.

If, after considering this guidance, parties or representatives have any queries regarding the preparation of hearing bundles, they should contact the MPTS Case Management Team at MPTSCaseManagementTeam@mpts-uk.org.

How does this guidance apply to my hearing?

As far as possible we try to take a consistent approach to hearing bundle preparation for all MPT hearings. However, there are some important differences. The table below sets out a summary of our approach for each type of hearing:

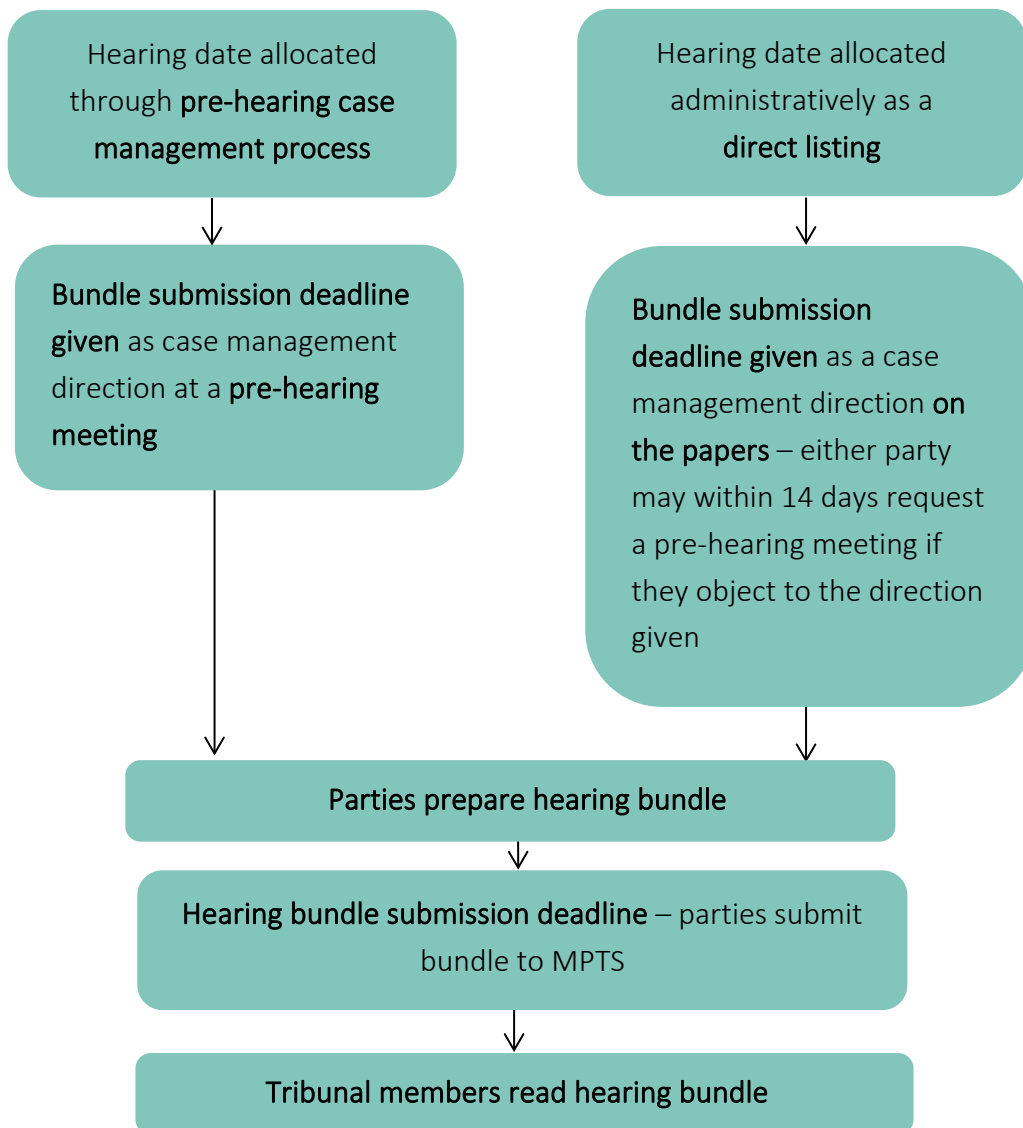
Hearing type	Approach to hearing bundles	Relevant guidance
New MPT Hearing	<ul style="list-style-type: none"> ▶ The hearing bundle is produced by agreement between the parties in advance of the hearing. ▶ The hearing bundle must be submitted electronically to the MPTS by a date notified to the parties. It will be read in advance by the MPT. ▶ For hearings at the MPTS hearing centre, hard copies of the hearing bundle must be brought to the hearing for the MPT (on advance request only) and for use by witnesses (unless all witnesses will appear virtually). 	<ul style="list-style-type: none"> ▶ New MPT hearing bundles – pages 7 to 9 ▶ Content and format of hearing bundles – pages 20 to 21 ▶ Frequently asked questions – pages 22 to 24
Restoration MPT Hearing	<ul style="list-style-type: none"> ▶ The hearing bundle is produced by agreement between the parties in advance of the hearing. ▶ The hearing bundle must be submitted electronically to the MPTS by a date notified to the parties by the MPTS. It will be read in advance by the MPT. ▶ No hard copies of the hearing bundle are required for tribunal members, but parties will need to supply a hard copy for use by witnesses (unless all witnesses will appear virtually). 	<ul style="list-style-type: none"> ▶ Restoration MPT hearing bundles – pages 10 to 12 ▶ Content and format of hearing bundles – pages 20 to 21 ▶ Frequently asked questions – pages 22 to 24
Non-Compliance MPT Hearing	<ul style="list-style-type: none"> ▶ The hearing bundle is produced by agreement between the parties in advance of the hearing. 	<ul style="list-style-type: none"> ▶ Non-Compliance MPT hearing

Hearing type	Approach to hearing bundles	Relevant guidance
	<ul style="list-style-type: none"> ▶ The GMC must submit the hearing bundle electronically to the MPTS by a date notified to the parties by the MPTS. It will be read in advance by the MPT. ▶ No hard copies of the hearing bundle are required for tribunal members, but parties will need to supply a hard copy for use by witnesses (unless all witnesses will appear virtually). 	<ul style="list-style-type: none"> bundles – pages 13 to 15 ▶ Content and format of hearing bundles – pages 20 to 21 ▶ Frequently asked questions – pages 22 to 24
Review MPT Hearing	<ul style="list-style-type: none"> ▶ A hearing bundle is produced by the GMC and may include documents submitted by the doctor whose case is under consideration. ▶ The GMC will usually submit its hearing bundle electronically to the MPTS not less than 14 days before the start of the hearing. ▶ Any additional material, including any separate bundles relied upon by the doctor whose case is under consideration, must be submitted no later than 14 days before the hearing. Each party must first disclose any additional material to the other party. ▶ The MPTS will not accept advance submission of any further documents from either party later than 14 days before the hearing. ▶ No hard copies of the hearing bundle are required for tribunal members, but parties will need to supply a hard copy for use by witnesses (unless all witnesses will appear virtually). 	<ul style="list-style-type: none"> ▶ Review MPT hearing bundles – pages 16 to 18 ▶ Content and format of hearing bundles – pages 20 to 21 ▶ Frequently asked questions – pages 22 to 24

Hearing type	Approach to hearing bundles	Relevant guidance
New & Review MPT Hearing	<ul style="list-style-type: none"> ▶ The hearing bundle for the new case is produced by agreement between the parties in advance of the hearing. ▶ The hearing bundle for the new case must be submitted electronically to the MPTS by a date notified to the parties. It will be read in advance by the MPT. ▶ The hearing bundle for the review case does not need to be submitted in advance as it will not be provided to the MPT until the impairment stage of the hearing. ▶ For hearings at the MPTS hearing centre, hard copies of the hearing bundle must be brought to the hearing for the MPT (on advance request only) and for use by witnesses (unless all witnesses will appear virtually). 	<ul style="list-style-type: none"> ▶ New & Review MPT hearing bundles – page 19 ▶ Content and format of hearing bundles – pages 20 to 21 ▶ Frequently asked questions – pages 22 to 24

New MPT hearings

In all new MPT cases an MPTS Case Manager will provide the parties with a **case management direction** specifying the date by which the parties must submit a joint hearing bundle in advance of the hearing. When the case management direction is given will depend on whether the hearing will be considered by an MPTS Case Manager at a pre-hearing meeting*:



Parties are required to agree paginated and indexed joint hearing bundles containing all material intended to be referred to at the facts stage and provide these bundles to the MPTS by the date specified in the direction, which will be **not less than 14 calendar days before the start of the hearing**. The format and content of the hearing bundle must comply with the guidance set out at pages 20 to 21.

* Further information about our case management processes can be found on our website at <https://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings>

Will an MPTS Case Manager direct the parties to provide a hearing bundle in advance for every new MPT hearing?

Our starting point is that a hearing bundle will be required in advance for every new MPT hearing. However, an MPTS Case Manager may at their discretion decide not to direct that a hearing bundle be submitted in advance of the hearing where:

- ▶ a doctor is self-represented and exceptional circumstances are identified by an MPTS Case Manager that indicate it would not be appropriate to require the doctor to produce a hearing bundle in advance;
- ▶ in the opinion of an MPTS Case Manager the provision of hearing bundles in advance by one or both parties is unworkable. This is expected to arise exceptionally where, for example, the nature of a preliminary legal argument to be considered by the MPT is such that the MPTS Case Manager considers that hearing bundles in advance should not be submitted by one or both parties.

How is the bundle submitted? Are hard copy bundles required?

The hearing bundle must be submitted electronically by the deadline given and in line with our requirements at page 22.

Hard copies of the hearing bundle are not required for virtual hearings. For hearings at the MPTS hearing centre, hard copies must be brought to the hearing room on Day 1 for the tribunal members and tribunal clerk (on advance request only) and for use by witnesses (unless all witnesses will appear virtually).

What happens if the parties cannot agree the hearing bundle?

We accept that there may be a minority of cases where, due to identified preliminary legal arguments, it may be unworkable to produce complete hearing bundles in advance. In these instances:

- ▶ Parties must work together at a sufficiently early stage to agree appropriate redactions to the bundle, so that a complete hearing bundle can be submitted by the deadline.
- ▶ If agreement cannot be reached in relation to a specific document or type of document, parties must work together to provide hearing bundles in advance

containing all material which is not affected by any identified preliminary legal arguments.

What happens where the parties are unable to comply with a direction to provide hearing bundles in advance?

As parties will be working together from an early stage, we expect these circumstances to arise only in exceptional cases. If parties are unable to meet the deadline to provide hearing bundles set in case management directions, they must:

- ▶ Urgently inform the MPTS Case Management Team as soon as they identify that they are unable to comply with the direction.
- ▶ Set out in writing their reasons for being unable to comply with the direction and their proposals for the case management direction to be varied or set aside.

The MPTS Case Management Team will then refer the matter to a Case Manager for a decision as to whether to vary, set aside or uphold the case management direction.

If the case management direction is upheld and is not complied with, parties must be prepared to explain to the MPT the circumstances of the failure to comply. The MPT may consider whether a costs order is warranted, as would be considered following any other failure to comply with a case management direction.

What happens if one party fails to comment on the bundle?

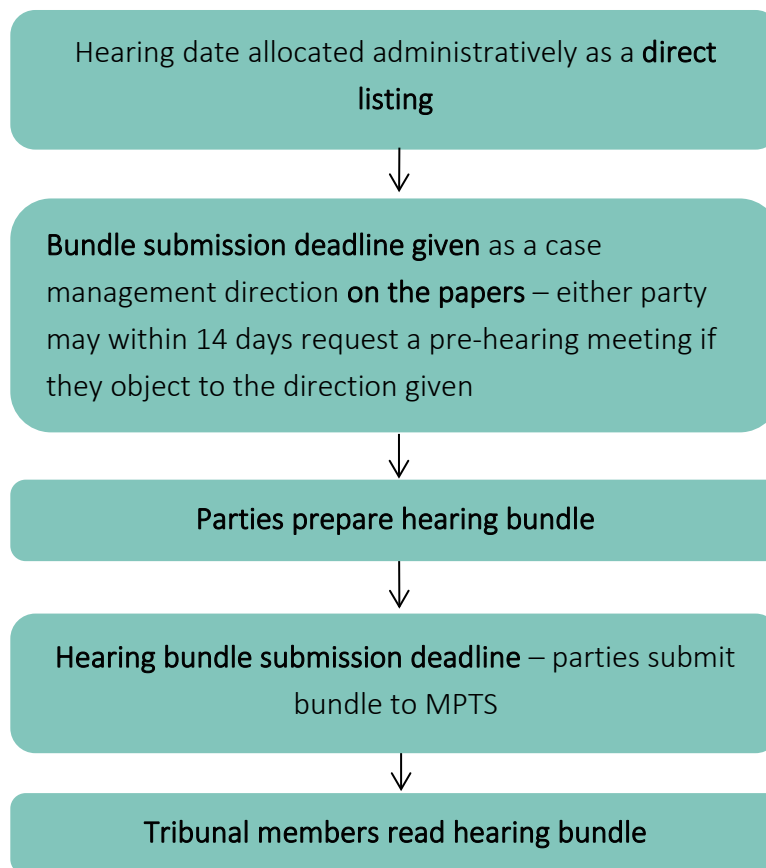
If one party fails to co-operate with the process of agreeing a hearing bundle, either by not responding to requests for comments or failing to engage constructively, the other party may proceed to submit a hearing bundle (containing only relevant and admissible material) by the deadline. The MPT must be informed at the start of the hearing that the bundle was not agreed.

Other frequently asked questions

Answers to frequently asked questions for all types of MPT hearing, including our approach to the late submission of documents, can be found at pages 22 to 24.

Restoration MPT hearings

In all restoration MPT hearings an MPTS Case Manager will provide the parties with a **case management direction** specifying the date by which the parties must submit a joint hearing bundle in advance of the hearing:



Parties are required to agree paginated and indexed joint hearing bundles containing all material intended to be referred to during the hearing and provide these bundles to the MPTS by the date specified in the direction, which will be **not less than 14 calendar days before the start of the hearing**. The format and content of the hearing bundle must comply with the guidance set out at pages 20 to 21.

Will an MPTS Case Manager direct the parties to provide a hearing bundle in advance for every restoration hearing?

Our starting point is that a hearing bundle will be required in advance for every restoration hearing. However, an MPTS Case Manager may at their discretion decide not to direct that a hearing bundle be submitted in advance of the hearing where:

- ▶ a doctor is self-represented and exceptional circumstances are identified by the MPTS Case Manager that indicate it would not be appropriate to require the doctor to produce a hearing bundle in advance;
- ▶ in the opinion of the MPTS Case Manager the provision of a hearing bundle in advance by one or both parties is unworkable. This is unlikely to be the case restoration hearings.

How is the bundle submitted? Are hard copy bundles required?

The hearing bundle must be submitted electronically by the deadline given and in line with our requirements at page 22.

Hard copy bundles are not required for the tribunal members in restoration hearings. The tribunal members will use tablet devices to view the hearing bundles in the hearing room. Parties may wish to bring hard copies for their own use and must bring a hard copy for use by witnesses (if applicable).

What happens if the parties cannot agree the hearing bundle?

We accept that there may be a minority of cases where, due to identified preliminary legal arguments, it may be unworkable to produce complete hearing bundles in advance. In these instances:

- ▶ Parties must work together at a sufficiently early stage to agree appropriate redactions to the bundle, so that a complete hearing bundle can be submitted by the deadline.
- ▶ If agreement cannot be reached in relation to a specific document or type of document, parties must agree and provide hearing bundles in advance containing all material which is not affected by any identified preliminary legal arguments.

What happens where the parties are unable to comply with a direction to provide hearing bundles in advance?

As parties will be working together from an early stage, we expect these circumstances to arise only in exceptional cases. If parties are unable to meet the bundle deadline set in case management directions, they must:

- ▶ Urgently inform the MPTS Case Management Team as soon as they identify that they are unable to comply with the direction.
- ▶ Set out in writing their reasons for being unable to comply with the direction and their proposals for the case management direction to be varied or set aside.

The MPTS Case Management Team will then refer the matter to a Case Manager for a decision as to whether to vary, set aside or uphold the case management direction.

If the case management direction is upheld and is not complied with, parties must be prepared to explain to the MPT the circumstances of the failure to comply. The MPT may consider whether a costs order is warranted, as would be considered following any other failure to comply with a case management direction.

What happens if one party fails to comment on the bundle?

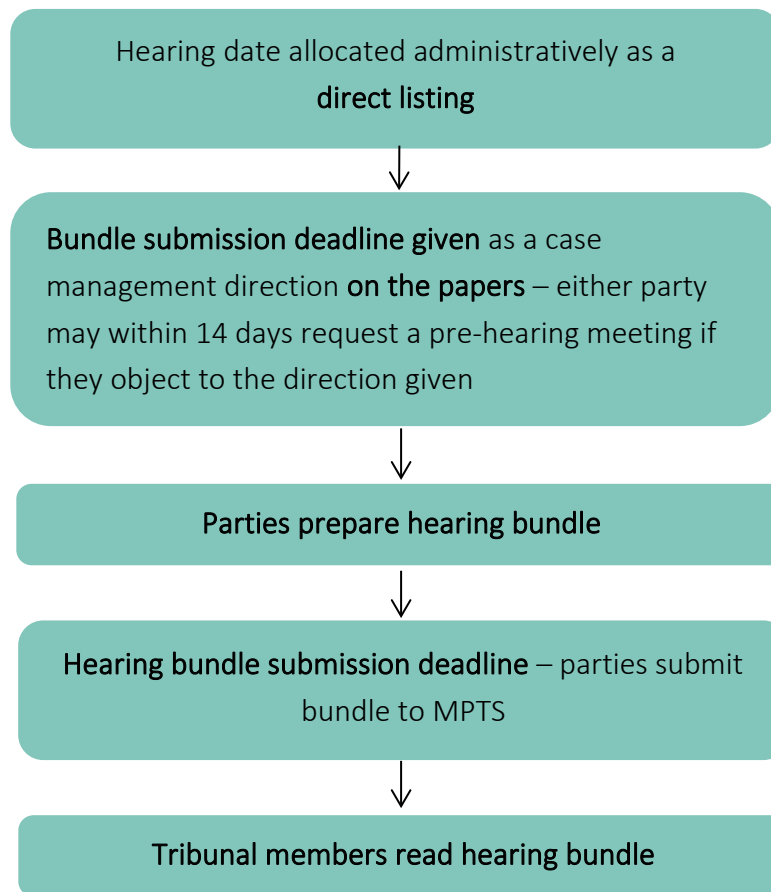
If one party fails to co-operate with the process of agreeing a hearing bundle, either by not responding to requests for comments or failing to engage constructively, the other party may proceed to submit a hearing bundle (containing only relevant and admissible material) by the deadline. The MPT must be informed at the start of the hearing that the bundle was not agreed.

Other frequently asked questions

Answers to frequently asked questions for all types of MPT hearing, including our approach to the late submission of documents, can be found at pages 22 to 24.

Non-compliance MPT hearings

In all non-compliance MPT hearings (including a review of a non-compliance matter) the MPTS requires the parties to submit a joint hearing bundle in advance of the hearing:



Parties are required to agree paginated and indexed joint hearing bundles containing all material intended to be referred to during the hearing and provide these bundles to the MPTS by the date given, which will be **not less than 14 calendar days before the start of the hearing**. The format and content of the hearing bundle must comply with the guidance set out at pages 20 to 21.

Will the MPTS require the parties to provide a hearing bundle in advance for every new non-compliance hearing?

Our starting point is that a hearing bundle will be required in advance for every new non-compliance hearing. However, the MPTS may decide not to require that a hearing bundle be submitted in advance of the hearing where:

- ▶ a doctor is self-represented and exceptional circumstances are identified by the MPTS that indicate it would not be appropriate to require the doctor to produce a hearing bundle in advance;
- ▶ in the opinion of the MPTS the provision of a hearing bundle in advance by one or both parties is unworkable. This is unlikely to be the case in new non-compliance hearings.

How is the bundle submitted? Are hard copy bundles required?

The hearing bundle must be submitted electronically by the deadline given and in line with our requirements at page 22.

Hard copy bundles are not required in non-compliance hearings. The tribunal members will use tablet devices to view the hearing bundles in the hearing room. Parties may wish to bring hard copies for their own use and must bring a hard copy for use by witnesses (if applicable).

What happens if the parties cannot agree the hearing bundle?

We accept that there may be a minority of cases where, due to identified preliminary legal arguments, it may be unworkable to produce complete hearing bundles in advance. In these instances:

- ▶ Parties must work together at a sufficiently early stage to agree appropriate redactions to the bundle, so that a complete hearing bundle can be submitted by the deadline.
- ▶ If agreement cannot be reached in relation to a specific document or type of document, parties must agree and provide hearing bundles in advance containing all material which is not affected by any identified preliminary legal arguments.

What happens where the parties are unable to comply with the hearing bundle deadline?

As parties will be working together from an early stage, we expect these circumstances to arise only in exceptional cases. If parties are unable to meet the bundle deadline, they must:

- ▶ Urgently inform the MPTS Case Management Team as soon as they identify that they are unable to comply with the deadline.
- ▶ Set out in writing their reasons for being unable to comply with the deadline and their proposals for the deadline to be varied or set aside.

The MPTS will then make a decision as to whether to vary, set aside or uphold the deadline.

What happens if one party fails to comment on the bundle?

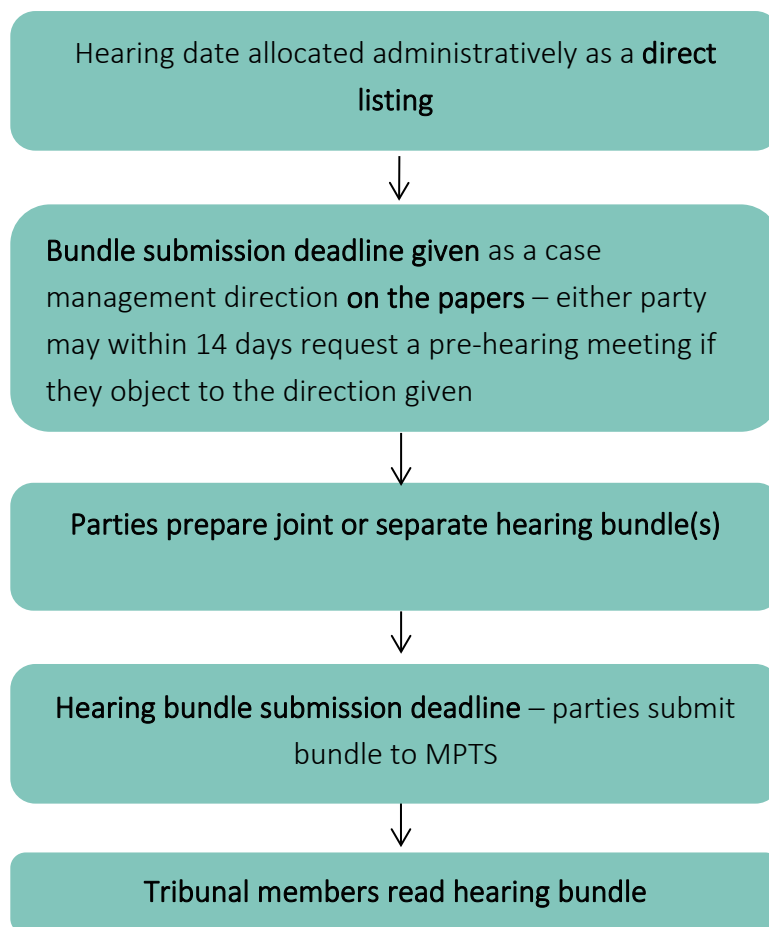
If one party fails to co-operate with the process of agreeing a hearing bundle, either by not responding to requests for comments or failing to engage constructively, the other party may proceed to submit a hearing bundle (containing only relevant and admissible material) by the deadline. The MPT must be informed at the start of the hearing that the bundle was not agreed.

Other frequently asked questions

Answers to frequently asked questions for all types of MPT hearing, including our approach to the late submission of documents, can be found at pages 22 to 24.

Review MPT hearings

In all review MPT hearings an MPTS Case Manager will provide the parties with a **case management direction** specifying the date by which the parties must submit any documents to be read by the MPT in advance of the hearing:



Parties are required to submit paginated and indexed hearing bundles containing all material intended to be referred to during the hearing and provide these bundles to the MPTS by the date given, which will be **not less than 14 calendar days before the start of the hearing**. The format and content of the hearing bundle must comply with the guidance set out at pages 20 to 21.

Joint or separate bundles may be submitted, but all documents submitted must have been disclosed to the other party before their submission to the MPTS.

Will the MPTS require the parties to provide a hearing bundle in advance for every review hearing?

A hearing bundle is required in advance for every review hearing. Our experience is that there are few, if any, review hearings where a bundle cannot be submitted in advance of the hearing.

How is the bundle submitted? Are hard copy bundles required?

The hearing bundle must be submitted electronically by the deadline given and in line with our requirements at page 22.

Hard copy bundles are not required by tribunal members in review hearings. The tribunal members will use tablet devices to view the hearing bundles in the hearing room. Parties may wish to bring hard copies for their own use and must bring a hard copy for use by witnesses (if applicable).

What happens if one party wishes to object to a document the other party proposes to submit to the MPT?

We accept that there may be a minority of cases where a party may have objections to the admissibility of a specific document or type of document. In these instances:

- ▶ Each party must inform the other party of their objections to any documents or types of documents and the reason for those objections.
- ▶ The parties must work together to try to resolve the issue(s) and, by the deadline given, provide the MPTS with hearing bundles containing all material which is not objected to.

What happens where the parties are unable to comply with a direction to provide hearing bundles in advance?

If parties are unable to meet the bundle deadline set in case management directions, they must:

- ▶ Urgently inform the MPTS Case Management Team as soon as they identify that they are unable to comply with the direction.

- ▶ Set out in writing their reasons for being unable to comply with the direction and their proposals for the case management direction to be varied or set aside.

The MPTS Case Management Team will then refer the matter to a Case Manager for a decision as to whether to vary, set aside or uphold the case management direction.

If the case management direction is upheld and is not complied with, parties must be prepared to explain to the MPT the circumstances of the failure to comply. The MPT may consider whether a costs order is warranted, as would be considered following any other failure to comply with a case management direction.

Other frequently asked questions

Answers to frequently asked questions for all types of MPT hearing, including our approach to the late submission of documents, can be found at pages 22 to 24.

New & Review MPT hearings

In all new & review MPT hearings held in accordance with Rule 21A, parties must prepare two hearing bundles:

- ▶ A hearing bundle for the new MPT case, which must be submitted to the MPTS to be read by the MPT in advance. Parties must follow the process for preparing a new MPT hearing bundle described at pages 7-9 above.
- ▶ A hearing bundle for the review case, which will not be submitted to the MPT to be read in advance, but will be submitted to the MPT when they reach the impairment stage of the MPT hearing.

Parties are encouraged to work together from an early stage to ensure that hearing bundles are prepared and submitted in good time. The format and content of the hearing bundle must comply with the guidance set out at pages 20 to 21.

Other frequently asked questions

Answers to frequently asked questions for all types of MPT hearing, including our approach to the late submission of documents, can be found at pages 22 to 24.

Content and format of hearing bundles

To ensure consistency in the hearing bundles presented in MPT hearings, parties must adhere to the requirements set out below, unless parties consider that it would assist the MPT for the material to be presented in a different way.

Content of hearing bundles

- ▶ Hearing bundles must include copies of **all relevant material relied upon by both parties***, which may include:
 - ▶ Witness statements
 - ▶ Expert reports
 - ▶ Health, language or performance assessment reports
 - ▶ Any other necessary documents
- ▶ Hearing bundles must not contain unnecessary duplication or irrelevant material. For example, the hearing bundle should contain only medical records directly relevant to the allegations or which will be referred to by the parties during the hearing.
- ▶ The content of hearing bundles must be presented logically. In most instances this will require documents, including medical records, to be **ordered chronologically** to aid the MPT.
- ▶ Parties must ensure that the documents they disclose to each other and submit to the MPTS comply with their responsibilities under data protection legislation. The party relying on the document is responsible for ensuring that any personal data appearing in that document is appropriately redacted before submission to the MPTS.
- ▶ For new MPT hearings, parties are strongly encouraged to consider preparing a **chronology or key reading list** to aid tribunal members in the completion of their pre-reading, particularly for more complex hearings. Where such documents are prepared by the parties voluntarily or as directed by an MPTS Case Manager, they must be submitted at the same time as the hearing bundles so that they can be considered by the tribunal members.

* In New MPT hearings it will usually be appropriate for separate bundles to be prepared containing material which is not relevant to the Facts stage but may be relied upon at the Impairment and/or Sanction stages of the hearing.

Format of hearing bundles

- ▶ Hearing bundles must be divided into separate volumes: a witness statements bundle and a documents bundle. Where parties believe it would assist the MPT, a separate medical records bundle may also be produced.
- ▶ Each volume of the hearing bundle must contain an index indicating the page numbers, date and description of each document.
- ▶ Hearing bundles must be provided in **searchable PDF format** wherever possible.
- ▶ Individual documents must not exceed 20MB in size. Where a volume of the hearing bundle exceeds 20MB, parties must split the volume into separate files of less than 20MB and label them appropriately: for example, 'Pages 1 to 200', 'Pages 201 to 400' etc.

Pagination of hearing bundles

- ▶ Each volume of the hearing bundle must be paginated to begin from the first page of the document (to start from and include any cover sheet or index page), and should reflect the exact number of physical pages, beginning at page 1.
- ▶ Pagination must appear in the top centre location on each page in Tahoma font size 20.
- ▶ The pagination used in the hearing bundle submitted in advance must also be adopted in any hard copy bundles used at the hearing (if applicable). Any documents added to the hard copy bundles which did not appear in the hearing bundle submitted in advance must be clearly identified and numbered sequentially from the end of the final page of the hearing bundle submitted in advance.
- ▶ If parties submit an amended hearing bundle (for example, to correct an error), they must advise MPTS of the nature of the change(s) made, with reference to the relevant page numbers, so that the MPT can be informed.

Frequently asked questions

Submitting hearing bundles in advance

Can hard copy bundles be submitted in advance?

The MPTS requires hearing bundles to be provided in advance electronically. The MPTS cannot accept or provide hard copy hearing bundles to tribunal members in advance of the hearing.

Who submits the hearing bundle?

Where joint bundles are required (i.e. in new, restoration and new non-compliance MPT hearings), the GMC is responsible for providing the final hearing bundles to the MPTS by the deadline date. These should be submitted electronically as PDF files. Where individual bundles are required (i.e. in review hearings or otherwise where directed), each party must disclose their bundle to the other party and the GMC is responsible for providing the final hearing bundles to the MPTS by the deadline date. These should be submitted electronically as PDF files.

How are hearing bundles provided to tribunal members in advance?

The MPTS will arrange for electronic copies of the hearing bundles to be made available electronically to tribunal members before the hearing. Notification will be sent to the tribunal members by the MPTS once the bundles have been made available.

Submitting additional documents

Can additional documents be submitted in advance after the deadline?

We expect parties to undertake their preparation for all types of MPT hearing sufficiently early so that all documents can be supplied by the deadline given. A reduction in the reading time required by the MPT can only be achieved if parties submit their agreed hearing bundles by the date directed by the MPTS. Generally this means that we will not accept submission of any further material in advance after the deadlines set.

However, we accept that there may exceptionally be unavoidable situations where it is not possible for all relevant documentation to be provided by this date. In such circumstances the party seeking to submit additional material must either:

- ▶ seek permission to submit further material in advance; or
- ▶ put the other party and the MPTS on notice that further material may be submitted on Day 1 of the hearing.

How can I seek permission to submit further documents in advance after the deadline has passed?

A party wishing to submit further material in advance to be read by the tribunal members must set out in writing to the MPTS Case Management Team the nature and extent of the additional material to be submitted, the reason(s) for its late submission and a proposed timescale for its submission.

The MPTS will consider each request on its merits but will not permit the late submission of material in advance where:

- ▶ No or inadequate reasons have been provided for the delay;
- ▶ A party has failed to seek permission or to act expeditiously;
- ▶ The MPTS believes that there is insufficient time remaining to reasonably require the tribunal members to consider the material.

How can I put the MPTS on notice that additional material may be submitted on Day 1 of the hearing?

A party wishing to submit further material on Day 1 of the hearing must ensure that it notifies the MPTS Case Management team and the other party that additional material may be relied upon, supplying a copy of that material (which must comply with the formatting requirements outlined on pages 20 to 21) and explaining any impact it may have on the hearing timetable. For example, the party wishing to rely on additional material must consider the extent of reading time which may be required at the beginning of the hearing and how this may impact the hearing timetable.

Can parties submit other documents such as skeleton arguments?

Additional documentation such as skeleton arguments, statements of agreed facts and witness schedules are to be submitted to the MPTS in line with the relevant directions given by an MPTS Case Manager. All documents must comply with the formatting requirements outlined on pages 20 to 21.

Where parties wish to provide these documents voluntarily, they should liaise with the MPTS Case Management Team at the earliest opportunity to identify whether it is possible for the tribunal members to consider these documents in advance.

Can service bundles be provided in advance?

We strongly encourage service bundles to be provided in advance by the bundles deadline given, which will be **not less than 14 calendar days before the start of the hearing**. Where it is not possible to submit a service bundle by the deadline, it will need to be supplied on Day 1 of the hearing. All documents submitted in advance must comply with the formatting requirements outlined on pages 20 to 21.

General FAQs

How much of the bundle will the tribunal members read in advance?

Tribunal members are not expected to read hearing bundle contents 'cover to cover': they must be sufficiently familiar with the case in order to enable progress to be made in hearing the case from Day 1. Parties will still be expected to draw the MPT's attention to pertinent sections of the bundles during opening submissions and throughout the course of the hearing.

Will Legally Qualified Chairs receive more/less information than other tribunal members?

All tribunal members will receive the same documents to read, regardless of their role or function on the MPT.