

# Resource for doctors: MPT Review hearings



# How to use *Resource for doctors: MPT Review hearings*

We've created *Resource for doctors: MPT Review hearings* to support doctors who are due to attend a medical practitioners tribunal (MPT) review hearing. Separate information to help doctors referred to an interim orders tribunal (IOT) review hearing can be found in [Resource for doctors: IOT hearings](#). For information to help doctors referred to other types of hearing, please see the resources for parties and representative pages of our [website](#).

In this guide we aim to answer your questions about the MPT review hearing process, from the initial stages through to after the hearing has ended.

*Resource for doctors* aims to provide basic information to assist doctors and does not constitute legal advice. It is important to urgently seek independent advice from your medical defence organisation or a legal professional if you wish to do so.

All references in *Resource for doctors* to:

- ▶ **The Act** are to the Medical Act 1983 (as amended)
- ▶ **The Rules** are to the GMC Fitness to Practise Rules 2004 (as amended).

See [our legislation pages](#) for more information about these.

If you are reading *Resource for doctors: MPT Review hearings* in hard copy, please note that full URLs for all links used can be found in the *Useful Links* section of this document.

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## Part 1:

# Overview of MPT review hearings and the MPTS



# Part 1: Overview of MPT review hearings and the MPTS

## Key points

- ▶ An MPT review hearing can be directed by the tribunal or by the GMC, and will be held before expiry of the sanction on your registration.
- ▶ The MPT reviewing your case is fully independent in its decision making and holds majority of hearings in public.

## Role of the MPTS

The MPTS is a statutory committee of the GMC but is fully independent in its decision making and accountability to the UK Parliament.

We provide an adjudication service, which means we arrange for our MPTs to make decisions about doctors whose fitness to practise has been called into question by the GMC.

## Why is an MPT review hearing being held?

Where the MPT has imposed conditions on or suspended your registration, it may also direct that your case must be reviewed by another MPT before the expiry of your sanction.

Where a review hearing was not directed by the MPT, the GMC may still decide to direct that your case must be reviewed by another MPT before the expiry of your sanction.

## What is the purpose of the MPT review hearing?

The purpose of a review hearing is to allow the MPT to decide whether you can safely resume unrestricted practice after a period of conditions or suspension. The tribunal reviewing your case will not reopen the decisions made by the previous MPT, but will focus on your current fitness to practise.

At a review hearing, the MPT will firstly consider whether your fitness to practise remains impaired. This part of the hearing is often referred to as the impairment stage.

If the MPT decides that your fitness to practise remains impaired, it will then consider whether a further sanction should be applied to your registration. This part of the hearing is often referred to as the sanction stage.

## **What are the possible outcomes?**

If the MPT finds that your fitness to practise is no longer impaired, then it will take the following steps:

- ▶ If you had a sanction of conditions imposed on your registration, the tribunal may decide to revoke the conditions immediately, or decide that they should expire at the end of the sanction period.
- ▶ If you had a sanction of suspension imposed on your registration, the tribunal will revoke the suspension immediately, or decide that your suspension should run until the end of the sanction period.

If the tribunal finds that your fitness to practise remains impaired, it may then decide to:

- ▶ impose a further period of conditions on your registration for up to three years
- ▶ suspend your registration for a further period of up to 12 months
- ▶ erase your name from the medical register.

If your registration has been subject to conditions and the reviewing MPT determines that you have failed to comply with those conditions, the tribunal will have the power to suspend your registration or erase your name from the medical register only.

## **Will the hearing be held in public?**

MPT review hearings are usually held in public, with some exceptions. Matters relating to your health will be heard in private. The MPT may also hear other matters in private session where the circumstances of the case outweigh the public interest in holding the hearing in public. All MPT deliberations are held in camera (ie in private session without the parties or members of the public present).

More details about what information the MPTS publishes and makes available before, during and after a hearing can be found in [Part 12](#) and in our [MPTS Publication and disclosure: Information sheet](#).

## **What are the main provisions of the Act and Rules relevant to MPT review hearings?**

The main powers of the MPT are set out in sections 35D and 38 of the Act.

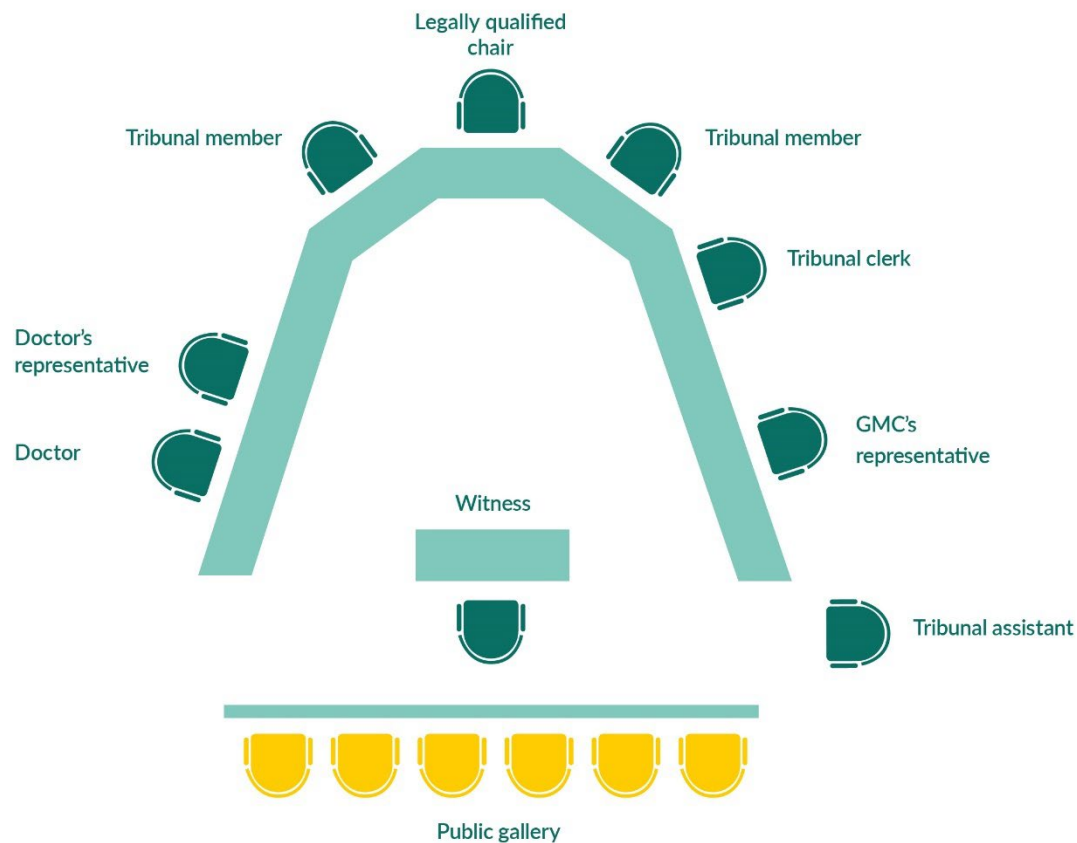
The procedure followed before and at MPT review hearings is set out in Rules 20 and 22.

Other parts of the [Act and Rules](#) also apply to MPT review hearings (for example, Rule 31 regarding the power to proceed in a practitioner's absence), but are beyond the scope of these resources.

## **Reviews on the papers**

Your case can also be reviewed 'on the papers'. This means a review would take place without attendance at a hearing by you or the GMC. All cases that are due for a review will be considered, but a review on the papers won't always be possible. Further detailed guidance about reviews on the papers, including the steps you need to take can be found in [Part 10](#).

## Who will be at the hearing?



### Tribunal members

The MPT is made up of three tribunal members, appointed and trained by the MPTS. There will be at least one doctor (medically qualified with a licence to practise) and at least one lay person (not medically qualified). One tribunal member will act as chair.

The chair of your hearing may be a legally qualified chair. The legally qualified chair will be either an experienced solicitor or barrister who will advise the MPT on questions of law as to evidence and procedure.

### Legal assessor

If the chair is not a legally qualified chair, we will appoint a legal assessor (an experienced barrister or solicitor) to advise the MPT on points of law and procedure. The legal assessor does not take part in the MPT's decision making.

## Others

A legal representative instructed by the GMC will attend and present the GMC's case.

There will also be an MPTS clerk present, who is responsible for the administration of the hearing, and an MPTS assistant, who provides assistance to both the MPT and the clerk.

## Where is the hearing centre and what does it look like?

The Notice of Hearing (see [Part 4](#) for further information) will confirm whether your hearing is to be held at the MPTS hearing centre or as a virtual hearing using Microsoft Teams. Our hearing centre is located in central Manchester.

[Find out how to get to us.](#)

You can also [take a virtual tour of the hearing centre.](#)

## Part 2:

# Representation and support



## Part 2: Representation and support

### Key points

- ▶ You can be represented by a representative at the MPT review hearing, or you may represent yourself.
- ▶ There are different types of representation and sources of support available.

### Representation and obtaining advice

As soon as you receive notice of when your MPT review hearing is to take place, it is essential to take urgent action to decide how you will be represented at that hearing.

Being represented means that your representative will speak for you at the hearing and (where applicable) will ask questions of witnesses for you. You can be represented at MPT review hearings in any of the ways explored below.

### Legal representation

If you're a member of a medical defence organisation and are being assisted by them, or if you have already organised your own legal representation, you should inform them urgently about your MPT review hearing. They will be able to give you information and advice about your hearing.

If you're a member of a medical defence organisation and have not already contacted the organisation, you should do so urgently. [View contact details for the three main medical defence organisations.](#)

You can also organise your own legal representation by instructing a solicitor, barrister or legal executive to act on your behalf. You will be responsible for paying the fees of your appointed legal representatives.

- ▶ Solicitors: You can search for a law firm or solicitor according to geographical and practice area on the [Law Society's website](#).
- ▶ Legal executive: You can search for a chartered legal executive on the [Chartered Institute of Legal Executives' \(CILEx\) website](#).

- ▶ Barrister (or advocate if working in Scotland): You can find more information about instructing a barrister on the [Bar Council website](#).

If you cannot afford to pay for legal advice and representation, then you may be able to obtain assistance at a reduced fee or for free:

- ▶ [Advocate](#) is a charity which assists in finding free legal help from volunteer barristers.
- ▶ Organisations such as [Citizens Advice](#) and [Law Works](#) can also provide free legal advice.

## Other representation

You may be represented by someone from any professional organisation of which you are a member. The list of professional organisations we recognise is set out in our [guidance for MPTS Tribunals on representation](#).

You may decide that you would like a family member or other lay person to represent you. At the beginning of the hearing the MPT will decide if they are a suitable person to do this. To help reach this decision, the MPT will consider any available information, including the person's criminal record (if any) and history. Our [guidance for MPTS Tribunals on representation](#) provides further information.

## Self-representation

We strongly advise you to seek advice and be legally represented. However, if you decide to represent yourself at your hearing, you should take time to familiarise yourself with the hearing process. Representing yourself will mean that you will prepare your own case, speak on your own behalf at the MPT review hearing and (where applicable) ask questions of witnesses.

Please let the MPTS know as soon as possible if you have decided to represent yourself. You should also take time to read these resources, along with other documents provided to you by the GMC and the MPTS before the hearing takes place.

Further information is provided in Part 4 about what to do if you do not appoint a representative and do not wish to attend the MPT hearing, but wish to provide written submissions for the MPT to consider.

## Other sources of support

There are also sources of non-legal support available for you to use during the hearing process.

### Doctor support service

The GMC has commissioned the BMA's Doctors for Doctors service to provide independent, confidential and emotional support to any doctor involved in a fitness to practise case – you don't have to be a member of the BMA to use it. The service is free and run on a peer support basis so the people you speak to will be doctors themselves. You can contact them on their dedicated telephone line for support and, with sufficient notice, your supporter can accompany you for up to two days of an MPT hearing.

[Find more information about the BMA's doctor support service](#)

### Hearing information line

The hearing information line is run by volunteer students from BPP University School of Law, Manchester. The volunteers cannot comment on your case or give legal advice, but they can explain more about the hearing process and what to expect at the hearing centre.

[Find more information about the hearing information line](#)

### MPTS support service

The MPTS support service is provided by MPTS staff who can provide support and assistance to you prior to or during the hearing. They can provide information about the hearing process and signpost you to other support services that may be helpful when preparing for your hearing. MPTS staff are unable to discuss your case or provide legal advice. You can access this service by leaving a voicemail message on 0161 240 7178 or by emailing [MPTSsupport@mpts-uk.org](mailto:MPTSsupport@mpts-uk.org).

### Bringing a McKenzie friend

A McKenzie friend is someone who assists you in preparing your case by helping with paperwork and going with you to the hearing. They cannot represent you at the hearing, but they can suggest questions for you to ask.

Your McKenzie friend can also take notes for you of what is said during the hearing – you may find this useful when you are speaking to the IMT. Please note that MPTS staff will not be able to take notes for you.

While McKenzie friends may be knowledgeable about the hearing process, they are generally not legally qualified and there is no requirement for them to be. But you can use a legally qualified person to act for you in this capacity if you wish.

Anyone can act as a McKenzie friend, apart from someone who is to be a witness in the hearing. You will be responsible for paying any expenses that they may have.

If you intend to bring a McKenzie friend to your hearing, please inform us as soon as possible and complete [Form M1: Bringing a McKenzie Friend](#). Your McKenzie friend will be expected to agree to the code of conduct attached to the form.

### **Bringing a supporter**

A friend or family member can be present with you for moral support during your hearing, unless they are a witness in the hearing. Unless they are given permission by the MPT, your supporter will not be entitled to be heard at the hearing. They may be asked by the MPT to confirm who they are and that they understand their role is provide support only.

## Part 3:

# Hearing dates and pre-hearing case management



## Part 3: Hearing dates and pre-hearing case management

### Key points

- ▶ You will be notified by letter of the date of your MPT review hearing.
- ▶ You will be given instructions, known as case management directions, to comply with to make sure you are prepared for the hearing. It is important to comply with these directions, as there can be consequences for failing to do so.
- ▶ If you think it isn't possible for your review hearing to go ahead on the scheduled dates, you may apply for a postponement. It is important you set out the reasoning for your application clearly, along with any evidence.

### How and when will the hearing dates be set?

After your MPT hearing has ended, the GMC will notify the MPTS that a review hearing date is required. We use our case management procedure (explained below) to allocate hearing dates.

We aim to set a hearing date as soon as possible, taking into account the date when your sanction is due to expire and allowing reasonable preparation time for you and the GMC.

### Case management procedure

#### What is case management for?

We use case management to:

- ▶ encourage you and the GMC to prepare your cases, and to cooperate with each other to keep delays to a minimum
- ▶ facilitate the effective and efficient running of MPTS hearings
- ▶ minimise the stress on you and on witnesses at a review hearing by setting up an effective channel of communication during the pre-hearing period and seeking agreement about a number of key issues.

The case management procedure can't be used to decide whether a review hearing is required, or to challenge the decisions made by the previous MPT. You should make sure that you focus on preparatory issues, such as any remediation or retraining you have completed since the original MPT hearing.

## What does the procedure involve?

The majority of review hearings will receive the following case management procedure:

- ▶ **Direct listing:** This means that our Case Management team will set a hearing date and send written notification to you and the GMC. The hearing date will usually be shortly before expiry of your sanction; it is not possible for your review hearing to take place on a date after your sanction is due to have expired. The written notification will also include case management directions that you and the GMC must comply with before your hearing. The directions will normally include setting deadlines for providing the MPTS with agreed hearing bundles, witness timetables and details of preliminary legal arguments. If you are representing yourself, you may also be set a deadline to confirm whether you will attend and/or be represented at the hearing. Further information about direct listings can be found in our [direct listing procedure for MPT hearings guidance](#).
- ▶ **Pre-hearing meeting:** If you have any concerns about the case management directions, you can request a pre-hearing meeting to discuss them. Information on the pre-hearing meetings process is set out in Rule 16. The pre-hearing meeting will be chaired by one of our legally qualified case managers. The case manager plays a critical role in making sure that you and the GMC prepare properly for the review hearing, and that the review hearing will progress as smoothly as possible. Further information about pre-hearing meetings, including an agenda for the discussion, can be found in our [case management procedure for MPT hearings guidance](#).

## What happens at pre-hearing meetings?

If you request a pre-hearing meeting, we will invite you and the GMC to take part, and provide you with further information about how to participate. The pre-hearing meeting will be chaired by a legally qualified case manager and are usually held by telephone conference.

The case manager will work with you and the GMC to resolve any outstanding issues regarding hearing dates and preparation, where possible. The pre-hearing meeting will also give you the chance to ask questions and will help you identify the steps you need to take to prepare for the hearing.

The case manager can give legally binding directions to you or the GMC. For example, the case manager may give dates by which evidence must be gathered and shared. You and the GMC will both be expected to comply with all case management directions (see below).

## How to prepare for a pre-hearing meeting

When preparing for a pre-hearing meeting, you may wish to consider the following points.

Please note, recording and transcription of pre-hearing meetings is not permitted, including by artificial intelligence transcription services.

- ▶ Carefully read our [case management procedure for MPT hearings guidance](#). This gives further details about what to expect, including an outline agenda, which will usually be followed. Make notes of any points you wish to raise and any questions you would like to ask.
- ▶ Make sure that you have somewhere quiet to dial into the pre-hearing meeting where you will not be interrupted and can speak freely. Pre-hearing meetings usually last up to one hour.

## Will I get a record of the pre-hearing meeting?

Within seven days of the pre-hearing meeting, we will send you and the GMC a written record of the discussions. This will not be a full transcript of the discussions, but will highlight the main areas discussed. The written record will record any case management directions made. A copy of the written case management records will also be provided to the MPT reviewing your case, so that they know what was discussed and directed.

## Complying with Rules and case management directions

The MPT reviewing your case will expect that both you and the GMC will have complied with the [Rules](#) and case management directions, unless there has been a significant change in circumstances.

If you or the GMC do not comply with the Rules or case management directions, the MPT can take the following actions:

- ▶ draw an adverse inference
- ▶ refuse to admit evidence
- ▶ award costs.

It is therefore in your best interests to make sure that you comply with all of the Rules and case management directions given to you. **Failure to do so could have important consequences.**

Further information about the possible consequences of not complying with the Rules or case management directions can be found in [Part 11](#).

## Part 4:

# Receiving notice of your MPT review hearing



## Part 4: Receiving notice of your MPT review hearing

### Key points

- ▶ You will receive formal notice of your MPT review hearing at least 28 days in advance of the hearing, unless in exceptional circumstances
- ▶ It is for you to decide whether to attend your review hearing. If you choose not to attend, the hearing may proceed in your absence. You may submit written submissions instead if you wish to do so
- ▶ If you think it isn't possible for your review hearing to go ahead on the scheduled dates, you may apply for a postponement. It is important you set out the reasoning for your application clearly, along with any evidence

### Receiving notice of your review hearing

Although you will receive advance notice of your review hearing dates through our case management procedure (see [Part 3](#) for more information), you will also receive a formal Notice of Hearing from the MPTS at least 28 days before the hearing. The Notice of Hearing will:

- ▶ confirm the date, time and venue of the hearing
- ▶ confirm that you have the right to attend the hearing and be represented
- ▶ confirm that the review hearing can proceed in your absence if the MPT is satisfied that you have been given notice of the hearing
- ▶ explain the MPT's role and powers.

Please note that the MPTS may, where the MPTS considers it necessary to do so, hold MPT hearings as virtual hearings using Microsoft Teams. The Notice of Hearing will confirm whether your hearing is being held at the MPTS hearing centre or as a virtual hearing using [Microsoft Teams](#). Further information about attending a hearing by Microsoft Teams will be provided to you before the hearing and a test call can be arranged if required.

You will also receive separate correspondence from the GMC with a final copy of the hearing bundle, which the MPT reviewing your case will consider at the review hearing.

Ordinarily the MPTS publishes information about hearings on its [website](#) around six weeks before the hearing is due to start. More details about what information the MPTS publishes and makes available before, during and after a hearing can be found in [Part 12](#) and in our [MPTS Publication and disclosure: Information sheet](#).

## **Deciding to take part in your hearing**

You don't have to come to the MPT review hearing, but it is usually in your best interests to do so because of the potential impact on your GMC registration. For example, questions might arise that only you can answer, such as how you have addressed the issues identified by the previous MPT. If you have not already done so, please let us know if you will be attending the review hearing, if you will be represented and, if so, provide the name of your representative.

Please also let us know as soon as possible if you have any additional needs that affect whether you can come to the hearing (eg because of a disability or communication difficulty) and provide details of any reasonable adjustments required. The MPTS hearing centre has wheelchair access and a loop system for people with hearing loss.

The review hearing may go ahead without you or your representative being present if the MPT is satisfied that you have been given notice of the hearing and it is appropriate to proceed in your absence. It is your responsibility to keep your contact details up to date so we can contact you.

If you decide not to attend your MPT review hearing, you may still submit written comments to be considered by the MPT. You should send your written comments to your GMC contact by the date specified in any case management directions sent to you (further information about case management directions can be found in [Part 3](#)).

## **Children in hearings**

Please note that if you are attending the hearing we ask that you do not bring children, as they are not permitted in the hearing room. If you really have no option and they do attend the hearing centre, you must make sure the children will be supervised by an adult at all times. Our staff can't take responsibility for them.

## Asking to postpone your hearing

If you think that it isn't possible for your MPT review hearing to go ahead on the scheduled date you must make an application to the MPTS Case Management team at the earliest opportunity.

To make an application, please download and complete [Form P1: Postponement application](#) setting your application out in writing and send it to [MPTSCaseManagementTeam@mpts-uk.org](mailto:MPTSCaseManagementTeam@mpts-uk.org).

You should clearly explain your reasons for seeking a postponement, identify the length of postponement you wish to request and include any supporting documentation, such as copies of medical reports. A copy of your application will be shared with the GMC who will be asked to submit written comments in response.

Your application will then be considered by a legally qualified MPTS case manager. The MPTS case manager will balance your interests with the public interest, as well as fairness to both sides, when making their decision. The MPTS case manager will also take into account our [guidance for decision makers on postponements](#) – you may find it useful to consider this document before making your application.

Both you and the GMC will be notified of the decision in writing as soon as possible. If the postponement is agreed, your hearing will be rescheduled for a later date. If it is not agreed, your hearing will proceed as scheduled. If new issues arise after your postponement application has been decided, you can submit a new postponement application.

If the GMC or MPTS applies to postpone your MPT hearing, the same procedure will apply – you will be asked to submit written comments which will be considered by the MPTS case manager and will then be notified of the outcome.

## Part 5:

# Preparing for your MPT review hearing – practical steps



# Part 5: Preparing for your MPT review hearing – practical steps

## Key points

- ▶ It is vital to start preparing for your review hearing at the earliest opportunity. This will help you to meet the deadlines set and ensure you are well-prepared.
- ▶ If you will attend the review hearing, you may make oral submissions and question witnesses. If you will not attend the hearing, you may provide written submissions.
- ▶ Whether you intend to attend the review hearing or provide written submissions, it is important you prepare your submissions carefully and in advance of the hearing to prevent any delays in the hearing of your case.

## Issues to be considered

The hearing starts with an introduction to open the case, followed by up to two stages, depending on the outcome of each stage. The stages are to decide:

- ▶ if your fitness to practise remains impaired – see [Part 8](#)
- ▶ if so, what sanction should be imposed – see [Part 9](#).

At the end of each stage, the MPT will retire in camera (ie in private session without the parties or members of the public present) to make its decision. The MPT will then produce a written explanation of its decision (a determination). This will read out by the chair or handed down in public and made available to all parties.

## Considering previous tribunals' determinations

When preparing for the review hearing, it is essential to carefully consider the findings made by the previous MPTs that considered your fitness to practise. The determinations will explain the issues that previous tribunals identified as still needing to be addressed, and will often indicate evidence that the reviewing tribunal is likely to wish to see. If your registration has been subject to a period of conditions, it is also important to ensure that you have complied with those conditions.

You will need to decide whether or not you consider your fitness to practise remains impaired. If your position is that your fitness to practise is not impaired, it will be important to think about how you will show the MPT that you have addressed the deficiencies identified by the previous tribunal(s).

## **Deciding what preparation is required**

After considering the previous tribunal's determinations, you may find it useful to make a note of any information you wish to present to the MPT.

Depending on the nature of your case, some of the information you wish to provide may be collected by the GMC – such as reports from workplace reporters or medical supervisors. You should check with your GMC contact if you are not sure whether the GMC is obtaining information from someone involved in your case. If you have any documents you think the MPT need to consider, it is important you provide your GMC contact with copies as soon as possible, and no later than any deadlines issued through the case management process.

You will also need to consider whether you wish to question any GMC witnesses who may give evidence at your review hearing to test their evidence – this is known as cross-examination. For example, this may be relevant if you are undergoing health or performance assessments and wish to ask questions of the assessors appointed by the GMC. You should check with your GMC contact if you are not sure whether there are any witnesses who may give evidence at your hearing. Further guidance about obtaining different types of evidence and preparing cross-examination is set out at [Part 6](#).

You will also be given the opportunity to present your case on each stage to be considered by the reviewing MPT: this is called a submission. The GMC representative will make submissions on behalf of the GMC and then you will be invited to present your case. There are two types of submission you can make, which are explained below.

## **Types of submissions**

### **Oral or verbal submissions**

Oral submissions are when you make your arguments to the MPT by speaking at the hearing in person. If you will be represented at the hearing (see [Part 2](#) for further

information about representation), your representative will make submissions on your behalf.

It is strongly advisable to prepare your oral submissions in advance. To do this, you may wish to prepare an outline or bullet point list to help you remember the points you want to make. You will be given an opportunity to make submissions at the impairment and sanction stages (as applicable) of your review hearing.

### **Written submissions**

If you do not intend to attend or be represented at the hearing, you may send written submissions instead. You may also find it helpful to make written submissions if you are concerned about public speaking or to make sure that you make all the points you want to. Please note that, if you choose to use artificial intelligence to help prepare your written submissions, it remains your responsibility to ensure that the content is accurate, truthful and correctly sets out what you want to say.

It is essential to prepare and send your written submissions to the GMC and the MPTS in advance, ideally by email. This will allow us to ensure that your written submissions are provided to the MPT.

## **Preparing and making submissions**

### **Always adopt an organised approach to planning your submissions**

- ▶ Organise your points in a logical order, using clear headings.
- ▶ Think about how to break down the points you want to make, so that you can present your argument in manageable chunks. For example, if you have four reasons which support your view, say so and refer to each reason by number ('my first reason is...my second reason is...' etc.).
- ▶ Be prepared to tell the MPT where to find each piece of evidence that supports your position (for example, by referring to the page number in the hearing bundle). This way you can be confident that they are reading the information you want to draw to their attention while you are making the points you want to about it.
- ▶ Use plain English and aim to be as concise as possible, using short sentences. While you will be given the opportunity to make the points you wish to, the MPT will expect your submissions to be focused.

## **Practical points for oral submissions**

- ▶ Before the hearing, practise what you want to say by saying it out loud to a friend or family. This way you can check if it is easy to follow and understand and you can get a feel of the flow of your argument.
  
- ▶ During the hearing:
  - ▶ make sure your microphone is switched on. When you have finished speaking, remember to turn your microphone off
  
  - ▶ make sure you speak clearly and slowly so that the MPT can take notes, which it will refer to throughout the hearing and in making its decisions
  
  - ▶ when you finish your sentence, if the MPT is still writing, wait. When the MPT stops writing, start speaking again
  
  - ▶ don't interrupt the GMC representative when they are speaking to the MPT. You will be given a chance to speak when it is your turn. If, however, you think that you need to interrupt, make sure you do it in the right way: address the chair when the GMC representative comes to the end of their sentence and explain the reason for your interruption
  
  - ▶ listen carefully to any questions asked by the MPT and answer them clearly
  
  - ▶ try to stay calm and avoid using strongly emotional language.

## **Practical points for written submissions**

- ▶ Typed written submissions are preferable to handwritten notes.
  
- ▶ Use a large font like Arial 14. It makes it clear to read.
  
- ▶ Use headings to signpost each point you are making, and use bullet points or numbered points to make your arguments clear.

## **Other essential steps**

In the weeks running up to your MPT review hearing there are a number of key actions to take to make sure you are prepared for the hearing.

## Your disclosure

As explained in [Part 3](#), you will have received a deadline along with the GMC to provide an agreed hearing bundle of documents to the MPTS. It is important that you start your preparation at the earliest opportunity to make sure you can meet the deadline set.

## Preliminary legal arguments

If you or the GMC identifies a legal issue which needs to be addressed at the review hearing (for example, arguments about whether the MPT should receive certain documents, or that the hearing should be held in private), this will need to be considered by the MPT at the start of the hearing as a preliminary legal argument. You should inform your GMC contact and the MPTS as soon as you identify a preliminary legal argument you intend to raise.

The party raising the issue (known as the applying party) must produce a skeleton argument. A skeleton argument is a document that sets out the main points you want to make to the MPT in support of the application you are making. The applying party must send their skeleton argument to the responding party by the deadline specified in the case management directions you will have received.

The responding party must then produce a skeleton argument in response, and send it to the applying party by the deadline specified in the case management directions.

### *Practical points for preparing a skeleton argument*

- ▶ You may find it helpful to use the skeleton argument template in our [preliminary MPT hearings guidance](#).
- ▶ A skeleton argument should rarely exceed five pages.
- ▶ Try to use one side of the page only and use wide margins – this allows the MPT to write notes on your skeleton argument.
- ▶ Use at least 1.5 line spacing and a large, clear font.
- ▶ Number the pages and paragraphs. This makes it easier to refer to specific areas you wish to highlight.
- ▶ Use headings to introduce topics.

- ▶ Always provide a chronology in cases where dates are important.
- ▶ Use abbreviations wherever possible, but make sure that they can be understood by the MPT and the parties.

### **Hearing bundles**

While you are preparing your case, the GMC will be in contact with you about arrangements for the bundle of documents to be used at the review hearing, known as the hearing bundle. We have published guidance on [Hearing bundles for MPT hearings](#) which sets out what the MPT will expect from you and the GMC.

The hearing bundle will usually contain the determinations from all your previous MPT hearings in addition to all key documents since your last MPT hearing. If you have a question about the documents the GMC has provided (for example, if you think some important information is missing), you should raise this with your contact at the GMC without delay.

If you plan to produce any patient identifiable information at the review hearing we would remind you of the GMC guidance on [Confidentiality: good practice in handling patient information](#). It's important to make sure the documents you disclose comply with your responsibilities under data protection legislation. The party relying on a document is responsible for making sure any personal data appearing in that document is appropriately redacted.

### **Witness attendance**

While you are preparing your case, the GMC may be in contact with you about arrangements for the attendance of witnesses at the review hearing. In most cases, witness evidence will not be necessary and the MPT reviewing your case will only consider the hearing bundles. However, if you have undertaken a GMC health or performance assessment since your last MPT hearing, then you or the GMC may wish to call the assessors to give evidence.

If relying on witness evidence, the GMC may send you a draft witness timetable. This will set out which witnesses the GMC relies upon, when they will attend the MPT hearing and how it is intended for their evidence will be given – ie whether they will attend in person or give evidence by video link or telephone (subject to permission).

After you have carefully reviewed the draft witness timetable, you should reply to the GMC to confirm whether you have any comments to make. You must identify:

- ▶ if you think a witness may need to attend for longer than indicated on the timetable (for example, because you have a lot of questions for that witness)
- ▶ if you don't have any questions for a witness because you accept the contents of their witness statement or report. The GMC will usually stand these witnesses down so that they do not have to attend the hearing.

If you are relying on witness evidence, the GMC will also tell you which of your witnesses it wishes to question, so that you can make arrangements for those people to attend the review hearing. You should liaise with your contact at the GMC about when your witnesses are likely to be required. Please note that MPTS cannot pay for any travel or accommodation costs that you or any witnesses incur to attend the hearing.

#### *Video link or telephone evidence*

The GMC may inform you that it intends to make an application to the MPTS for permission for a witness to give evidence by video link or telephone. This can be for a variety of reasons – for example, if a witness lives overseas or is in poor health affecting their ability to travel. You also have the right to make applications for your witnesses to give evidence by video link or telephone if you wish to do so. If you or any of your witnesses intend to give evidence from outside of the United Kingdom, you must inform us as soon as possible following our guidance [Receiving witness evidence at MPT hearings](#).

Applications for video link or telephone evidence can be made in advance of or at the hearing, depending on the circumstances. Further information about these applications and how to apply is set out in our guidance [Receiving witness evidence at MPT hearings](#). To make an application in advance of the hearing, download and complete [Form W1: Remote evidence application](#) and submit it to [MPTSCaseManagementTeam@mpts-uk.org](mailto:MPTSCaseManagementTeam@mpts-uk.org).

## Part 6:

# Preparing for your MPT review hearing – disclosing evidence



# Part 6: Preparing for your MPT review hearing – disclosing evidence

## Key points

- ▶ It is important to disclose all evidence in good time in order to meet the case management deadlines set.
- ▶ If you will obtain witness statements, guidance is available to help ensure those documents meet the MPT's requirements.

## Disclosure of evidence

As explained in [Part 3](#), we will give you and the GMC a deadline to send to the MPTS an agreed hearing bundle for use at the MPT review hearing. The MPT will expect that both you and the GMC have sent each other the evidence you wish to use at the review hearing (known as disclosure) in good time and quickly enough to comply with this deadline. Failure to comply with the deadlines set can cause delays and may have important consequences – see [Part 11](#) – so it is in your best interests to make sure you disclose evidence in good time.

## Documents to be disclosed

You need to disclose to the GMC all documents which you want to refer to at the MPT review hearing. Depending on the nature of your case, this might include:

- ▶ documents, including witness statements and reflective statements
- ▶ relevant emails, letters and telephone notes
- ▶ copies of training course certificates, CPD records and other learning undertaken
- ▶ reports from workplace or medical supervisors or GPs/treating doctors.

If new information comes into your possession during the course of the hearing, you should let the GMC know about it, even if you don't intend to rely on it.

You do not have to disclose any correspondence, advice or recorded discussions between yourself and your legal representative – that is considered privileged information and you cannot be compelled to share it.

## **Expert evidence**

Expert evidence is the independent opinion provided by an expert about the issues relevant to your case. For example, in a health related case, expert opinion might be sought from an appropriate healthcare professional who undertakes an assessment of your health and advises the GMC about whether it affects your fitness to practise.

Expert witnesses give reports to the MPT, and attend the hearing if required, to give further evidence in person and to answer any questions that you, the GMC or the MPT may have.

Regardless of whether it is the GMC or you who commissioned the expert report, the expert witness's duty is solely to assist the MPT in understanding the issues in question. Their role is not to champion the case of whoever instructed them.

If the case relates to your health, the expert will be asked to provide a diagnosis and prognosis, together with details of any examination or testing they undertook or directed. If the expert identifies concerns about your health which may affect your ability to practise safely as a doctor they are likely to make recommendations about what they consider to be an appropriate outcome. For example, they could suggest that they believe you are fit to practise on a limited basis under certain restrictions, or they might recommend that you are not currently fit to practise at all.

Whatever recommendations an expert makes, the decisions at the hearing will be a matter for the MPT. If the MPT does not accept an expert's opinion it must explain its reasons.

## **Witness statements**

Any person who is called by you or the GMC to give factual evidence to the MPT must first provide a witness statement. A witness must take an oath or affirmation, and answer questions from the GMC's representative, you or your representative, or the MPT. If you choose to give evidence at your hearing, you'll become a witness and must provide a witness statement in advance.

A witness statement sets out a witness' recollection of the events in question and attaches any documents the witness refers to. You should bear in mind that a witness's written statement (and your written statement) will normally stand as evidence-in-chief. This means that there will be no need for the witness to give oral evidence except in response to cross-examination, re-examination and questions

from the MPT. This is to make sure that the hearing proceeds in an efficient manner and avoids unnecessary repetition of evidence.

Every witness must provide a witness statement in advance of the hearing so that both parties know what evidence the witness will give. However, it is possible to apply for permission for a witness' statement not to be provided to the Tribunal and for them instead to give oral evidence-in-chief at the hearing by being asked questions and answering them. Further information on oral evidence-in-chief can be found in our [receiving witness evidence guidance](#). To make an application in advance of the hearing, download and complete [Form W3: Oral evidence in chief application](#) and submit it to [MPTSCaseManagementTeam@mpts-uk.org](mailto:MPTSCaseManagementTeam@mpts-uk.org).

## Content and format of witness statements

Information about how to prepare witness statements is available in our [witness statement guidance](#), which also includes a template to use.

It is important that the statement is in the witness' own words, and is signed with a statement of truth, as shown in the template. You must not tell a witness what you want them to say or put words in their mouth.

Witness statements need to be clear and logical. It can often be helpful to set out information chronologically, or to use side headings to separate out different issues. When preparing your witness statement, you may also find it useful to refer back to the allegations you face, and address each paragraph in turn.

## Support for witnesses

If you are going to have witnesses attend the hearing to give evidence on your behalf, you may wish to direct them to the Witness Service, which offers free, independent and confidential support for all witnesses giving evidence to hearings – both for the doctor and for the GMC. It is run by the charity Victim Support on behalf of, but independent of, the GMC.

Further information for witnesses, including contact details for the Witness Support Service is available in our [Witness guide to hearings](#).

## Testimonial evidence

You may also wish to provide the MPT with evidence to support your character. You can provide testimonials from fellow doctors or other healthcare professionals and

patients, and you can call character witnesses to give evidence in person. These witnesses may be questioned by you, the GMC's representative and the MPT.

It is important to arrange any testimonial evidence before the review hearing, usually through asking your testimonial witnesses to provide a letter of support. The GMC will take steps to verify any testimonial evidence, using the process set out in its [published guidance](#). You should consider this guidance carefully, and make sure that your character witnesses are on standby to come to the hearing if necessary.

## Preparing for cross-examination

### Cross-examining GMC witnesses

At a review hearing you can question witnesses called by the GMC. This is usually referred to as cross-examination. It is important to think in advance about the questions you have for the GMC's witnesses.

When preparing your cross-examination, you may find it useful to consider the following points.

- ▶ Ask questions in a logical order.
  - ▶ You will find it useful to have previously written down a list of questions that you want to ask the witness.
  - ▶ Use a logical order, such as chronologically or in the order of the charges set out in the allegation.
  - ▶ Consider whether you want to ask closed questions, (those that can be answered with a single word, or short phrase) or open questions (such as 'How did...' or 'Can you tell me...'), which will generate a long answer.
- ▶ Ask one question at a time. It can be difficult for a witness to answer all parts of a multiple question and therefore you may only get an answer to part of it.
- ▶ Ask about inconsistencies, as a witness may have said something different at the hearing to what was set out in their witness statement.
- ▶ Don't argue with the witness.

- ▶ Although you are generally allowed to ask a witness questions which are relevant to the case, if you ask questions which are inappropriate or about irrelevant matters, then the MPT or the GMC representative may ask you to stop and move on to another question.

### **Will I be cross-examined?**

You can choose whether to give evidence on oath at your hearing. However, in some circumstances, if you choose not to answer questions or provide relevant evidence without reasonable explanation, the MPT may draw an [adverse inference](#).

If you decide to give evidence at your review hearing you will be cross examined by the GMC's representative and the MPT will ask you questions. You should try to be familiar with your witness statement or any other documents you have given to the GMC and MPT to consider on your behalf.

It is important to:

- ▶ listen carefully to the questions that you are being asked. Do not talk about matters which do not relate to the question
- ▶ take your time and give clear, considered answers
- ▶ if you do not remember something, say so
- ▶ do not argue with the person questioning you
- ▶ if a point of law is brought up that you do not understand, ask for an explanation.

## Part 7:

# During your MPT review hearing – starting the hearing



## Part 7: During your MPT review hearing – starting the hearing

### Key points

- ▶ If you are attending your review hearing, arrive at the MPTS hearing centre in good time to avoid delays.
- ▶ You will be given the opportunity to present your case to the MPT and will receive a written decision regarding the outcome.
- ▶ If you believe your review hearing cannot proceed for some reason, you can apply to the MPT for an adjournment. If the adjournment is refused, then you and the GMC will be expected to continue with the review hearing as planned.

### Arriving for your hearing

As explained in [Part 4](#), the MPTS may hold hearings at the MPTS hearing centre or as virtual hearings using Microsoft Teams. The Notice of Hearing will confirm whether your hearing is being held at the MPTS hearing centre or as a virtual hearing using Microsoft Teams.

### Virtual hearings

If your hearing is to be held as a virtual hearing using Microsoft Teams, you will be provided with details of how to access the hearing in advance. The details will include the terms and conditions for joining the hearing. These include, but are not limited to, not permitting audio/visual recording of the hearing, not sharing the hearing link with anyone else, and not using artificial intelligence to transcribe or take notes.

On the day of your hearing, you should aim to be ready at least 30 minutes before the hearing is due to start.

When you access the hearing via the link provided to you, you will be taken to a virtual waiting area until the hearing is ready to start.

### At the MPTS hearing centre

If your hearing is to be held at the MPTS hearing centre, you should aim to arrive at the MPTS hearing centre at least half an hour before your hearing is due to start.

[Find out how to get to our hearing centre.](#)

Please report to the MPTS reception desk on the 7<sup>th</sup> floor of St James's Building, where you will be greeted by MPTS staff. You will then be signed in and provided with a security pass which will allow you to get through security doors.

An MPTS staff member will then escort you to where your review hearing will be taking place and you will be shown your private waiting room – this waiting room will be available for your use only for the whole of your review hearing. There are free hot drinks and water situated on the corridors, and free public Wi-Fi is also available. If you are unable to access any of these facilities, please contact an MPTS staff member for assistance.

If you'd find it useful, you may be able to visit an empty hearing room, if one is available, to look at the layout before your hearing starts. Please speak to an MPTS tribunal assistant if you would like to do this.

## **Before your hearing starts**

An MPTS tribunal assistant will introduce themselves to you and provide you with updates on when the MPT will be ready to start your hearing. The MPTS staff member will not be able to discuss your case or provide legal advice. Where possible, the GMC's legal representative may also introduce themselves to you or your representative before the hearing.

## **Hearing timetable**

The chair is responsible for the timetable, but the day will usually start at 9.30 am and will finish around 5 pm. There is a lunch break of about an hour, usually sometime between 12 pm and 2 pm, and a 15-minute break mid-morning and mid-afternoon.

If you need a break for whatever reason at any time in connection with the case – for example, to write up your arguments – please ask for permission from the chair.

If a hearing lasts for more than one day, then it will adjourn at the end of each day and start again on the following morning. The MPT may also adjourn for longer periods if further evidence needs to be obtained or if a witness is ill. Information about applying for adjournment is provided separately below.

## **In the hearing room**

At the beginning of the hearing, the chair will introduce the tribunal members.

### **Preliminary legal arguments**

Before the MPT begins to consider whether or not your fitness to practise remains impaired, preliminary legal arguments will be dealt with, if there are any. See [Part 5](#) for more information about preparing for preliminary legal arguments. If either party is applying for the review hearing to be adjourned, this will also be considered at this time.

Before deciding how to proceed, the MPT will usually hear submissions from both parties. The legally qualified chair or the legal assessor will then give advice to the MPT in public. The MPT will then retire in camera to reach its decision before issuing its determination, which will usually be read out or handed down in public and made available to both parties.

### **Confirming your details**

If you are present, the chair will ask you to confirm your name and GMC number.

The hearing can take place without you or your representative, in which case the chair will ask the GMC's representative to confirm your name and GMC number. This may occur only when the MPT is satisfied that all reasonable efforts have been made to give you notice of the hearing, and has taken into account all the factors relevant to your case. Otherwise, the review hearing could be adjourned to a later date.

## **Adjourning your review hearing**

Both you and the GMC can apply to have your review hearing adjourned. An adjournment application can be made to the MPT in person for the review hearing to be temporarily stopped for a period of time (for example, 30 minutes or more) or adjourned to another day. The MPT can also decide to adjourn the review hearing if it feels it appropriate to do so.

You can apply to adjourn the review hearing at any stage once it has begun, as set out in Rule 29(2). Before deciding whether to adjourn, the MPT will hear submissions from you and the GMC about the application. If you are requesting an adjournment you should be prepared to explain why an adjournment is necessary and the length of adjournment required.

The legally qualified chair or the legal assessor (as applicable) may advise on any issues of law or procedure that the MPT must consider in making its decision. If the legally qualified chair or legal assessor gives advice before the MPT begins deciding the application, you and the GMC will hear it and be able to respond.

The MPT will then consider the application and make a decision in private session. It will then announce its decision to the parties.

If an application for an adjournment is refused, you and the GMC will be expected to be ready to continue with the review hearing. If the MPT accepts the application, or if it decides on its own motion to adjourn, the review hearing will be adjourned for an agreed period or to a date to be fixed by us.

## Part 8:

# During your MPT review hearing – impairment stage

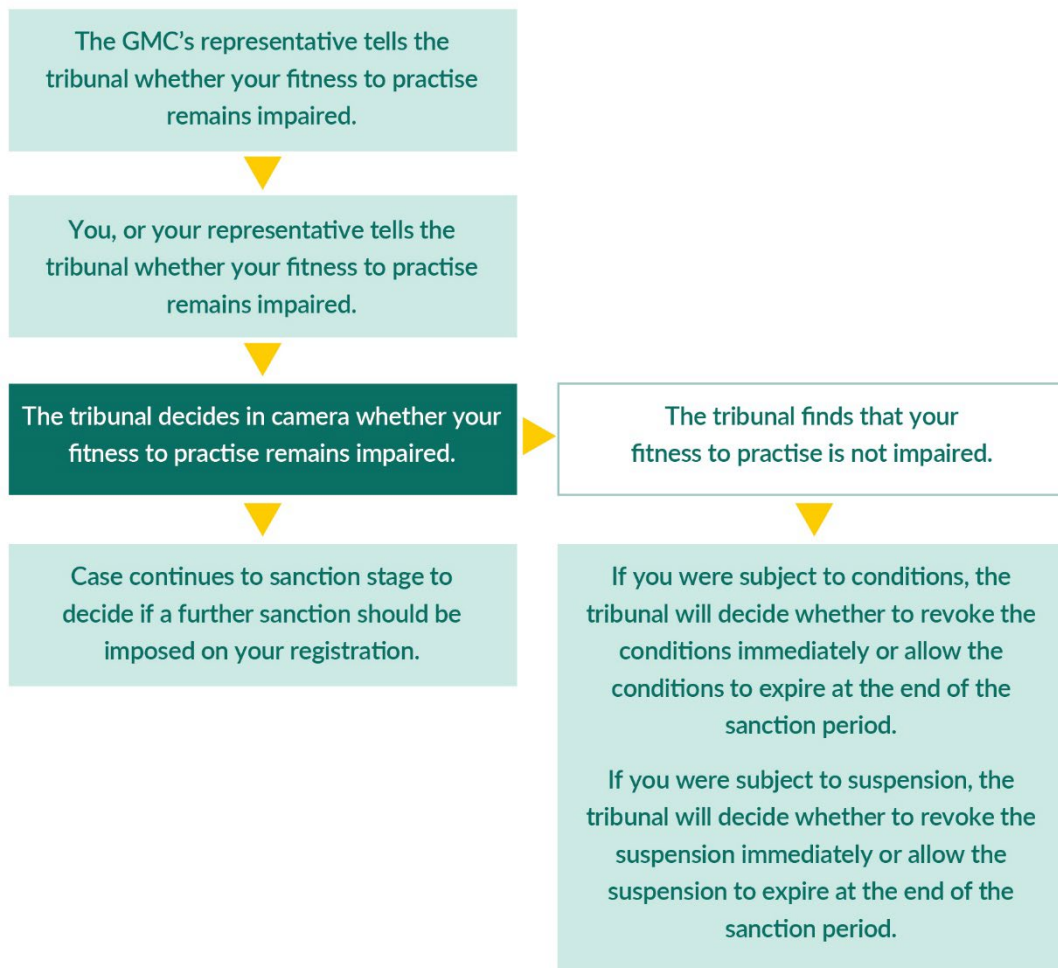


# Part 8: During your MPT review hearing – impairment stage

## Key points

- ▶ This stage focuses on whether your fitness to practise remains impaired following your last MPT hearing. Neither you nor the GMC can argue about the decisions made by previous MPTs.
- ▶ Both you and the GMC will have the opportunity to call witnesses (where necessary) and make submissions.

## Overview of the impairment stage



## Summary

- ▶ This stage is about whether your fitness to practise remains impaired. This is for the MPT to decide, exercising their judgement and applying relevant case law.
- ▶ Both the GMC's representative and you or your representative will be able to address the MPT about whether your fitness to practise remains impaired.
- ▶ Both parties can present evidence relating specifically to impairment. For example, you may wish to present evidence to the MPT about the insight you have into the concerns regarding your fitness to practise, and any steps you have taken to address those concerns. If you have obtained evidence from testimonial witnesses, this will also be relevant at this stage.
- ▶ The legally qualified chair/legal assessor may then advise the MPT before they retire in camera to make their decision about whether or not your fitness to practise remains impaired.
- ▶ Both you and the GMC representative will be invited back into the hearing room when the MPT has made its decision. A written copy of the decision will be provided with reasons for the MPT's outcome.

## Next steps

### MPT finds your fitness to practise is impaired

If the MPT decides that your fitness to practise remains impaired, it will go on to consider if any sanction should be imposed (the second stage of the review hearing process). Further information about this stage is available at [Part 9](#).

### MPT finds that your fitness to practise is not impaired

If the MPT finds that your fitness to practise is not impaired, it will decide whether to revoke your sanction immediately.

## Part 9:

# During your MPT review hearing – sanction stage

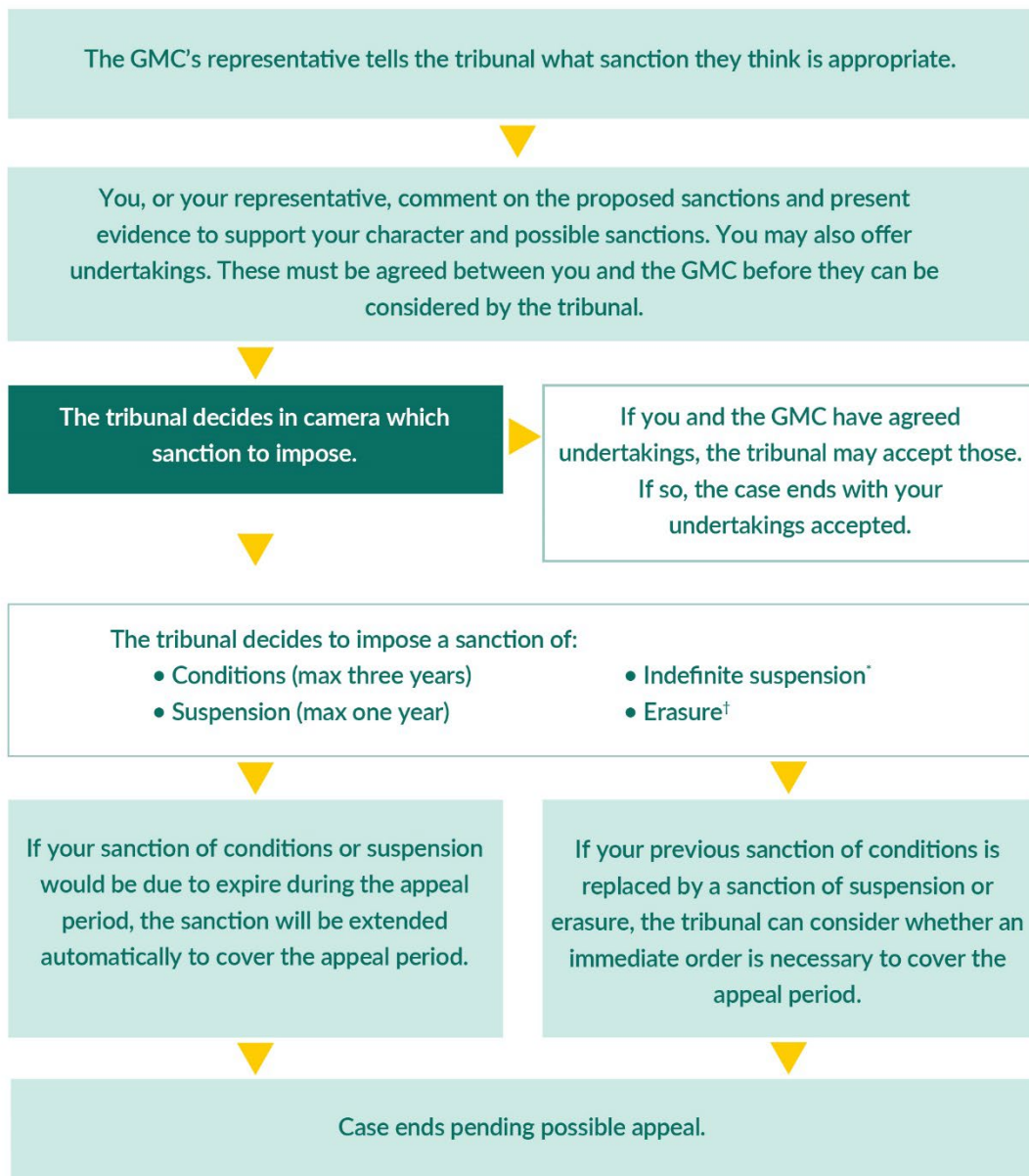


# Part 9: During your MPT review hearing – sanction stage

## Key points

- ▶ At this stage the MPT decides whether to impose a sanction on your registration.
- ▶ Both you and the GMC can call witnesses and make submissions.

## Overview of the sanction stage



\* Indefinite suspension is only available in cases relating solely to your health and/or knowledge of English, and where the other conditions of Section 35D(6) of the Act are met.

† The MPT cannot erase your name from the medical register if your case relates only to your health or your knowledge of English.

## Purpose of sanctions

The MPT's decision is not intended to be punitive, but it may have a punitive effect. The main reason for imposing sanctions is to protect the public, which includes:

- ▶ protecting, promoting and maintaining the health, safety and wellbeing of the public
- ▶ maintaining public confidence in the profession
- ▶ promoting and maintaining proper professional standards and conduct for the members of the profession.

## Guidance on sanctions

The MPT will carefully apply our guidance on MPT hearings when deciding on the appropriate outcome. The [section on sanctions](#) outlines the factors that should be considered when deciding what sanction to impose.

## Possible outcomes

The MPT can:

- ▶ accept undertakings agreed between you and the GMC
- ▶ impose a further sanction on your registration of:
  - ▶ specified conditions for up to three years
  - ▶ suspension for up to one year
  - ▶ indefinite suspension of your registration\* (available only in cases relating solely to your health and/or knowledge of English, and where certain conditions are met)
  - ▶ erasure of your name from the medical register.

The MPT cannot erase your name from the medical register if your case relates only to your health or your knowledge of English.

\* Available only in cases relating solely to your health and/or knowledge of English, and where the other conditions of Section 35D(6) of the Act are met.

## Summary

- ▶ This stage is about whether the MPT should impose a further sanction on your registration. This is for the MPT to decide, exercising their judgement and applying relevant guidance and case law.
- ▶ The GMC's representative will tell the MPT the further sanction they think is appropriate. This recommendation will be based on the *Sanctions guidance*.
- ▶ You or your representative will make a submission to the MPT setting out your views on any appropriate further sanction, as well as providing any further character or mitigation evidence. When considering your submissions, you may find it helpful to consider the following.
  - ▶ You can offer to voluntarily restrict your practice, which is known as an undertaking, for the MPT to consider as an alternative to imposing a further sanction. Undertakings can be presented for the MPT's consideration only if they have been agreed between you and the GMC. If you wish to suggest written undertakings, you should refer to [Agreeing a doctor's undertakings](#), which lists the kind of restrictions that the MPT may agree to, and our guidance document on undertakings, [Undertakings at MPT hearings](#).
  - ▶ If the MPT imposes further conditions on your registration to set out the limits within which you may practise, they will consider the guidance [Imposing conditions on a doctor's registration](#). This document sets out the wording the MPT should use when imposing conditions.
- ▶ The legally qualified chair/legal assessor may then advise the MPT before they retire in camera to make their decision about whether or not to impose a further sanction.
- ▶ Both you and the GMC representative will be invited back into the hearing room when the MPT has made its decision. A written copy of the decision will be provided with reasons for the MPT's outcome.

## Next steps

### MPT decides to impose a further sanction of conditions, suspension or erasure

After the MPT announce their decision on sanction and, where applicable, immediate order, that will be the end of the review hearing.

Any sanction order cannot take effect until 28 days after notice is deemed to have been served on you – this is known as the appeal period. However, your registration will remain restricted during this time:

- ▶ If your existing suspension or conditions would be due expire during the appeal period, the Act will operate to automatically extend your existing suspension or conditions (as the case may be) until the new sanction order takes effect.
  
- ▶ Where the MPT decides to:
  - ▶ erase your name from the medical register; or
  - ▶ impose a suspension order after you have been practising under conditions;

the MPT may impose an immediate order of suspension during the appeal period.

If you are in attendance at the review hearing, any immediate order made will take effect from when it is announced. If you are not present, any immediate order made will take effect from when notification of the review hearing outcome is deemed to have taken place. If you appeal the sanction, the immediate order will remain in place until the appeal concludes or is withdrawn.

# Part 10:

# Reviews on the papers



## Part 10: Reviews on the papers

### Key points

- ▶ Reviews on the papers are an alternative to an MPT review hearing. Their aim is to help you avoid the stress and inconvenience of attending a hearing in person.
- ▶ If you want your review to be considered on the papers, you need to respond quickly to the GMC, as reviews on the papers take place earlier than a review hearing.

### What are reviews on the papers?

The Act and Rules allow cases to be reviewed without the need for you or the GMC to attend a hearing. We call this a review on the papers – its aim is to help you avoid the stress and inconvenience of attending a hearing in person if you and the GMC agree on the proposed outcome.

### Which cases will be reviewed on the papers?

All cases that are due for a review are eligible for a review on papers, but a review on the papers won't always be possible. For a review on the papers to go ahead, cases must meet the following conditions:

- ▶ you and the GMC must agree on a proposed outcome
- ▶ there must be enough time to prepare for a review on the papers
- ▶ if applicable, you must have supplied evidence that you have complied with existing conditions

### How does the process work?

Your oral review hearing will remain scheduled to take place before your current sanction expires. But before your hearing takes place, the GMC will decide the outcome it proposes. If there is enough time before the hearing to carry out a review on the papers, the GMC will send you its submission.

If you don't agree with the GMC, or do agree but you or the GMC subsequently withdraw your agreement, your oral review hearing will go ahead.

## If you agree with the GMC's proposed outcome

The proposed outcome agreed between you and the GMC will be sent to the MPTS for consideration. This is called a submission.

The case will be reviewed by either a full tribunal or by a tribunal chair. In most cases it will be reviewed by a tribunal chair. A full tribunal would only review the case where it would be quicker to do so.

The chair or tribunal will consider:

- ▶ the agreement between you and the GMC
- ▶ a bundle of relevant documents (including evidence of compliance with conditions if applicable).

If the chair or tribunal is content with the agreed outcome, they will make an order based on the agreed terms. In this case, your oral hearing will be cancelled and the outcome of the review will be published in accordance with our policy on publication of decisions (for more information on publication, see [Part 12](#)).

If the chair or tribunal is not content with the proposed outcome, they can decide that your oral hearing should take place on the scheduled date. This might happen if they consider the proposed outcome to be insufficient to protect the public, or if they don't have enough information to make a decision.

## What will I need to do?

The GMC will contact you once you have been notified of a review hearing to explain the process for reaching agreement on a proposed outcome.

You should seek advice from your medical defence organisation or other legal representative before agreeing to the proposed outcome. If you do not have an appointed representative, you can contact the British Medical Association or another professional organisation of which you are a member. You should send them a copy of the GMC's submission.

The GMC will tell you if you need to send any specific information before the review, and when you need to send it by. For example, this might include evidence of complying with conditions.

If your case can't be reviewed on the papers, your oral hearing will go ahead. You should be prepared to attend the hearing until you receive confirmation that it has been cancelled.

## **What factors might prevent a review on the papers from going ahead?**

Where an assessment is needed (eg for health or performance reasons), sometimes it won't be possible for the results to be available in good time for an agreement to be reached.

If the review period is particularly short, there may not be enough time to prepare for a review on papers or to reach an agreement.

## **What if I don't agree with the proposed outcome?**

If you don't agree with the proposed outcome, you should let the GMC know. If an agreement isn't reached, the oral review hearing will go ahead.

## **What if I change my mind?**

If you change your mind, you must let us know before the review on the papers takes place. You will not be able to withdraw your agreement after the review on the papers has taken place. If you tell us that you would like to withdraw your agreement before the review on papers takes place, the oral hearing will go ahead as scheduled.

## **Can I submit a proposal?**

If you haven't yet received the GMC's proposal, you can ask the GMC to consider yours. The GMC might agree to your proposal, or make its own for you to consider.

## **What if something changes in my case?**

If there are changes in your case after you have agreed to an outcome, the GMC can withdraw its agreement. This might happen where new information is received that would affect the agreement you have reached. The GMC will tell you if this is the case. If there is enough time, it may be possible to reach a new agreement.

You can find more information about reviews on the papers in [our guidance for decision makers on reviews on the papers](#).

## Part 11:

# Consequences for failure to comply with Rules or case management directions



# Part 11: Consequences for failure to comply with Rules or case management directions

## Key points

- ▶ Before reading this Part, we strongly recommend reading [Part 3](#) regarding our case management procedure.
- ▶ There can be consequences for you or the GMC for failure to comply with the [Rules](#) or case management directions.

## Potential consequences for failure to comply

If you or the GMC do not comply with the Rules or case management directions, the MPT can take the following actions:

- ▶ draw an adverse inference
- ▶ refuse to admit evidence
- ▶ award costs.

The MPT will use the [guidance on MPT hearings](#) when deciding whether to take any of these actions, which are explained further below.

## Adverse inferences and refusals to admit evidence

### What does adverse inference mean?

In this context, to draw an adverse inference means that the MPT may draw a negative conclusion from a party's failure to comply with a Rule or case management direction.

### What does refusal to admit evidence mean?

A refusal to admit evidence means that the MPT may refuse to receive evidence (eg witness statements or other documents) where the party wishing to rely on that evidence has failed to comply with a rule or direction (see below).

## When can an MPT draw adverse inferences or refuse to admit evidence?

In certain rare circumstances, an MPT can under Rule 16(A) draw an adverse inference or refuse to admit evidence that you or the GMC want to rely on.

### When might an adverse inference be drawn?

An adverse inference can be drawn against a party who has failed to comply with a Rule or case management direction by not giving evidence (for example, witness statements or other documents). The MPT will consider:

- ▶ whether the failure to provide evidence has left the MPT unable to assess the quality of that evidence or determine what it means in the context of the case as a whole
- ▶ whether the failure to provide evidence was ill-motivated or made in bad faith, or whether there is another reasonable explanation for the failure.

Where those criteria are met, the MPT may draw an adverse inference if it is appropriate in all of the circumstances of the case. Two examples of what might cause the MPT to draw an adverse inference and, in italics, what the adverse inference might be, are as follows.

- ▶ If you fail to produce evidence in accordance with a Rule or a case management direction, without reasonable excuse, the MPT may conclude that the evidence *was not produced because it would be unfavourable to you.*
- ▶ If the GMC fails to comply with a direction to produce evidence by a certain date, but then gives this evidence at a later date and, in the absence of an adequate explanation, the evidence appears to have been altered, the MPT *may conclude that the evidence, before alteration, was unfavourable to the GMC.*

### When might an MPT refuse to admit evidence?

AN MPT can refuse to allow a party to rely on evidence where that party has failed to comply with a relevant Rule or case management direction relating to the production of that evidence. For example, if you or the GMC deliberately fail to disclose a document by a relevant deadline without good reason, the MPT can refuse to admit the evidence.

The MPT will refuse to admit evidence only where absolutely necessary. Factors that the MPT may consider when deciding on the admissibility of evidence will include:

- ▶ when the evidence was obtained
- ▶ the relevance of the evidence to the issues in the case
- ▶ any reasonable excuse given for the failure to produce the evidence in accordance with the Rule or case management direction
- ▶ whether there is any other mechanism, other than excluding the evidence, that would allow the hearing to proceed fairly.

### **How do I apply for the MPT to draw an adverse inference or refuse to admit evidence?**

If you wish to apply for the MPT to draw an adverse inference or refuse to admit evidence, you should inform the MPT at the earliest opportunity. When you receive notification of an application, the MPT will arrange time during the hearing for the matter to be addressed. You will be able to explain why you think the MPT should draw an adverse inference or refuse to admit evidence. The GMC will then have an opportunity to respond. After careful consideration of the arguments, the MPT will announce its decision and give full reasons for it.

## **Costs awards**

### **What is a costs award?**

A costs award is an order made by an MPT that one party (either you or the GMC) must pay some of the other party's costs. The party awarded costs is called the receiving party. The party ordered to pay costs is called the paying party. The MPT may consider making a costs award either if one party makes an application for costs, or of its own initiative.

If the MPT decides that a costs award should be made, the amount of costs payable will be assessed by a legally qualified case manager once the hearing has concluded.

## When can a costs award be made?

The MPT's decision on costs is separate from its decision on the fitness to practise proceedings. This means that even if the MPT finds that your fitness to practise is not impaired, the GMC could still make an application for costs against you. Equally, you can still make an application for costs, even if your fitness to practise is found impaired.

A costs award can only be made against a party if:

- ▶ they have failed to comply with a relevant rule or a direction **and**
- ▶ they have behaved unreasonably (see below).

If a costs award is made, the receiving party can only claim the amount that has been lost through time or money wasted because of the other party's failure to comply. You may be able to claim costs, but you cannot claim back all of your costs and nor can the GMC – please see [Form S1: Schedule of costs application](#). It is expected that costs awards will be made infrequently.

## What does unreasonable behaviour mean?

Unreasonable conduct describes behaviour that has no reasonable justification. It is not possible to give a finite list of what would be considered unreasonable conduct, as every case is different. But some examples include:

- ▶ improper treatment of witnesses (for example by being unnecessarily rude or aggressive)
- ▶ being deliberately dishonest
- ▶ purposefully being obstructive and obscuring the real issues in the case.

Unreasonable conduct could take place during the preparation for the hearing, or during the review hearing itself. A failure to comply with a relevant Rule or with a case management direction may itself amount to unreasonable conduct (eg if you or the GMC has an updated workplace supervisor's report to be used in the hearing, but fails, without reasonable excuse, to disclose the report until the last moment).

## How do I apply for a costs award?

You should only apply for a costs award if the GMC has failed to comply with a Rule or case management direction and you consider that the GMC has acted unreasonably. If this behaviour occurs before the start of the review hearing, you should immediately tell us that you intend to make an application for costs. If the review hearing has started, you should inform the MPT at the earliest opportunity. This is important because time needs to be set aside for the costs application to be heard.

On receiving notification of a costs application, or if the MPT itself decides that a costs award consideration should take place, the MPT will remind parties of the steps they need to take to prepare for the costs application.

Parties should inform the MPT of their intention to make a costs application without delay – the costs application itself will not be heard until the end of the review hearing. You and the GMC will be able to submit evidence and make submissions on the matter of whether a costs award should be made.

If the MPT decides that a costs award should be made against you or the GMC, it will announce its decision and provide written reasons. The amount of costs payable by the paying party will be assessed by a legally qualified case manager, once the review hearing has concluded.

## How will the case manager calculate the costs payable?

The case manager will need further information from the parties to calculate the costs that should be paid. The receiving party must prepare [Form S1: Schedule of costs application](#), which they should give to the case manager and the paying party within 28 days of the end of the hearing. The schedule of costs must be supported by evidence, where indicated.

The paying party will then have 28 days from receipt of the schedule of costs to serve their written response and evidence of their ability to pay. [Form S2: Ability to pay self-assessment application](#) should be prepared and submitted, and must be supported by evidence where indicated.

If either party is unable to comply with the 28-day timeframe, they can ask for an extension of time. However, the case manager will only allow extra time if there is a good reason for the request. You should assume that you will only have 28 days to

submit your schedule or response, with the relevant evidence, and make preparations accordingly.

### **What is included in a schedule of costs?**

The case manager will only allow claims in respect of costs that have been incurred or wasted as a result of the paying party's failure to comply with a relevant Rule or case management direction. If a cost would have been incurred in any event, the claim for that particular cost will not be allowed. Only reasonably incurred costs will be recoverable and the amount awarded is subject to an overall cap. You can find further information in [Guidance for case managers on the assessment of costs](#).

### **How long will the paying party have to make the payment?**

Costs will usually be payable 14 days after the date of the assessment of costs, unless the case manager specifies a different period.

### **What happens to the costs assessment if an appeal has been lodged?**

Where a party seeks to appeal the outcome of an MPT review hearing, the case manager will usually assess the costs to be paid in accordance with the usual timetable. In exceptional circumstances, the case manager may decide to postpone the costs assessment until the outcome of the appeal is known.

## Part 12:

# After your MPT review hearing



## Part 12: After your MPT review hearing

### Key points

- ▶ We publish information about MPT review hearings to be open and transparent and to comply with legal requirements. Any information that relates solely to a doctor's health will not be published.
- ▶ If you gained your primary medical qualification outside of the UK, the GMC will contact the medical regulator of that country and inform them of your review hearing outcome
- ▶ The outcome of the MPT review hearing may be appealed by you or by the GMC
- ▶ If your registration is made subject to a further order of conditions or suspension, your case will be reviewed again by the MPT towards end of the next sanction period

### Notification of the hearing outcome

At the end of the review hearing, the chair will read out the MPT's decision and the tribunal clerk will give you a written copy. If the MPT has decided to suspend your registration or to erase your name from the medical register, you may be asked to sign to confirm that you have received the copy.

If you chose not to attend the review hearing, we'll send you written confirmation of the outcome immediately after the review hearing by registered post, and by email if you gave us or the GMC an email address to use in relation to fitness to practise matters.

### Publishing decisions

Detail about what information the MPTS publishes and makes available before, during and after a hearing can be found in our [MPTS Publication and disclosure: Information sheet](#).

### Why are decisions published?

We have a statutory duty to publish a range of decisions including those made by the MPT. We also have a discretionary power to withhold any information concerning the physical or mental health of a person which is considered to be confidential.

We believe that openness about our processes and the decisions made by our tribunals and by individual tribunal members is of benefit to everyone involved in our hearings. This includes publishing information about a doctor's registration in a format that is easily accessible.

Our hearing decisions and reviews on the papers decisions made by tribunal chairs are published in two places:

- ▶ in the medical register on the GMC website. This is an online database of all doctors registered with the GMC. [View the medical register](#).
- ▶ [on the recent decisions page of our website](#).

### **What information is published?**

We publish decisions about review hearings on the recent decisions page of our website and on the medical register regardless of the outcome of the hearing or of the review on the papers.

### **What information is not published?**

We do not publish any information about a doctor's health, including the details of conditions or undertakings that relate solely to health. Where details about a doctor's health are disclosed during any part of a hearing that is held in public, or in a review on the papers this information is redacted from any published decisions.

### **Overseas regulators**

The GMC has a commitment to exchange information between medical regulators. Therefore, if you gained your primary medical qualification outside the UK, or your registered address is outside the UK, the GMC will contact the medical regulator in that country at the end of your review hearing, if the MPT directs that further conditions be imposed on your registration or that your registration be further suspended.

# Making an appeal against the decision

## Your right of appeal

The statutory period to lodge an appeal is 28 days. You can appeal – to the High Court in England and Wales, to the Court of Session in Scotland, or to the High Court of Justice in Northern Ireland – against any MPT decision that restricts or removes your registration. The written notification of the hearing outcome will include details of the appeal process and the applicable deadline.

If you appeal, any immediate order will take effect, but the sanction won't come into effect until the appeal ends or is withdrawn.

If you appeal, any immediate order will take effect, but the sanction won't come into effect until the appeal ends or is withdrawn.

MPTS staff cannot advise you in relation to appealing an MPT decision. You may wish to seek legal advice to assist you – see [Part 2](#) for details of organisations which may be able to assist.

## Other appeals

The GMC has the power to appeal if it considers that the review hearing outcome is not sufficient for the protection of the public, the GMC's overarching objective. Any appeal must be made within 28 days of notification of the decision. If the GMC decide to lodge an appeal, you will be served notice directly by the GMC.

The [Professional Standards Authority](#) may also refer decisions to court that they think are not sufficient for the protection of the public. The PSA will notify you if they make a referral decision and further information about the PSA, including timeframes for referring decisions, is available on their website or by telephone on 020 7389 8030.

# Useful links



# Useful Links

Our website:

[www.mpts-uk.org](http://www.mpts-uk.org)

Our resources for parties and representatives:

[www.mpts-uk.org/parties-and-representatives](http://www.mpts-uk.org/parties-and-representatives)

Our legislation pages:

[www.mpts-uk.org/legislation](http://www.mpts-uk.org/legislation)

## Part 1

Our publication and disclosure information sheet:

[www.mpts-uk.org/publication-and-disclosure-information](http://www.mpts-uk.org/publication-and-disclosure-information)

Our legislation pages:

[www.mpts-uk.org/legislation](http://www.mpts-uk.org/legislation)

How to find us:

[www.mpts-uk.org/contact-us](http://www.mpts-uk.org/contact-us)

Take a virtual tour of the hearing centre:

[www.mpts-uk.org/attending-a-hearing](http://www.mpts-uk.org/attending-a-hearing)

## Part 2

Contact details of the three main defence unions:

[www.mpts-uk.org/support-from-organisations](http://www.mpts-uk.org/support-from-organisations)

The Law Society:

<https://solicitors.lawsociety.org.uk/>

The Chartered Institute of Legal Executives' (CILEx):

<https://cilexportal.cilexgroup.org.uk/CILEx-Directory>

The Bar Council:

<https://www.barcouncil.org.uk/bar-council-services/for-the-public.html>

Advocate:

<https://weareadvocate.org.uk/>

Citizen's Advice:

<https://www.citizensadvice.org.uk/>

Law Works:

<https://www.lawworks.org.uk/>

Our guidance for decision makers on representation:

[www.mpts-uk.org/doctors-procedural-representation-at-hearings](http://www.mpts-uk.org/doctors-procedural-representation-at-hearings)

The BMA's Doctor Support Service:

[www.bma.org.uk/advice-and-support/your-wellbeing/wellbeing-support-services/gmc-investigation-support-doctor-support-service](http://www.bma.org.uk/advice-and-support/your-wellbeing/wellbeing-support-services/gmc-investigation-support-doctor-support-service)

The Hearing Information Line:

[www.mpts-uk.org/hearing-information-line](http://www.mpts-uk.org/hearing-information-line)

Our McKenzie Friend form, Form M1, can be found here:

[www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#mpt](http://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#mpt)

### **Part 3**

Our Direct Listing Procedure for MPT hearings guidance:

[www.mpts-uk.org/direct-listing-MPT-hearings](http://www.mpts-uk.org/direct-listing-MPT-hearings)

Our Case Management Procedure for MPT hearings guidance:

[www.mpts-uk.org/case-management-procedure-guidance-MPT](http://www.mpts-uk.org/case-management-procedure-guidance-MPT)

Our legislation pages:

[www.mpts-uk.org/legislation](http://www.mpts-uk.org/legislation)

### **Part 4**

Our guidance for virtual hearings:

[www.mpts-uk.org/virtualhearing](http://www.mpts-uk.org/virtualhearing)

Our legislation pages:

[www.mpts-uk.org/legislation](http://www.mpts-uk.org/legislation)

Our website:

[www.mpts-uk.org](http://www.mpts-uk.org)

Our publication and disclosure information sheet:

[www.mpts-uk.org/publication-and-disclosure-information](http://www.mpts-uk.org/publication-and-disclosure-information)

Our postponement application form, Form P1, can be found here:

[www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings](http://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings)

Our guidance for decision makers on postponements:

[www.mpts-uk.org/postponement-guidance-MPT](http://www.mpts-uk.org/postponement-guidance-MPT)

## **Part 5**

Our skeleton argument template (Annex A):

[www.mpts-uk.org/preliminary-MPT-hearings](http://www.mpts-uk.org/preliminary-MPT-hearings)

Our guidance on hearing bundles for MPT hearings:

[www.mpts-uk.org/hearing-bundles-guidance-MPT](http://www.mpts-uk.org/hearing-bundles-guidance-MPT)

The GMC's guidance on confidentiality:

[www.gmc-uk.org/confidentiality](http://www.gmc-uk.org/confidentiality)

Our guidance on receiving witness evidence at MPT hearings:

[www.mpts-uk.org/receiving-witness-evidence-MPT](http://www.mpts-uk.org/receiving-witness-evidence-MPT)

Our remote evidence application form, Form W1, can be found here:

[www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings](http://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings)

## **Part 6**

Our guidance on the instruction of expert witnesses:

[www.mpts-uk.org/expert-witness-protocol](http://www.mpts-uk.org/expert-witness-protocol)

Our guidance on receiving witness evidence at MPT hearings:

[www.mpts-uk.org/receiving-witness-evidence-MPT](http://www.mpts-uk.org/receiving-witness-evidence-MPT)

Our oral evidence in chief application form, Form W3, can be found here:

[www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings](http://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings)

Our witness statement guidance:

[www.mpts-uk.org/witness-statement-guidance](http://www.mpts-uk.org/witness-statement-guidance)

Our witness guide to hearings:

[www.mpts-uk.org/witnesses/witness-guide-to-hearings/](http://www.mpts-uk.org/witnesses/witness-guide-to-hearings/)

The GMC's guidance on testimonial evidence:

[www.gmc-uk.org/testimonial-evidence-guidance](http://www.gmc-uk.org/testimonial-evidence-guidance)

Our guidance for MPTs on drawing adverse inferences in MPT hearings:

[www.mpts-uk.org/doctors-MPT-inferences](http://www.mpts-uk.org/doctors-MPT-inferences)

## **Part 7**

How to get to our hearing centre:

[www.mpts-uk.org/attending-a-hearing](http://www.mpts-uk.org/attending-a-hearing)

## **Part 9**

Our guidance for MPTs on imposing sanctions in MPT hearings:

[www.mpts-uk.org/doctors-MPT-decision-on-sanction](http://www.mpts-uk.org/doctors-MPT-decision-on-sanction)

The GMC's guidance on undertakings:

[www.gmc-uk.org/undertakings-bank](http://www.gmc-uk.org/undertakings-bank)

Our guidance on undertakings:

[www.mpts-uk.org/undertakings-at-MPT-hearings](http://www.mpts-uk.org/undertakings-at-MPT-hearings)

Guidance on imposing conditions:

[www.mpts-uk.org/conditions-and-undertakings](http://www.mpts-uk.org/conditions-and-undertakings)

## **Part 10**

Our policy for MPTs and chairs conducting reviews on the papers:

[www.mpts-uk.org/guidance-for-reviews-on-the-papers](http://www.mpts-uk.org/guidance-for-reviews-on-the-papers)

## **Part 11:**

Our legislation pages:

[www.mpts-uk.org/legislation](http://www.mpts-uk.org/legislation)

Our guidance for MPTs when they decide to take action as a consequence of failing to comply with a Rule or case management direction:

[www.mpts-uk.org/doctors-procedural-failure-to-comply-with-rules](http://www.mpts-uk.org/doctors-procedural-failure-to-comply-with-rules)

Our schedule of costs form, Form S1, can be found here:

[www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings](http://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings)

Our ability to pay self-assessment form, Form S2, can be found here:

[www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings](http://www.mpts-uk.org/parties-and-representatives/hearing-resources-for-doctors#listings)

Our guidance for case managers on the assessment of costs:

[www.mpts-uk.org/guidance-for-case-managers-on-assessing-costs-mpt](http://www.mpts-uk.org/guidance-for-case-managers-on-assessing-costs-mpt)

## **Part 12:**

Our publication and disclosure information sheet:

[www.mpts-uk.org/publication-and-disclosure-information](http://www.mpts-uk.org/publication-and-disclosure-information)

The medical register:

[www.gmc-uk.org/registration-and-licensing/our-registers](http://www.gmc-uk.org/registration-and-licensing/our-registers)

A full list of recent decisions:

<https://www.mpts-uk.org/hearings-and-decisions>

The GMC's publication and disclosure policy:

[www.gmc-uk.org/disclosurepolicy](http://www.gmc-uk.org/disclosurepolicy)

The Professional Standards Authority:

[www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)



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You are welcome to contact us in Welsh. We will respond in Welsh, without this causing additional delay.

Mae croeso i chi gysylltu â ni yn Gymraeg. Byddwn yn ymateb yn Gymraeg, heb i hyn achosi oedi ychwanegol.