

Direct Listing Procedure for Associates Tribunal Hearings

Guidance for Decision Makers, Parties and Representatives

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Introduction

This guidance is for parties, representatives and decision makers, and explains the case management procedures we use to organise Associates Tribunal (AT) hearings. This guidance does not apply to Interim Measures Tribunal hearings.

References in this guidance to:

- ▶ **the Rules** are to the GMC (Fitness to Practise) (Anaesthesia and Physician Associates) Rules 2024. A copy of the Rules can be found on our [website](#)*
- ▶ **the parties** are to the GMC and the registrant whose case is under consideration.

Role of the MPTS

The MPTS makes independent, evidence-based decisions about a registrant's fitness to practise. It is a statutory committee of the General Medical Council (GMC) but fully independent in its decision making and accountability to Parliament.

The Rules relating to our hearings include case management powers to allow the MPTS to facilitate the efficient and fair determination of cases.

Additional guidance for registrants

We have created a series of [Resource for PAs and AAs](#) guides to support registrants who have been referred to an AT hearing. The guides include an explanation of case management processes, which may be particularly helpful starting point for registrants without legal representation. Copies of [Resource for PAs and AAs](#) can be found on our website[†].

Contacting us

We have aimed to answer common queries regarding the listing and case management of AT hearings in this guidance. However, if you have a query that is not answered here, please contact the MPTS Case Management team at mptscasemanagementteam@mpts-uk.org or on 0161 240 7240.

* www.mpts-uk.org/legislation

† www.mpts-uk.org/parties-and-representatives/hearing-resources-for-pas-and-aas

Overview of case management

This section provides a summary of how the MPTS case management procedure works, including when and how case management will apply to your hearing.

Who manages the case management procedure?

Our listing and case management procedures are managed by the MPTS Case Management team. The MPTS Case Management team are responsible for the scheduling of hearings, setting the timetable for both parties to prepare for the hearing and ensuring that other MPTS teams have the information they need to provide all aspects of hearing administration and support.

What is case management for?

Our case management procedure is intended to:

- ▶ Encourage both parties to prepare their case and co-operate with each other in order to keep delays to a minimum
- ▶ Facilitate the effective and efficient running of AT hearings
- ▶ Minimise the stress on registrants and witnesses at a hearing, by setting up an effective channel of communication during the pre-hearing period and by seeking agreement on key issues.

The case management procedure is not an opportunity to challenge the GMC's decision to refer the case to the MPTS, or to test the evidence before a hearing. The MPTS Case Management team cannot provide legal advice, make decisions about the facts of a case or whether a referral to hearing should be cancelled.

Is it compulsory to participate in the case management process?

Participation in case management discussions is voluntary, although we strongly encourage all parties to participate. A failure or delay in participation will not delay the listing of a hearing and may result in the hearing being listed without the absent party's availability being taken into account. Any case management directions issued by an MPTS Case Manager will still be legally binding upon a party that chooses not to participate in the case management procedure.

While we strongly encourage all parties to obtain legal representation promptly if they wish to do so, it is not necessary to have a legal representative in order to participate in the case management procedure. Self-represented registrants are especially encouraged to participate as case management discussions can provide a helpful opportunity to ask questions about the hearing process.

When will the hearing take place?

The case management procedure aims to ensure that all cases are heard within the MPTS service target of 9 months from the date of the GMC's referral decision. While all cases should be listed by the service target date, our aim is to list all hearings at the earliest fair opportunity.

Generally, this means that longer and more complex cases are likely to be listed close to the service target date to allow more preparation time for both parties. For shorter cases, less preparation time will be required and so the case will often be listed earlier, in the interests of all parties.

Direct listing procedure

Case management procedures apply to all types of AT hearings. To ensure that cases are dealt with fairly and justly, we apply a proportionate approach to the case management of each case. This means that for case types that are likely to be suited to shorter hearings with a limited range of issues to be determined, we allocate hearing dates on the papers, known as a direct listing.

When does the direct listing procedure apply case management procedures apply?

The table below sets out our typical approach for directly listed hearings. However, the MPTS Case Management team may decide to apply a different approach depending on the needs of individual cases. For example, we will carefully consider the appropriate level of case management for all cases where a party does not have legal representation or where the matter is particularly complex, as well as reasonable requests from parties.

Hearing description	Typical case management
Direct listing hearings , including: <ul style="list-style-type: none">▶ New AT hearings based solely on a criminal conviction▶ AT Review hearings▶ Re-entry hearings	<ul style="list-style-type: none">▶ Hearing dates allocated and listings instructions issued by the MPTS Case Management team in writing without telephone conference▶ Parties may be invited to participate in, or may request, a Pre-Hearing Meeting

In addition to the guidelines above, the MPTS will carefully consider the appropriate level of case management for all cases where a party does not have legal representation. In such cases, the MPTS will consider whether it would be beneficial for additional listing telephone conferences and/or pre-hearing meetings to be held.

What does the case management process involve?

The parties will be allocated a hearing date by written correspondence from the MPTS Case Management team, which will also include legally binding **case management directions** made by a legally qualified **MPTS Case Manager**.

The aim of case management directions is to provide a framework for the parties to prepare their cases and exchange information to ensure efficient use of hearing time. The AT will be provided with a copy of any directions made in the case.

The AT will expect parties to have complied with any listings instructions and directions made in the case, unless there has been a material change of circumstances.

If a party does not comply with listings instructions and/or directions, the AT has the discretion to:

- ▶ Draw adverse inferences
- ▶ Refuse to admit the evidence
- ▶ Award costs.

Further information about the potential consequences of not complying with listings instructions and/or directions is available on our [website](#) ^{*}.

^{*} www.mpts-uk.org/pa-and-aa-procedural-failure-to-comply-with-rules

Listing the hearing

When the case has been referred to the MPTS, the GMC's representative will complete the applicable referral form as soon as possible and send a copy to provide the MPTS Case Management team and the registrant or their representative. The purpose of the referral form is to provide information to inform the listing of the hearing. The registrant or their representative will also need to complete their sections of the referral form by the applicable deadline.

The applicable referral form to be completed will depend on the hearing type:

Hearing type	Referral Form	GMC to complete	Registrant to complete
New AT hearing based solely on a <u>criminal conviction</u>	Form R6	As soon as possible following referral	Within 7 days from receipt of GMC form
Re-entry hearing	Form R7	As soon as possible following referral	Within 7 days from receipt of GMC form
AT Review hearings	Form R8	As soon as possible after hearing conduct has been allocated to a legal representative	Within 14 days from receipt of GMC form

The MPTS Case Management team will then set a hearing date and inform both parties in writing. The notification to parties will set a deadline to raise any objections to the hearing dates allocated. If one or both parties fails to return a referral form on time, the MPTS Case Management team may nevertheless proceed to set a hearing date in order to avoid undue delay.

Hearing preparations and case management directions

When notifying parties of the hearing date(s), the MPTS Case Management team will also issue case management directions to the parties. The directions will set out key dates each party must comply with to ensure that they are fully prepared for the hearing.

Parties may be directed to complete and file a pre-hearing certificate ahead of the hearing:

- ▶ For New AT hearings based upon solely upon a criminal conviction, [Form C3: Pre-hearing certificate for New AT hearings](#)

- ▶ For all other directly listed hearings, [Form C4: Pre-hearing certificate for other AT hearings](#)

The pre-hearing certificate requires parties to confirm readiness ahead of the hearing and to provide other key information that may be relevant to the management of the hearing.

Depending on the circumstances of the case, parties may also be invited to participate in a pre-hearing meeting. In all other cases parties may request a pre-hearing meeting if they wish to do so.

Pre-hearing meetings

The majority of directly listed cases will not require a pre-hearing meeting, which is a telephone conference with a legally qualified MPTS Case Manager to discuss hearing preparation. However, one may be requested by a party or an MPTS Case Manager may determine that the relevant hearing would benefit from a pre-hearing meeting taking place.

Timescales

Where possible, the MPTS works to the indicative timeline outlined below:

Action	Timescale
Pre-hearing meeting chaired by an MPTS Case Manager to confirm hearing dates and to consider any legal and procedural issues within the MPTS Case Manager's remit.	Approximately mid-way through overall preparation period, or as required
A record of the discussion and directions made to be prepared by the MPTS Case Manager and issued to parties.	Within 7 days of pre-hearing meeting

What will happen

The pre-hearing meeting will be chaired by an MPTS Case Manager and will involve both the GMC's representative and the registrant and/or their legal representative.

The date and time for the pre-hearing meeting will be agreed in writing, following a request being made of an MPTS Case Manager identifying the need for a pre-hearing meeting. The pre-hearing meeting will go ahead even if only one party agrees to participate.

Parties will be provided with an agenda of the matters to be discussed at a pre-hearing meeting. Parties must ensure they are prepared to discuss all matters listed to the extent they apply.

Guidance on how to join a case management discussion is provided at **Annex A**.

Pre-hearing meeting case management directions

After the pre-hearing meeting, the parties will be issued with case management directions made by the case manager. These directions are legally binding, and a failure to comply with those directions may have serious consequences, as explained at page 7 above.

Copies of all directions will be provided to the AT. Where the MPTS Case Manager has issued a direction in relation to a particular issue, ATs must proceed in accordance with that direction unless there is a material change in circumstances or it is otherwise in the interests of justice to proceed differently.

Points to note

Parties should also note:

- ▶ Both parties are encouraged to provide relevant information in advance of the pre-hearing meeting to assist the MPTS Case Manager in preparing for the discussion.
- ▶ Both parties are expected to be open and transparent regarding their hearing preparation so that the MPTS Case Manager can properly evaluate whether the listing length is appropriate and can make directions to ensure that MPTS hearing resources are used effectively.
- ▶ The MPTS Case Manager will prepare a record of the pre-hearing meeting and will arrange for it to be issued to all parties, whether or not they took part. This record will be limited to key aspects of the discussion only and is not intended to be a verbatim record. Participants may request amendments to the record if they do not think it reflects the discussion accurately, but the final decision on the content of the record will rest with the MPTS Case Manager.

Frequently asked questions

Preparation timescales and deadlines

I am unable to comply with a deadline on my case. Can I request an extension?

We expect all deadlines to be adhered to as far as reasonably possible, in order to ensure efficient hearing preparation and use of tribunal time. However, parties may request an extension to case management directions and listing instructions deadlines where necessary.

All applications for an extension must clearly explain why the extension is required and ensure that any additional time requested is reasonable and proportionate, bearing in mind any potential impact on the other party and the viability of the listing. Applications for extensions will be determined by an MPTS Case Manager or other senior members of the MPTS Case Management team.

Amending or postponing hearing dates

My case was listed last week, but a key participant is not available for the dates allocated. Can the hearing dates be changed?

Once a hearing has been listed, a party can make written representations for a change of hearing date. All requests will be dealt with on their own merits. Written representations must be received by the MPTS Case Management team **by no later than the date stated in the listing notification letter**, or as soon as possible when there has been a change in circumstances. All applications should be supported by evidence wherever possible and will be decided by an MPTS Case Manager.

My case has been listed for hearing, but I would like to apply for a postponement. How do I make a postponement application?

It is expected that parties will work towards the provisional listing date, however, it is accepted that there will be occasions when it is necessary to reschedule hearing dates. All applications for a postponement must be made on [Form P3: AT postponement or further adjournment application](#) and sent to the MPTS Case Management team. Postponement applications will be determined by an MPTS Case Manager.

Where the proposed length of postponement would take a hearing outside service target, the applying party should address this issue in their submissions, bearing in mind the guidance 'Criteria for deciding on the listing of MPTS hearings' at **Annex B**.

Further information about how to apply for postponement and the factors decision makers will take into account can be found in our [postponement guidance](#) on our website.*

My hearing has been postponed. What happens to the directions which were issued to parties in preparation for the postponed hearing?

The directions do not continue to apply, unless you are specifically informed otherwise. Where appropriate, you may be invited to participate in case management telephone conferences prior to the relisted hearing and updated directions may be issued to ensure the effective running of the relisted hearing.

My hearing has adjourned. What happens to the directions which were issued to parties in preparation for the adjourned hearing?

The directions continue to apply. You may also have been issued with directions by the AT when it decided to adjourn the hearing, which both parties are expected to comply with.

Where appropriate, you may also be invited to participate in case management telephone conferences prior to the reconvened hearing and updated directions may be issued to ensure the effective running of the reconvened hearing.

Other issues

Will records of pre-hearing meetings be redacted before the AT see them?

Copies of all case management records will be provided to the AT. Redactions may be appropriate where a party believes that a record contains prejudicial information that needs to be redacted. For example, where a record refers to allegations that are

* www.mpts-uk.org/postponement-guidance-IMT-AT

no longer pursued or to a joinder application that was unsuccessful. Parties must advise the MPTS Case Management team as soon as possible if they believe redactions are required and not less than 21 days prior to the hearing. An MPTS Case Manager will make the final decision on what redactions, if any, are appropriate in the circumstances.

My case has been listed for a hearing, but I would like to apply for it to be held at a venue somewhere other than the MPTS hearing centre in Manchester. Can I make an application for this?

AT hearings are all listed to be held either as a virtual hearing via MS Teams or at the MPTS hearing centre in Manchester. Guidance on how we allocate hearing venues is set out in our guidance [Deciding how to hold Associates Tribunal hearings](#).

On an exceptional basis, consideration can be given to holding fitness to practise hearings outside Manchester, taking into account the guidance [Holding Associates Tribunal hearings at an alternative venue on an exceptional basis](#). A copy of this guidance can be found on our website.*

* www.mpts-uk.org/hearings-alternative-venue-AT

Annex A – How to join a case management discussion

The MPTS mainly uses MS Teams to hold case management discussions. Where necessary (for example, as a reasonable adjustment or where a participant is located in a territory that does not permit MS Teams usage), a BT MeetMe telephone conferencing facility may be used.

In all calls it is important to call in at the agreed time to ensure efficient use of MPTS time and resources.

How to join an MS Teams call

Parties will be notified in advance of the date and time of the telephone conference. Once the conference has been arranged, the MPTS will contact parties directly with a calendar appointment containing a unique link to join the case management discussion. Participants will not be required or permitted to use video during the call.

How to join a BT MeetMe call

Parties will be notified in advance of the date and time of the telephone conference. Once the conference has been arranged, the MPTS will contact parties directly with the relevant telephone number, participant pass code and instructions on how to dial in.

For BT MeetMe calls, please note:

- ▶ Participants will hear hold music until a member of the MPTS Case Management team has joined the call.
- ▶ Participants will be charged for a local rate telephone call. The conference call costs will be borne by the MPTS.

Annex B – Criteria for deciding on the listing of MPTS hearings

The MPTS aims to list hearings in a way that enables ATs to deal with cases fairly and justly, in accordance with the overriding objective. This means listing hearings to take place as soon as reasonably practicable, and within agreed service targets, while allowing enough time for all parties to prepare.

Listing criteria

The following guidance and criteria are applied when making listing decisions:

- ▶ The MPTS will always aim to list within service target. If a case is outside the service target, it should be listed in the earliest slot available.
- ▶ Where an interim measure - particularly an interim measure of suspension - has been imposed on a registrant's registration, wherever possible these cases will be given priority and listed prior to the expiry date of the order.
- ▶ The availability of the registrant and witnesses will be taken into account. Where there are issues relating to the attendance of individual witnesses, arrangements can be considered to allow them to give evidence by video-link.

Counsel availability

While parties may understandably prefer to appoint particular counsel, the MPTS cannot accept the additional constraints of acceding to such requests when managing the overall number of hearings. Counsel availability will only be taken into account in **exceptional circumstances**, bearing in mind the following factors:

- ▶ The complexity of the case;
- ▶ The period of delay if counsel availability were taken into account;
- ▶ The extent of relevant counsel's previous involvement in the case;
- ▶ The existence of other proceedings in which counsel has been instructed, and the degree of overlap between the issues in the various proceedings;
- ▶ The availability of junior and senior counsel, where instructed.

Where a party intends to raise the issue of counsel availability, the reasons for this request and the relevant availability must be notified to the other party and the MPTS Case Management team **in advance of listing wherever possible**.