

Listing reconvening Medical Practitioners Tribunal hearings

Guidance for Decision Makers, Parties and Representatives

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Contents

| | |
|-------------------------------------------------------------|----|
| Introduction | 3 |
| Adjournments and part-heard hearings | 4 |
| Procedure to follow when adjourning part-heard..... | 5 |
| Identifying that the hearing will adjourn part-heard | 5 |
| Identifying how much sitting time is required | 5 |
| Issuing case management directions | 5 |
| Considering availability and identifying hearing dates..... | 6 |
| Providing availability after the hearing adjourns | 7 |
| Approval and confirmation of the hearing dates | 11 |

Introduction

1. This guidance is for parties, representatives and decision makers, and explains the procedure to be followed when an MPTS hearing adjourns part-heard to reconvene at a later date. This guidance does not apply to interim hearings.
2. References in this guidance to **the parties** are to the GMC and the registrant whose case is under consideration.
3. If, after considering this guidance you have any queries regarding the procedure to be followed when a hearing adjourns part-heard:
 - ▶ parties should contact the MPTS Case Management Team at MPTSCaseManagementTeam@mpts-uk.org
 - ▶ MPTS Tribunal Members should contact the MPTS Empanelment Team at TheEmpanelmentTeam@mpts-uk.org.

Adjournments and part-heard hearings

4. The MPTS listing and [case management procedures](#) seek to ensure that sufficient hearing time is allocated to cases, that parties are fully prepared and that agreement on key issues is sought pre-hearing. While there may be occasions where the circumstances of a particular case necessitate an adjournment, the MPTS expects that hearings should only adjourn part-heard in exceptional circumstances.
5. In [GMC v Adeogba; GMC v Visvardis](#)^{*} the Court of Appeal made clear that any culture of adjournments is to be deprecated. In [GMC v Hayat](#)[†] the Court of Appeal held that while tribunals have a discretion to adjourn hearings, that discretion must be exercised taking into account the public interest in the fair, expeditious and efficient disposal of proceedings.
6. The MPTS therefore expects parties, representatives and tribunals will take all reasonable steps to keep delays to a minimum and to manage allocated hearing time effectively and efficiently. This includes adhering to hearing timetables and ensuring that submissions and evidence remain focused on relevant issues in dispute.
7. Where it is necessary for a hearing to adjourn part-heard, it is important and in the interests of justice that any delays in reconvening the hearing are kept to a minimum and that the hearing reconvenes at the earliest fair opportunity. Unnecessary or excessive delay is unfair to the practitioner, to complainants and to witnesses, and is contrary to the public interest.

^{*} [2016] EWCA Civ 162

[†] [2018] EWCA Civ 2796

Procedure to follow when adjourning part-heard

Identifying that the hearing will adjourn part-heard

8. Effective preparation and hearing management should mean that hearings conclude in the allocated hearing time. Timescales and progress should be kept under continual review by the Tribunal to manage hearing time effectively and to identify if it is necessary for the hearing to adjourn part heard. Where that is the case, the amount of additional time required and potential dates for the hearing to reconvene should be considered as soon as possible.

Identifying how much sitting time is required

9. Where a hearing is to adjourn part-heard, the Tribunal must first determine how many more sitting days are required for it to dispose of the proceedings fairly and efficiently.
10. Having heard representations from the parties on the matter, the Tribunal must decide how much time is required considering how the additional days are intended to be used, including:
 - ▶ the reason(s) why it is necessary for the hearing to adjourn part-heard;
 - ▶ the stage the proceedings have reached;
 - ▶ what evidence (if any) is still to be heard;
 - ▶ the time required for the Tribunal to determine any remaining issues;
 - ▶ any directions the Tribunal may make relating to further preparation to be undertaken during the period of adjournment and documents to be submitted ahead of the hearing reconvening.

Issuing case management directions

11. To ensure efficient use of hearing time, the Tribunal should consider whether to issue case management directions regarding preparation to be completed and documents to be submitted by the parties in advance of the hearing reconvening.
12. If the Tribunal does not issue case management directions, either the Tribunal or parties may request that the MPTS considers listing a pre-hearing meeting for a MPTS Case Manager to give further case management directions if necessary.

13. The MPTS Case Manager cannot determine points already considered (or which are under consideration) by the Tribunal.

Considering availability and identifying hearing dates

Approach for part-heard review hearings

14. For review hearings, having determined how many more sitting days are required, the Tribunal should consider its own availability to reconvene at the earliest opportunity and invite parties and representatives to do the same, considering the factors set out at paragraph 33 below. The Tribunal will need to bear in mind the expiry date for the sanction being reviewed and, where appropriate, decide whether to extend the period of the existing sanction.
15. The MPTS expects that for review hearings, dates on which the hearing will reconvene will always be established **before the hearing adjourns part heard**.
16. The MPTS Tribunal Clerk assisting the Tribunal will liaise with the MPTS Case Management Team to ascertain whether the dates can be accommodated in the hearing calendar. The Tribunal Clerk will need to provide the first and next periods of availability for all relevant participants, as well as a breakdown of how the additional days are intended to be used if multiple days are requested.
17. Where dates are agreed, those dates should be verbally confirmed to all participants by the Tribunal Chair before the hearing adjourns.
18. MPTS Tribunal Members and parties will then receive written confirmation of the reconvening dates from the MPTS shortly after the review hearing adjourns.

Approach for all other part-heard hearings

19. Having determined how many more sitting days are required, the Tribunal should consider its own availability **within the next four weeks only** considering the factors set out at paragraph 33 below and invite parties and representatives to do the same.

Common availability within four weeks

20. Where there is common availability for the hearing to reconvene within the next four weeks, the MPTS Tribunal Clerk assisting the Tribunal will liaise with the MPTS Case Management Team **before the hearing adjourns part-heard** to ascertain whether the dates can be accommodated in the MPTS hearing calendar.
21. The Tribunal Clerk will need to provide the first periods of availability within four weeks and, if possible, the next periods of availability within four weeks for all relevant participants, as well as a breakdown of how the additional days are intended to be used.
22. Where dates within the next four weeks are agreed, those dates should be verbally confirmed to all participants by the Tribunal Chair before the hearing adjourns.
23. MPTS Tribunal Members and parties will then receive written confirmation of the reconvening dates from the MPTS shortly after the hearing adjourns.

No common availability within four weeks

24. Where there is no common availability for the hearing to reconvene within the next four weeks, the Tribunal Clerk will provide the Tribunal and parties with a link to separate forms for them to fill in and send to the MPTS.
25. The Tribunal and parties will need to provide details of their availability along with other relevant information to facilitate the listing of the reconvening hearing.
26. The forms should be returned to the relevant MPTS team by the end of the next working day. See providing availability after the hearing adjourns at paragraph 27 below.

Providing availability after the hearing adjourns

27. Where a hearing adjourns part-heard and there is no common availability to reconvene within the next four weeks, the Tribunal and parties will be required to provide details of their availability on a form submitted to the relevant MPTS team by the end of the next working day. This allows an MPTS Case Manager to decide on the most appropriate and fair listing, considering the information provided by all relevant participants.

28. What form you complete and who at the MPTS you send it to will be determined by your role in the hearing:

| Form: | To be completed by: | To be emailed to: |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Form PH3 | <ul style="list-style-type: none"> ▶ Legally Qualified Chair or Chair | The MPTS Empanelment Team at TheEmpanelmentTeam@mpts-uk.org by the end of the next working day. |
| Form PH4 | <ul style="list-style-type: none"> ▶ Lay and Registrant Tribunal Members | |
| Form PH5 | <ul style="list-style-type: none"> ▶ the registrant or their representative, as applicable, and ▶ the GMC's Legal Adviser. | The MPTS Case Management Team at: MPTSCaseManagementTeam@mpts-uk.org by the end of the next working day. |

29. It is not necessary for Tribunal Members and parties to complete and submit forms to the MPTS where the hearing can reconvene within four weeks and for review hearings.

Completing the form

30. Where you are required to provide your availability after the hearing adjourns part-heard, the MPTS Tribunal Clerk will send you an email containing a link to the relevant form and reminding you who to send it to and the deadline by which it should be submitted.

31. Upon receipt, download and fill out the form, providing all relevant details contained therein. The form should be completed and returned to the relevant MPTS team by the **end of the next working day** following the hearing adjourning part heard.

32. If you encounter problems when completing the form, please contact the relevant MPTS team as soon as possible.

Factors to consider when completing the form

33. Availability to reconvene will depend on the circumstances of each individual case, but the MPTS expects the following general principles to apply when participants consider their availability:

Factors relevant to all participants

- ▶ All participants must prioritise part-heard hearings to ensure that hearings can reconvene without unnecessary or excessive delay;
- ▶ Where proposed dates clash with existing personal or professional commitments, all reasonable steps must be taken to review those commitments and make appropriate changes if they can reasonably be expected to be given lesser priority.

Factors relevant to parties and representatives

- ▶ Where the availability of a representative will cause significant delay parties must consider whether it would be feasible to arrange for alternative representation and be prepared to identify any barrier to doing so;
- ▶ Where further witness evidence will be given, parties must identify each witness, the duration and format of their evidence, together with any availability issues.

Factors relevant to Tribunal Members

- ▶ Where a Tribunal Member is empanelled on another MPTS hearing, they should note this on the form and indicate if it is also a part-heard matter. New matters will typically be reallocated in order to prioritise part-heard hearings proceeding at the earliest opportunity;
- ▶ Where availability of one or more Tribunal Members presents an obstacle to identifying dates for a hearing to reconvene, in exceptional circumstances and in the interests of justice, the MPTS will consider whether it is appropriate to consider substitution or for the hearing to recommence in front of a fresh Tribunal. In all instances parties will be contacted by the MPTS to be provided with an opportunity to comment before a final decision is made.

Unnecessary and excessive delays

34. The MPTS must make every effort to ensure that hearings reconvene at the earliest fair opportunity in order to satisfy its statutory objectives. The extent of

any delay will therefore be an overriding factor to be considered by the MPTS when it decides the appropriate listing dates for the hearing to reconvene.

35. Where there is a significant delay between the hearing adjourning part-heard and the earliest date on which the hearing can reconvene, the MPTS may seek further information to clearly establish why relevant participants are not available earlier, the nature of any competing commitments and whether they could reasonably be expected to be given lesser priority if that information is not already clear from the relevant form(s).

Multiple shorter hearing sessions

36. Where there is no common availability for a consecutive block of days or a significant delay between the hearing adjourning part-heard and the earliest date on which the hearing can reconvene in a single sitting, the MPTS will consider what availability there is for the hearing to reconvene in multiple shorter hearing sessions. For example, where 5 sitting days are required, the MPTS will consider whether two listings of 3 and 2 days may reduce any delay and facilitate an earlier conclusion to the hearing.

Weekend sittings

37. Typically priority will be given to listing hearings during the working week. However, on an exceptional basis the MPTS may consider weekend sittings if it considers it appropriate to do so. This is likely to be the case where:
- ▶ the extent of delay in reconvening the hearing is significant, and a weekend sitting would facilitate an earlier conclusion to the proceedings; or
 - ▶ a short additional listing would allow the current stage of the proceedings to conclude before adjourning for a longer period – for example, where a tribunal needs a short amount of time to finalise and hand down a determination.

Hearing venues

38. Tribunal Members and parties should consider whether changing to a virtual hearing from a hearing at the MPTS hearing centre (or vice versa) may be appropriate for reconvening dates and/or may facilitate an earlier conclusion to proceedings. Changes to hearing venues must be made in line with our guidance on [deciding how to hold MPT hearings](#).

Approval and confirmation of the hearing dates

39. Having received the relevant forms, MPTS teams will then establish common periods of availability and an MPTS Case Manager will determine the appropriate listing dates for the hearing to reconvene.

40. If no common availability can be ascertained from the information provided on the forms, the relevant MPTS team may seek further clarification from the participants for the reasons behind any excessive delay to the hearing reconvening and may propose other approaches to listing the reconvening hearing.

41. Once the dates have been approved by the MPTS Case Management Team, these will be confirmed in writing to all the relevant participants.