MPTS Committee

Agenda and papers

Meeting:

14 September 2022

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MPTS Medical Practitioners Tribunal Service

MPTS Committee meeting

14 September 2022

10:00 - 13:00

Meeting Room 7D

St James's Building, Oxford Street, M1 6FQ

Agenda

1 Welcome and apologies for absence

2 Presentation from Dr Mary Doherty, Founder of Autistic Doctors International & Autistic Med Students

3 Declaration of interests

4 Minutes of the previous meeting held 10 May 2022

5 Chair's report (oral)

6 Executive Manager's report including MPTS Risk register and performance data

Break for tea / coffee

7 Annual review of the MPTS vision

8 Tribunal Members' resourcing updates

9 Update from the Quality Assurance Group

10 Adjournments quarterly update

11 Annual review of case management

12 Any other business

13 Date and time of next meeting: 8 November 2022, 10:00 – 13:00 (7th Floor, St James's Buildings, 70 Oxford Street, Manchester, M1 6FQ)

14 Tribunal member training update 2022 - Below-the-line

MPTS Medical Practitioners Tribunal Service

Agenda item:	**04**
Report title:	**Minutes of the meeting on 10 May 2022**
Considered by:	**MPTS Committee**
Action:	**To approve**

Members present

Dame Caroline Swift, Chair
Gill Edelman
Joy Hamilton
Jacky Hayden

Others present

Colin Barker, Head of MPTS Communications and Corporate Affairs (item 6, 7 and 8)
Mark Swindells, Assistant Director, Standards and Guidance - GMC (item 8)
Fionnula Flannery, Head of Strategy and Planning - GMC (item 8)
Margaret Barry, Case Manager (item 9)
Gavin Brown, Executive Manager MPTS
Nathan Fountain-Tucker, Corporate Governance Officer and Committee Secretary

Welcome and apologies for absence (agenda item 1)

1 The Chair welcomed members of the Committee and attendees to the second meeting of the Committee for 2022.

2 The Chair noted that Tushar Vince had resigned from the MPTS Committee, and that work was underway to appoint a replacement.

3 There were no apologies for absence.

Declaration of interests (agenda item 2)

4 No interests were declared.

Minutes of the previous meeting (agenda item 3)

5 The MPTS Committee reviewed, and approved, the minutes of the previous meeting held on 2 February 2022.

6 The Chair noted that all actions from previous meetings have been completed.

7 It was agreed that at September's Committee meeting, there would be an update on neurodiversity, from both a MPTS and wider GMC perspective, and on the equality analysis from the recent Legally Qualified Chairs (LQC) appointments campaign.

Chair's report (agenda item 4)

8 The Chair provided an update on key activities and business since the last MPTS Committee meeting.

9 The Chair noted that the appointment process for new LQCS has now concluded, with the appointment of 50 candidates along with a further nine put on a reserve list.

10 Their induction training began in March and concluded at the end of April. The Chair noted that feedback has been excellent with favourable comparisons being made between MPTS training and that given by other comparable organisations.

11 The Chair also noted that we are starting the annual programme of training for existing tribunal members.

12 The Chair highlighted her attendance and topics covered at the following meetings:

- Quality Assurance Group: tribunal determinations were noted to continue to be of a high standard, with a focus on looking for ways in which they can be improved. The Group discussed the need for LQCs to ensure that their legal advice is not over-lengthy and complex, and that it properly reflects current case law. It was also noted the need for tribunals to carefully consider the risk of repetition when making decisions, as between the imposition of conditions or suspension.
- Observations: the Chair has observed two tribunal members during both a tribunal and in deliberation as part of our quality assurance activity, with positive feedback being given to the Tribunal Development section.
- Policy Forum: an update was given in relation to the planned regulatory reforms, along with discussing new draft guidance on representation at

hearings. The Forum also considered the first draft of decision-making guidance produced by the GMC and intended to cover all aspects of decision-making in fitness to practise cases, including guidance on sanctions.

- Cambridge University: the Chair noted that she delivered a talk to postgraduate students at the University who are doing a masters degree in clinical medicine. The talk focused on topics around the challenges faced by our tribunals, the extent to which tribunals take systems factors into account in their decision making and what steps we take to make our proceedings fair. The MPTS have now been invited back to the University next year to repeat this talk.

13 Regarding regulatory reform, the Chair made the Committee aware that we recently received a draft order from the Department of Health and Social Care setting out their proposed legislation. This was considered carefully, and feedback given to the GMC for inclusion into their response to the Department.

14 The Chair noted that the recruitment process for her successor as MPTS Chair has now gone live and the successful candidate will take up their post in early January 2023. Dame Caroline also highlighted the appointment of Dame Carrie MacEwan as the new Chair of the GMC and that she was looking forward to continuing to work with her.

Executive Manager's report (agenda item 5)

15 The report provides an update on the operational performance of the MPTS.

16 Following discussion on the redaction of records of determination and other matters, the MPTS Committee noted that it would be helpful to hold an MPTS Committee strategy away day, like those that have been held previously.

17 It was felt that the best time to hold this event would be once the new Chair of the MPTS was in post.

18 It was suggested that, as part of this work, the boundary between governance and management in relation to the Committee should be considered.

Report of the Chair of the MPTS to the GMC Council including MPTS Annual Report to Parliament (agenda item 6)

19 This report gives an update on the work of the MPTS since the last report to GMC Council in December 2021.

20 During the discussion, the MPTS Committee noted:

- The higher proportion of 'not impaired' decisions in 2021, and the need for continued close monitoring of this area.
- That we should consider being more positive about the nature of the relationship with, and feedback received from, stakeholders.

- That it may be helpful to review the sections relating to doctors attending tribunals and attending hearings without legal representation to link them more clearly.

Update on MPTS Communications and Corporate Affairs (agenda item 7)

21 Colin Barker, Head of MPTS Communications and Corporate Affairs, presented an overview of the Communications and Corporate Affairs section since it was established at the MPTS in 2018.

22 The Committee noted the update and considered areas of work the section could prioritise.

GMC Review of *Good medical practice* (agenda item 8)

23 Mark Swindells, Assistant Director, Standards and Guidance - GMC, and Fionnula Flannery, Head of Strategy and Planning - GMC, presented a summary of the GMC's work in reviewing *Good medical practice*.

24 During the discussion, the MPTS Committee noted that a consultation period was currently underway.

Adjournments quarterly update (agenda item 9)

25 Margaret Barry, Case Manager, presented the adjournments quarterly update.

26 The Committee noted the updated which summarised the main themes arising from hearings adjourning in Quarter 1 2022, including identified actions to be taken forward by the MPTS Senior Management Team and other parties.

Review of MPTS Committee's work programme for 2022 (agenda item 10)

27 Nathan Fountain-Tucker, Corporate Governance Officer and Committee Secretary, presented the Committee's work programme for 2022 setting out the business for review.

28 The Committee considered its forward work programme.

Any other business (agenda item 11)

29 There was no other business.

Date and time of next meeting (agenda item 12)

30 Date and time of next meeting: 14 September 2022, 10:00 – 13:00, St James's Buildings, Oxford Road, M1 6FQ.

Confirmed:

Dame Caroline Swift 14 September 2022

MPTS Medical Practitioners Tribunal Service

Agenda item:	**06**
Report title:	**Executive Manager's report**
Report by:	**Gavin Brown, Executive Manager, gavin.brown@mpts-uk.org, 0161 240 8126**
Considered by:	**MPTS Committee**
Action:	**To consider**

Executive summary

- This report provides an update on the operational performance of the MPTS.
- It includes updates on our response to the pandemic, public access to virtual hearings, appeals, opportunities and threats, publication of the annual report to Parliament, regulatory reform timescales, and the MPTS's 10th anniversary.

Recommendation

- The Committee is asked to consider the report and its annex.

Response to the pandemic

1 Since the last Committee meeting on 10 May 2022, we have continued to run a mix of in person, hybrid (where parties attend in person or virtually) and virtual hearings.

2 Following the recruitment activity undertaken in 2020, we had enough colleagues in place to be able to deliver the initial phase of the recovery, however additional headcount was required for when we planned to increase our hearing capacity in October 2021.

3 The bid for additional funding, that was approved at GMC SMT on 4 May 2021, was for 5 additional Level 4 tribunal clerks and 5 additional Level 6 tribunal assistants.

4 Having already undertaken a restructure of our Operations section, we negated the need for any additional managerial headcount.

5 In August 2021, following testing, updates to our operational processes and training, we transitioned to a new virtual hearings' platform and earlier this year we appointed and inducted 50 new Legally Qualified Chairs.

6 At the end of July 2022, our year to date spend was 10.2% lower than budget.

7 The primary reason for this reduced expenditure is that hearing days held were 18% lower than budgeted. In addition to this the proportion of hearings held virtually has been higher than budget, which reduces tribunal member travel and subsistence costs.

Year to July 2022

	Budget	Actual	Variance	% Variance
Expenditure	6,651,768	5,973,227	678,541	10.2%
Hearing Days	2,212	1,814	398	18.0%

Full Year

	Budget	Forecast	Variance	% Variance
Expenditure	11,243,748	10,398,858	844,890	7.5%
Hearing Days	3,639	3,156	483	13.3%

8 As previously reported to the Committee, hearing volumes in quarter 1 were tracking close to budget, however in quarter 2 hearing volumes dropped to around pre pandemic volumes.

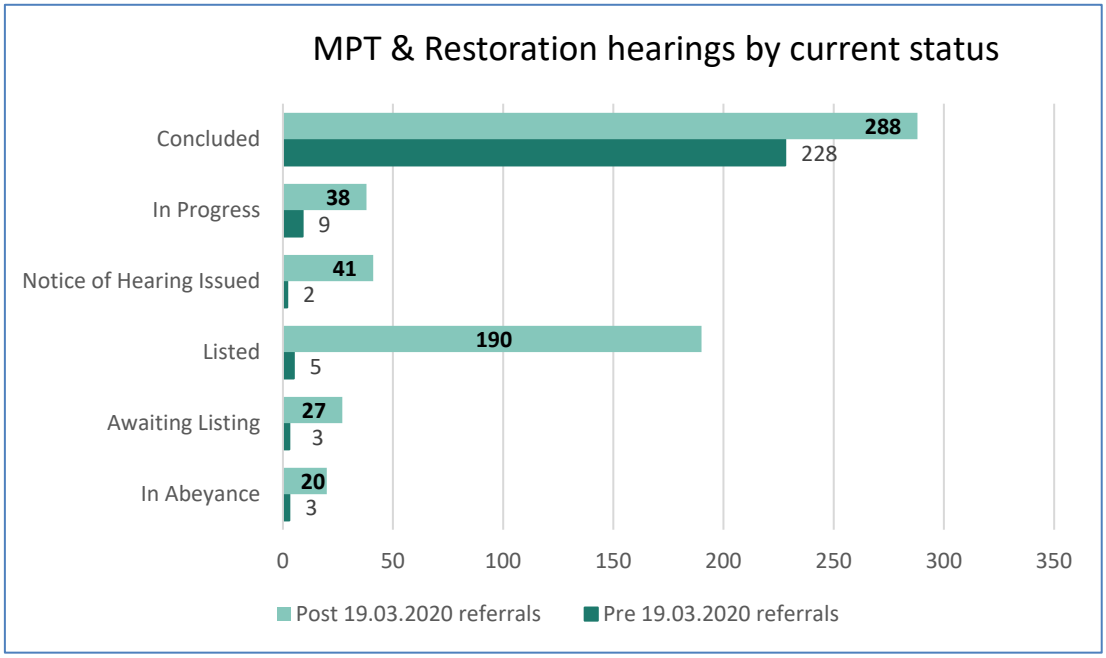
9 There were several reasons for this reduction including increased short notice cancellations (i.e., withdrawal of cases) by the GMC and postponements (which don't leave enough time to fill the gap in the calendar), hearings running

shorter than scheduled, and difficulties filling the hearing calendar around bank holidays.

10 The hearing budget was set with an objective of utilising 90% of the capacity created. However, reflecting on year-to-date volumes, and factoring in the possibility of more late cancellations and postponements, we have reduced the forecast to assume 80% of the capacity created will be utilised for the remainder of the year and into 2023.

11 At the beginning of August 2022 there were 373 cases (excluding restorations) in the MPT workload, which equates to 338 hearings.

12 The next chart shows the status of these 338 hearings categorised by whether they were referred to the MPTS pre or post 19 March 2020.



13 The chart shows that there are few cases referred pre-19.03.2020 still to be concluded and only 27 post-19.03.20 referral cases awaiting listing.

14 From June 2022, the MPTS have been listing almost all hearings within the service target of 9 months of a GMC referral. Therefore, we would expect the recovery to be complete in quarter 2 2023. This timeline also takes into account the fact that the number of referrals the MPTS have been receiving has been higher than the GMC anticipated; an average of 29 per month as opposed to the predicted 25.

15 When the budget was set there was an assumption that 65% of MPT hearing days would be held at SJB. However, only 36% of MPT hearing days have been held at SJB year-to-date, and we are making a full year forecast of 48%.

16 The financial impact of this is a saving of approximately £120k on tribunal member travel and subsistence costs in 2022.

17 Tribunal Development have been able to utilise technology to successfully run annual training for tribunal members and the induction programme for new LQCs through a combination of in person and virtual sessions. As well as being more convenient and flexible for tribunal members, in 2022 this will provide a saving of approximately £50k on travel and subsistence costs.

18 Before the first Covid lockdown in March 2020, most MPTS colleagues spent the majority, if not all, their working time in the office. However, that changed with the pandemic and, for much of 2020 and 2021 and the first part of 2022, all colleagues - save for those essential for running hearings at SJB - worked from home.

19 During that time, it became clear that a great deal of MPTS business could be carried out effectively without the need for all colleagues to be in the office at once. Home working also has the advantage of saving expense and time spent on travel and allowing colleagues greater flexibility in managing their domestic responsibilities.

20 From March 2022, colleagues have been asked to come into the office a minimum of one day a week. How frequently they come in depends on their role, its requirements, the needs of the wider business and, to some extent, their personal preferences. However, it has become clear that we shall not be returning to the pre-pandemic position whereby the office was almost full every day and each colleague had a designated desk.

21 We are therefore looking at refreshing and adapting our workspace at SJB to meet the new working conditions and will be running virtual and in-person drop-in sessions to gather colleagues' feedback on how the workspace should be arranged.

Public access to virtual hearings

22 Following the update at May's Committee meeting, from Monday 18 July 2022, we have been accepting requests from members of the public to observe virtual hearings remotely via MS Teams, subject to them agreeing to our terms of access.

23 Virtual hearings are now part of our day-to-day operations and there is an understandable expectation from members of the public that they will be able to observe them remotely.

24 We believe this is an important step towards our ambition of being a modern tribunal service using technology to enhance the efficiency and effectiveness of

our hearings, but we are also conscious that we must manage the information security risks involved.

25 We have created robust processes and checks, building on the work done to allow journalists to observe our hearings remotely from January 2021 onwards.

26 Members of the public are asked to complete a Terms of Access form, setting out the rules we expect them to follow and to provide us with proof of their home address, should any action need to be taken. Access will only be given on an individual basis, so we will always be aware of who is attending and able to refuse admission to anyone we have concerns about.

27 In May and June, we piloted this approach in a small number of virtual hearings, where it has been successful and well-received by all involved.

28 We are receiving regular requests from members of the public wishing to attend virtual hearings remotely, but currently only from around four individuals a month. We expect the number of observers to be limited.

29 We will be updating the Committee and other stakeholders, including User Group members, over the next year on the numbers participating in remote access of virtual hearings, along with any issues and learning points that have arisen. This way we can reassure ourselves and others that the approach we are taking remains proportionate to the risks involved.

Listing of hearings

30 As we previously updated the Committee, over the past year we have developed and implemented a new approach to scheduling IOT review hearings.

31 Now a hearing date is only provided once it is clear a review on the papers will not be agreed by the parties.

32 We now have six months of data since we made the change. The headlines from the January to June data are:

- IOT notices sent reduced by 68%.
- Wasted hearing slots reduced by half. This equates to 67 hours of hearing time over the course of the year.
- Hearing end times have increased to an average finish time of 15.18.
- Most end time indicators have remained quite close to figures for 2021 except for the proportion of hearings finishing between 16.00-17.00, which has increased from 15.6% to 23.2%.
- Tribunals are doing more work but, importantly, the times they sit beyond 17.30 remain very close to those in 2021.

- There has been a slight increase in postponements and adjournments. However, in the only figure tied directly to progress with work on the day, the number of adjournments due to lack of time has decreased slightly.

33 Overall, the data shows a major efficiency saving in reduction of notices, a more efficient listing process with tribunals wasting less time, getting through more work on the day, finishing more often at the time we would aim for, without much impact in the form of late finishes.

Appeals

20 Since the last update to the MPTS Committee on 10 May 2022, additional learning points arising from judgments given in appeals / challenges to tribunal decisions from 1 April to 30 June 2022, include the following:

a When considering the reliability and credibility of witnesses in determining factual allegations, a tribunal should give adequate reasons for its conclusions to enable the parties to understand why they have won / lost and provide cogent explanations in relation to the evidence which was accepted and rejected which led to the factual allegation(s) having been found proved or not proved.

b Whilst a tribunal should identify the consistent and inconsistent features of a witness's evidence, its conclusion ought to be based on an assessment of the overall effect of the evidence including considering whether those (in)consistencies go to the core allegations or not.

c A limited allegation of sexual misconduct is not less likely to have occurred because it did not progress to a more serious assault. The absence of particular features of such conduct does not have any probative value in establishing that nothing untoward occurred.

d Where appropriate, a tribunal should consider whether a registrant demonstrates insight in relation to their personal failings, as opposed to their generic responsibility (for example as a consultant in charge) or reflecting only on the failings of the system and/or the failings of colleagues.

e When considering interim orders, tribunals should note that the principle of proportionality is applicable at two stages:

- first, when the IOT determines whether an interim order should be imposed, and if so whether it should be a conditions or a suspension order; and
- second, when determining the length of any interim order, in light also of the order to be imposed (for example bearing in mind the grave effect of an interim suspension order on the registrant's ability to earn a living, to support their family, and on their reputation and ability to demonstrate when any charges are determined that they can practise without incident).

f It is important that tribunals give adequate reasons at each stage of an IOT hearing. Tribunals are not required to give reasons for reasons, but simply

stating a conclusion is not sufficient; reasons for those conclusions are required.

g It is a relatively rare case where a suspension order will be made on an interim basis on the ground that it is in the public interest alone.

h When considering the risk and whether that risk is in relation to public confidence and/or public safety, tribunals must consider the seriousness of the allegations and the likelihood of any further incident of the same type of behaviour occurring again during the relevant period.

Opportunities and threats

21 An updated MPTS register can be found at Annex A.

Annual report to Parliament

22 The MPTS Committee's Annual Report was laid before Parliament on 15 July and published on 28 July.

Regulatory Reform timescales

23 On 25 July we updated Committee members on the position in respect of regulatory reform.

24 The GMC and MPTS have been working with the UK Government's Department of Health and Social Care (DHSC) on a new regulatory framework for health professionals, including doctors, physician associates (PAs) and anaesthesia associates (AAs).

25 To deliver the political priority of bringing PAs and AAs (also known as MAPs) into regulation as soon as possible, the DHSC has decided that the new legislation will initially refer only to the regulation of these professions, with legislation for doctors to follow at a later date.

26 The DHSC has said it aims to consult on the legislation for MAPs in autumn 2022, before laying it in the UK legislatures in the second half of 2023. The GMC expects to be able to start regulating MAPs within 12 months of the legislation being laid. This means the earliest possible start date for regulation will now be in the second half of 2024.

MPTS 10th anniversary

27 In June 2012, the Medical Practitioners Tribunal Service (MPTS) was established to provide a tribunal service separate to the GMC's investigatory role.

28 On 12 July 2022, colleagues gathered at the hearing centre to mark the occasion.

29 The celebration brought together new and experienced colleagues from across the directorate, where they shared lots of memories over tea and cake.

30 As well celebrating its anniversary, the MPTS congratulated eight long-serving colleagues with a combined service of 160 years.

31 The event was also a chance to reflect on Dame Caroline Swift's tenure as she prepares to step down at the end of this year. Dame Caroline reflected on her two terms as Chair and praised the dedication of colleagues past and present.

MPTS Medical Practitioners Tribunal Service

Agenda item:	**07**
Report title:	**Annual review of the MPTS vision**
Report by:	**Anna Rowland, Assistant Director – Policy and Business Transformation, GMC anna.rowland@gmc-uk.org, 020 7189 5077**
Considered by:	**MPTS Committee**
Action:	**To consider**

Executive summary

The Committee first agreed a vision statement for the MPTS in September 2017. This was revised in September 2020, with a further minor revision made in September 2021.

This paper proposes that we maintain the current MPTS vision statement for a further twelve months.

The vision statement will continue to influence the work the MPTS undertakes in 2022/23. It will influence our future planning activity and continue to support the GMC's 2021-25 Corporate Strategy.

Recommendation

- That the Committee agree to maintain the MPTS vision statement.

1 In September 2021, the MPTS Committee agreed to maintain the MPTS vision statement, which is:

> *To provide a modern tribunal service that is effective, fair and impartial. A service that:*
> - *Makes high quality, well-reasoned, independent decisions to protect the public.*
> - *Treats all tribunal service users with respect and fairness.*
> - *Uses modern technology to enhance the efficiency and effectiveness of running hearings.*
> - *Shares its knowledge and makes a positive contribution to the future direction of adjudication.*

2 The vision is a helpful framework for articulating the work we do to maintain and improve the efficiency and effectiveness of our service. It also helps frame our discussions with MPTS staff about how the work they do contributes to an effective, fair and impartial tribunal service.

3 We publish the vision within our Annual Report to Parliament each year.

4 At the same time, the Committee amended the supportive text on how we work towards our vision, to reflect the importance of tribunals making decisions in a timely manner.

5 The MPTS vision supports the GMC Corporate Strategy for 2021-25, specifically one of the four areas of that strategy:

> ***Every interaction matters****: We will make sure all our functions, processes and systems are effective, empathetic and accessible for patients, the public, professions, partners and our people.*

Annex A – Vision statement 2021/22

Who we are

The MPTS runs hearings for doctors whose fitness to practise is called into question.

We are independent in our decision making and operate separately from the investigatory role of the GMC.

As a statutory committee of the GMC, we are accountable to the GMC Council and the UK Parliament.

Our vision

To provide a modern tribunal service that is effective, fair and impartial. A service that:

1. Makes high quality, well-reasoned, independent decisions to protect the public.
2. Treats all tribunal service users with respect and fairness.
3. Uses modern technology to enhance the efficiency and effectiveness of running hearings.
4. Shares its knowledge and makes a positive contribution to the future direction of adjudication.

Working towards our vision

A service that makes high quality, well-reasoned, independent decisions to protect the public

We will protect the public by delivering a tribunal service which makes and shares high quality, proportionate and well-reasoned determinations in a timely manner.

Our decisions will be underpinned by our over-arching objective:

a. to protect, promote and maintain the health, safety and well-being of the public,
b. to promote and maintain public confidence in the medical profession, and
c. to promote and maintain proper professional standards and conduct for members of that profession

Our decisions will continue to be made by tribunal members who are independent of those who present and defend cases before the tribunal.

We will continue to ensure tribunal members are recruited for decision making skills and competencies and to train them, appraise their performance and quality assure their decisions.

A service that treats all tribunal service users with respect and fairness

Everyone using our tribunal service can expect to be treated with fairness and respect - doctors, complainants, witnesses and legal professionals.

Equality, diversity and inclusion are integral to the work of the MPTS, both as an adjudicator and in the support we give to our staff.

We will continue to provide equality training to staff and tribunal members, to provide reasonable adjustments for tribunal service users where appropriate and to share and monitor our decision data to support a fair process.

We will continue to signpost doctors and witnesses to the GMC's witness and doctor support services.

We will continue to support doctors without legal representation, providing user-friendly resources that will help them prepare for a hearing and by offering our Doctor Contact Service to help lessen the isolation and stress they might encounter.

A service that uses modern technology to enhance the efficiency and effectiveness of running hearings

We will maintain public confidence by conducting tribunal hearings efficiently and expeditiously to minimise delays in resolving cases. By making timely decisions we will reduce the impact on all service users.

We will continue to embrace modern technology to find effective ways of meeting our over-arching objective, including the use of virtual hearings where appropriate.

We will continue to demonstrate value for money by using resources efficiently and utilising hearing rooms efficiently.

A service that shares its knowledge and makes a positive contribution to the future direction of adjudication

We will clearly articulate our role as an adjudication service making independent decisions which are fair to all.

We will engage with the medical profession and its representatives, medico-legal professionals, medical students and others, to share our knowledge and to advocate the importance of engagement in the fitness to practise process.

We will contribute to discussions on the future shape of adjudication within medical regulation and more widely.

MPTS Medical Practitioners Tribunal Service

Agenda item:	**08**
Report title:	**Tribunal Members' resourcing updates**
Report by:	**Tamarind Ashcroft, Head of Tribunal Development. Tamarind.ashcroft@mpts-uk.org, 0161 240 7291**
Considered by:	**MPTS Committee**
Action:	**To note**

Executive summary

This paper details an overview of tribunal member resourcing.

In summary,

- 49 LQCs appointed in 2022,
- 50 Medical and 40 Lay tribunal members to be appointed in 2022/23
- Contract extensions, beyond typical terms, will continue to be offered to tribunal members due to end their contracts before June 2023.

Recommendation

The MPTS Committee is asked to note the current resourcing position and plans to ensure we continue to be suitably resourced.

Tribunal member resourcing

1 There are currently 297 tribunal members appointed on a contract for services. The total number of tribunal members is made up of 122 medical members and 175 lay/ legally qualified chair (LQC) members. This is an increase of 10% (26) since this time last year. The volume of sitting tribunal members fluctuates regularly, and the reduction is mainly as a result of those ending their contract due to judicial appointments and a number of medical members ending their contracts due to personal reasons.

2 Over the course of a year, the number of tribunal members available to sit on hearings may differ from the total number of tribunal members in post- currently there are seven unavailable for sitting. This has been agreed due to personal or professional commitments which are likely to be temporary. We continue to see some decreased availability from some medical members who need to prioritise clinical duties or personal circumstances, but we are now at a stage where the majority of tribunal members are able to participate in hearings irrespective of location.

Appointments

3 We offered 50 LQC positions in 2022 but only 49 were able to complete the full induction training. We have the remaining individual and a further 9 on a wait list to complete induction training in 2023 if required.

4 We interviewed c150 candidates, utilising remote interviews for the first time. The process included a presentation and completion of a case study and 20% of all candidate interviews were quality assured.

5 We worked closely with the Equality Diversity and Inclusion team to identify how best to target the campaign and an equality impact assessment was conducted to monitor the impact of the process. There were no notable variations impacted by protected characteristics at each stage. 28% of LQCs appointed identified as BAME, 48% identified as female and 12% identified as having a disability.

6 The linked training paper details how induction training was carried out for LQCs.

7 We have had 15 medical members end their contracts early since last year and, as planned, we will be advertising for 50 medical members and 40 lay members in October 2022. This will enable a suitable transition period for those existing medical and lay members now scheduled to end their contracts in 2023/24. The volumes seek to also replace a proportion of those that have left in recent years and account for further contracts ending early in subsequent years.

8 Due to the success of the LQC campaign we intend to use the same approach for appointments but anticipate high interest in lay appointments so may use additional measures to manage the number of applications.

9 As in all campaigns, we will actively encourage applications from diverse and under represented groups to ensure our tribunal member pool is representative of the UK public that we seek to protect.

MPTS Medical Practitioners Tribunal Service

Agenda item:	**09**
Report title:	**Update from the Quality Assurance Group**
Report by:	**Tamarind Ashcroft, Head of Tribunal Development** tamarind.ashcroft@mpts-uk.org, **0161 240 7291**
Considered by:	**MPTS Committee**
Action:	**To note**

Executive summary

This paper details an overview of the Quality Assurance Group (QAG) meetings held in Q1 and 2 2022, summarising the themes identified.

Recommendation

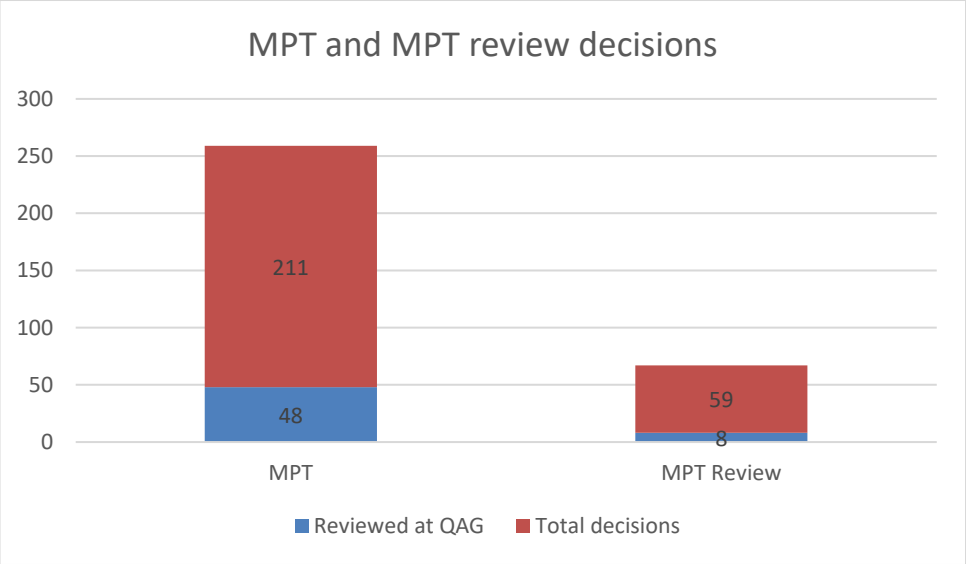
- The MPTS Committee is asked to note the outputs of the relevant QAG meetings.

Volumes

1 During Q1 and Q2 this year there were a total of 1050 MPTS hearings started including Medical Practitioners (MPT), Interim Orders (IOT) and Non-compliance hearings (NCH). Of these, 119 were selected for the QAG to review. It is important to note that the QAG only reviews decisions once the appeal period has passed. Any learning points from appeals are considered at a later stage.

MPT Decisions

2 In this period the QAG reviewed 21% of MPT decisions (included within this number are restoration hearings).



3 The standard of decision drafting continues to remain good with a relatively low number of learning points identified.

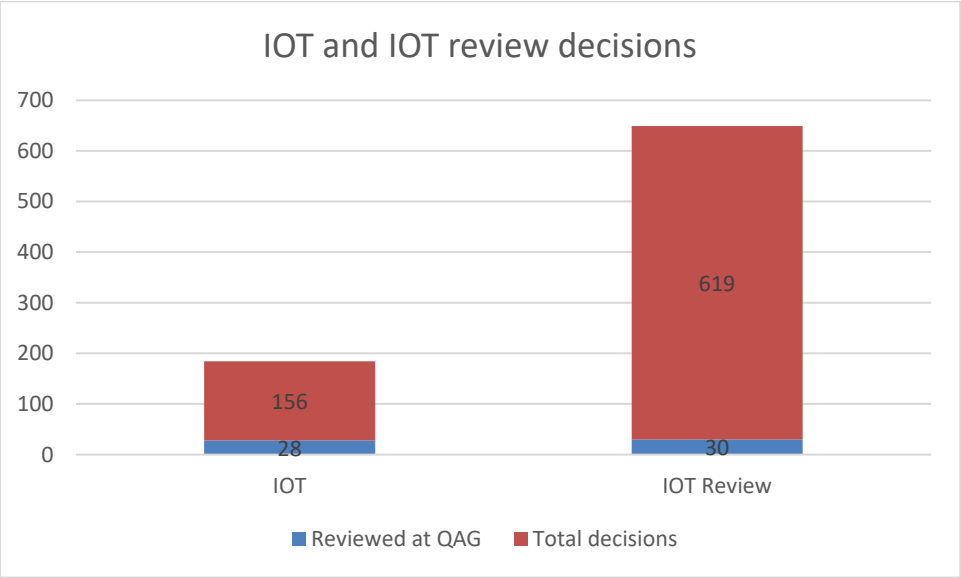
4 Those learning points that were identified included:

- reasoning around insight, remediation, and impairment- we noted that there had been considerable case law that further clarified the approaches to take,
- ensuring the appropriate wording was used about how determinations were published,
- clarity when explaining case law within determinations and,
- not making standalone assessment of witnesses.

5 There were very few themes identified and most learning points identified occurred in single decisions, however the above learning points were included within training for tribunal members in May 2022.

IOT Decisions

6 In the same period the QAG reviewed 7% of IOT decisions, this included 18% of new IOT decisions.



7 The sample of IOT and IOT review determinations selected for consideration by QAG was reduced in line with the update given to the Committee at the end of 2021.

8 Overall, IOT determinations remain of a good standard and learning points are limited. Areas for learning included

- the length of determinations,
- proof of service and notice
- how to consider local restrictions when determining what action, if any, is required on a doctor's registration.

Non-compliance hearings

9 All 5 non-compliance hearing decisions were reviewed by QAG in the same period with no significant learning points identified.

Feedback

10 We continue to consider all appeals as well as the rationale leading to the appeal along with feedback from the GMC and PSA for those cases that do not meet their respective thresholds for appealing. We consider the outcomes and feedback carefully to identify any learning points to take forward.

11 Within the volumes reviewed above, 9 cases were direct referrals from MPTS colleagues - typically this was where a decision or legal advice provided in the hearing appeared to be inconsistent with guidance, legislation or case law.

MPTS Medical Practitioners Tribunal Service

Agenda item:	**10**
Report title:	**Adjournments Quarterly Update**
Report by:	**Samantha Bedford, Head of Case Management, Samantha.bedford@mpts-uk.org, 0161 240 7112**
Considered by:	**MPTS Committee**
Action:	**To note**

Executive summary

This report:

- Summarises the key issues arising from hearings adjourning in Quarter 2 2022;
- Identifies actions to be taken forward by the MPTS Senior Management Team.

Recommendation

- The Committee is asked to note the update

Adjournments Quarterly Review: Q2 2022

Scope of Review

1 Each month the Head of Case Management, Head of Operations, Case Managers and Legal Adviser meet to identify themes and issues arising from adjourned MPT hearings, with reference to internal resources, including hearing commentary and case management documents.

2 The findings and recommendations are discussed at the MPTS Senior Management Team (SMT) meeting and actions are assigned to be taken forward.

Overview of MPT Hearings Reviewed

3 A total of 30 MPT hearings (across all MPT hearing types) concluded earlier than scheduled in Q2 2022. An analysis of new MPT hearings only during the same period shows that 77% of hearings concluded either early or on time.

4 MPT hearings taking place in Q2 2022 did so as a mix of SJB hearings, virtual hearings using MS Teams and as hybrid hearings with parties attending in person or remotely.

5 A total of 20 MPT hearings adjourned unplanned in Q2 2022. The table below indicates the number of adjournments across the MPT hearing types.

Hearing Type	Unplanned Adjournment	Planned Adjournment*
6-Month Cases	7	7
9-Month Cases	3	4
Direct Listing	1	0
Review Hearings	4	0
Remittal Hearings	1	0
Non-Compliance Hearings	0	0
Restoration Hearings	2	0
New & Review Hearings	0	0
Preliminary Hearings	2	0

6 References "Q2/XX" are used below as identifiers for specific hearings. Anonymised identifiers have been used for the purposes of this paper as they may relate to matters which have not yet concluded.

* Hearings which are scheduled to adjourn and reconvene, either through a planned split listing or due to reconvene dates.

Themes emerging from adjourned hearings

7 Often adjournments can arise for reasons that are unavoidable and could not reasonably have been foreseen. For example, where a party or Tribunal member is unwell, or if a Tribunal direct the practitioner to undergo an assessment of their health, language or performance.

8 The following themes, which we consider to be potentially avoidable and/or foreseeable, arise from our analysis of the adjourned MPT hearings:

a. Tribunal deliberations and timekeeping – There were instances where Tribunals took time to complete their deliberations which appeared potentially disproportionate to the issue(s) under consideration (Q2/02, Q2/06, Q2/13, Q2/25, Q2/26), or where hearing time could have been managed more effectively (Q2/06, Q2/13, Q2/14, Q2/19).

b. Delays potentially caused by GMC case preparation – There were instances where avoidable delays appear to have been caused by issues relating to GMC preparation or presentation of evidence (Q2/01, Q2/12, Q2/19, Q2/20, Q2/22).

c. Delays potentially caused by doctor/defence case preparation – There were instances where doctor/defence preparation was incomplete or delayed progress during the hearing (Q2/12, Q2/13, Q2/16).

d. Delays caused by witness availability/timetabling – There were instances where the availability or timetabling of witnesses to give evidence delayed progress (Q2/01, Q2/02).

e. Insufficient hearing length – There were instances where parties underestimated the hearing time required, bearing in mind the evidence to be presented (Q2/09, Q2/21).

f. Delays caused by parties' health – There were instances where the health of one of more hearing participants caused delays (Q2/04, Q2/10).

Identified action points

9 The review identified a number of actions from the analysis of Q3 adjournments, as outlined below.

a. Actions requiring liaison with GMC Legal to provide feedback about reviewing hearing lengths when preparing/agreeing witness timetables, and obtaining English language translations of evidence pre-hearing

b. Actions relating to MPTS

   i. Consider whether QAG referrals are warranted where appropriate

ii. Review compliance with case management directions in cases where the late provision of evidence and/or making of applications was identified as an issue

iii. Obtain and analyse data on hearings where Rule 17(2)(g) applications are made and review whether there is a prevalence in particular case types.

10 Any actions relating to identifiable individuals have been removed from the list above in order to ensure confidentiality. Such actions may include recommendations for the Tribunal Development and Operations teams to consider when undertaking observations or reviewing Tribunal member feedback.

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11 - Annual review of case management

Samantha Bedford

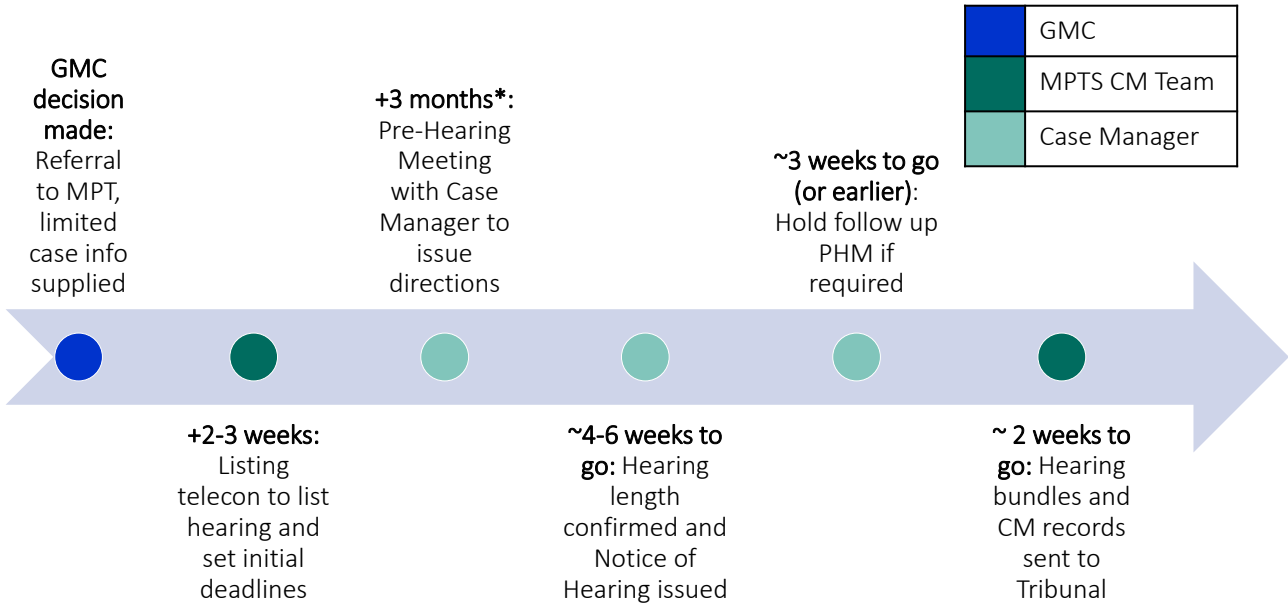
Head of Case Management

Overview

- Workload and resource
- COVID-19 response and recovery
- Emerging themes and priorities

Key functions

- Managing the MPT **hearing calendar**
- Conducting **case management discussions** with GMC and doctors
- Deciding **postponement** applications
- Deciding **hearing venue**
- Deciding applications for **directions** (e.g. special measures)
- Responding to pre-hearing **correspondence**
- Assessment of **costs** awards



*Timescales vary subject to preparation time required by GMC and doctor/representative

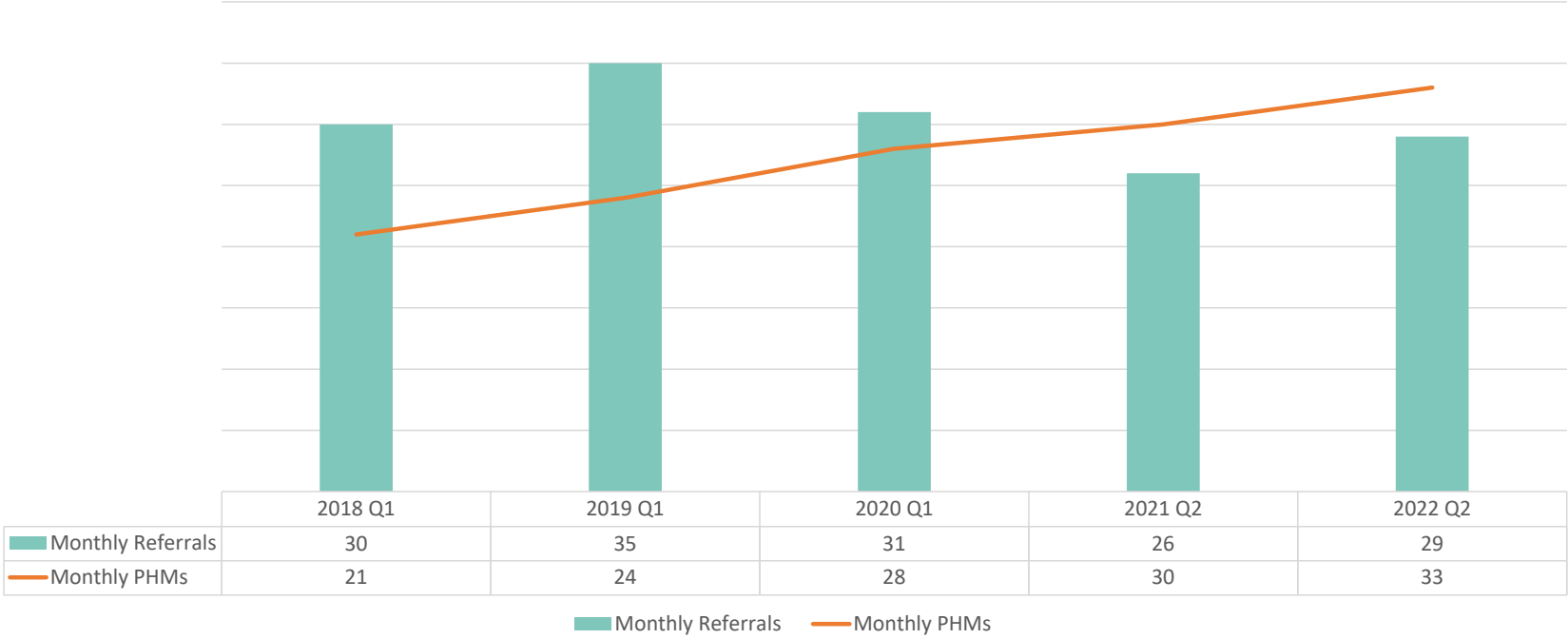
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Workload and resource



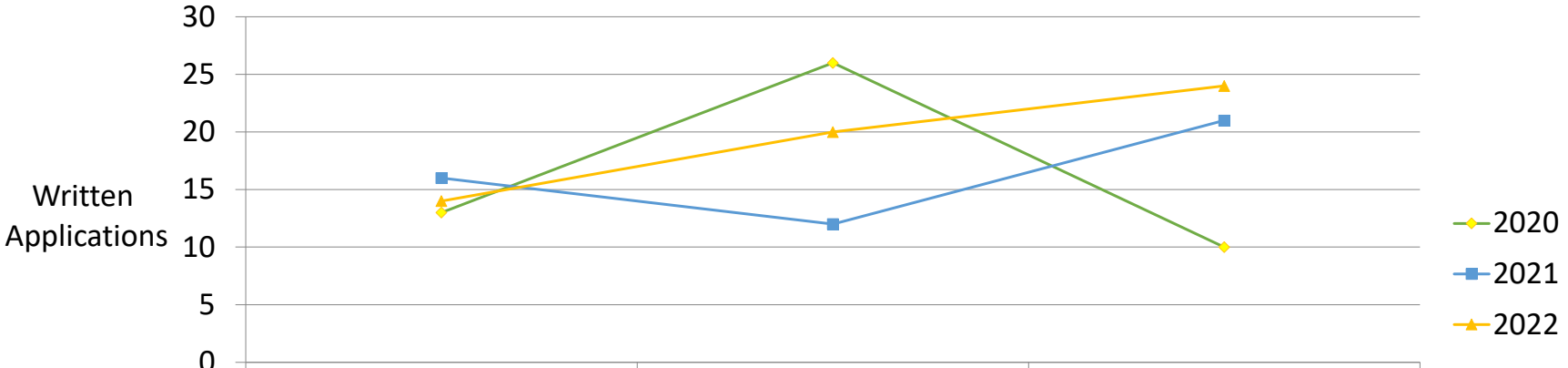
Referrals and PHMs in Q2 2021

- **Referrals** volumes have largely returned to pre-pandemic volumes, but vary significantly month to month
  - Low of 21 referrals in March 2022; high of 40 referrals in July 2022
- Demand for **PHMs** continues to increase, commensurate with pandemic recovery work and case complexity



Written applications and correspondence

- **Correspondence** – volumes remain at a high level, commensurate with pandemic recovery work
- **Written applications** – demand steadily climbed in Q1, generally in line with hearing volumes
  - Workflows remain unpredictable due to case complexity and range of participants



	January	February	March
2020	13	26	10
2021	16	12	21
2022	14	20	24

CMT resources

- No major changes to resourcing in 2022, as changes to support our pandemic recovery work and increased workload were made in 2020 and 2021
- Current team structure:
  - Head of Case Management
  - 2 Case Managers
  - 1 Legal and Case Management Adviser
  - 1 Case Management Team Manager
  - 1 Senior Case Management Officer
  - 4 Case Management Officers (1 post currently vacant, recruitment ongoing)

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COVID-19 response and recovery



COVID-19 recovery: listing process

- Complex exercise of relisting postponed hearing and listing new referrals, using criteria prepared by MPTS and approved by GMC SMT
  - Interim order status
  - Part-heard hearings
  - Hearings waiting longest to be heard, including those postponed
  - Preparedness of parties
  - Plus initially: hearings of shorter duration, fewer witnesses
- All hearings postponed or delayed by the pandemic were relisted byQ4 2021*, listing at the earliest fair opportunity
- For referrals made in May 2022 onwards, we have returned to seeking to list hearings within our overall service target of 9 months from a GMC referral

*Save for those on hold due to health, legal challenge or other compelling circumstances

COVID-19 recovery: venue decisions

- CMT make venue decisions:
  - On all MPT hearing types
  - Via the case management process at the earliest fair opportunity
- Both parties have opportunity to make representations via the case management process, which are reviewed by a legally qualified decision maker
- Decisions focus on:
  - (a) the needs of participants, including vulnerable witnesses and participants with a disability; and
  - (b) the volume and format of evidence
- Generally all reasonable requests have been able to be accommodated, thus avoiding significant challenges arising from our combined use of virtual and in-person hearings

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Emerging themes and priorities



Emerging themes

- Privacy applications
  - More established internal process, across all teams impacted
  - Guidance to assist doctors and representatives navigate the key issues
- Preliminary hearings
  - Wider range of issues and complexity
- Shifting parties' expectations to 'business as usual' approach
  - Some pandemic-related flexibility (e.g. virtual hearings, increased use of paperless bundles) has been retained for 2022
  - Work to be done with parties to underline an increasing emphasis on timeliness and listing within service target

Priorities

- Key focus: delivering increased activity, taking a fair and consistent approach
  - Working to meet the needs of internal and external stakeholders
  - Providing clear guidance and communication
- Developing and modernising our service
  - Developing application forms to standardise input and assist parties
  - Producing guidance for areas where work volumes are increasing
- Continuing to embed learning from adjournments work
  - Creating a bespoke case management approach for conviction cases
  - Working with parties to share insights, good practice and common pitfalls

MPTS Medical Practitioners Tribunal Service

Any questions?



MPTS Medical Practitioners Tribunal Service

Agenda item:	**14**
Report title:	**Tribunal member training update 2022**
Report by:	**Tamarind Ashcroft, Head of Tribunal Development tamarind.ashcroft@mpts-uk.org, 0161 240 7291**
Considered by:	**MPTS Committee**
Action:	**To note**

Executive summary

This paper summarises the tribunal member training delivered to date in 2022 and details activity for the remainder of the year.

A hybrid approach was taken to induction training for newly appointed Legally Qualified Chairs.

Case law updates and learning points from the Quality Assurance Group have been disseminated throughout the year.

Recommendations

- The MPTS Committee is asked to note the training update.

Training needs background

1 As detailed in previous updates, training needs for MPTS tribunal members fall largely into two main categories; induction training for those newly appointed to the MPTS, and annual refresher training for all tribunal members.

2 This year, 49 new Legally Qualified Chairs were appointed, and, for the first time, a hybrid approach was taken to delivering induction training. This enabled us to deliver the training flexibly given the continued uncertainty around social distancing requirements at the time of planning.

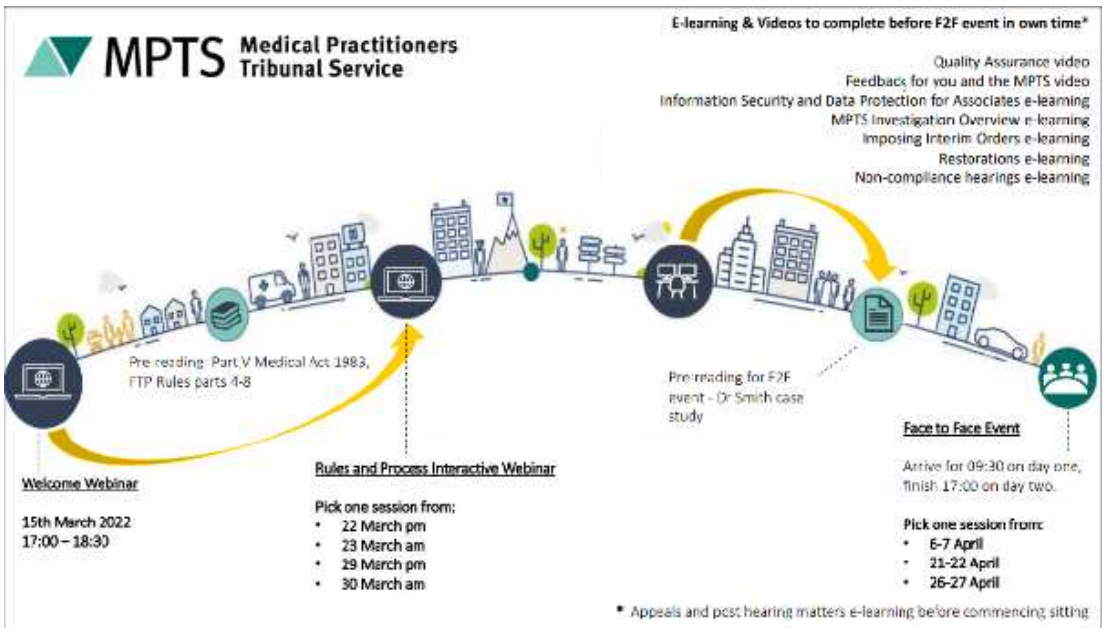
3 Further to the feedback from annual training last year, tribunal members have had the option to complete their annual training in a modular way via virtual sessions or by attending for a single day in person. Training has been split into a range of sessions including:

- a general learning update webinar focussed on further developing knowledge on insight and remediation (Q2),
- interactive workshops on the 'role of the tribunal – professionalism, competencies, and conflicts' (Q3&4) and
- e-learning on data protection updates (Q2) and case law (Q4).

These essential elements of training, when combined, will be equivalent to approximately a full day of training.

Induction training

4 All newly appointed LQCs were required to attend and complete all induction training sessions prior to sitting. This is the first year where we trialled induction training being delivered in a hybrid format -this consisted of webinars, e-learning and video modules and then a 2-day face to face event.



5 All LQCs had to attend a set welcome event but thereafter they could choose the most convenient webinar/ in-person training to attend and could complete the e-learning at their own pace providing it was completed prior to the in-person training.

6 The in-person training included sessions on skills for decision makers including questioning, listening, decision making and ED&I along with the interactive session that brought the process and skills together to practise the role through a fictional case study.

7 It was determined that these sessions would be most beneficial to be delivered face to face due to the nature of the content and the way in which we deliver these sessions. The sessions also enabled the LQCs to explore the different types of bias, understand neurodiversity in hearing participants and reflect on their own personal bias and how to bring this to the fore and not have it impact decision making.

8 Feedback from the sessions was gathered at the end of all events and verbal feedback was incredibly positive although only 39% of participants completed the formal feedback. All responses indicated that they felt the training was pitched appropriately and provided them clear training on the role and expectations. Further feedback will be sought six months after the training has concluded to assess whether the training still met requirements once LQCs had started to sit.

9 All LQCs were required to sit as a lay member or legal assessor before sitting as a LQC to gain sufficient practical knowledge before chairing.

Annual training

General learning update with focus on insight and remediation

10 Webinar content focussed on developing knowledge around insight and remediation further to sessions in 2021 in decision making at impairment and sanction stages and further case law updates were provided.

11 In addition to this, the session also focussed on addressing learning points identified by the Quality Assurance Group (QAG); this included public and private hearings, recusal applications and, for IOT members, reminders about reasons for length of orders and notice/ service requirements.

12 Formal feedback for the session was sought although only 13% of participants completed this, which meant that statistically robust analysis could not be completed. Verbal informal feedback at the end of each session was positive. As full training has not been completed for the year, we will review our approach to requesting feedback and seek further input from tribunal members before the end of the year.

13 We will update the Committee on the feedback from all training at the next update.

14 67% of tribunal members opted to attend all training through virtual sessions; the remainder will therefore complete this session as part of the full day face to face programme in Autumn 2022.

The role of the tribunal - professionalism, competencies, and conflicts

15 Developing the training from 2021, which focussed on managing witnesses and addressing bias with particular reference to sexual misconduct hearings, this year we will be exploring the relationships with other participants in the hearing room and how the perception of tribunal members can influence how their decision making is viewed. We will also include any other learning points from the Quality Assurance Group.

16 These sessions will be delivered in Autumn 2022 and a further update will be provided at the next Committee Meeting.

eLearning

17 An essential eLearning module on information security, data protection and freedom of information, relevant to all GMC and MPTS associates, was issued in

Q2. This reminds associates of their responsibilities and the requirements to comply with regarding our data.

18 An essential eLearning module on case law updates will also be issued in Q4.

Additional learning

19 An eLearning module on non-compliance hearings along with some explainer videos around conflicts of interest and recusal, appeals and post hearing matters, our approach to quality assurance and how we use feedback were launched this year.

20 These standalone optional resources are intended to provide learning to complement the existing guidance or legislation on these areas.

21 We continue to issue circulars outlining the key learning from appeals.

22 The Committee is asked to note the training programme.