

Agenda item:	5
Report title:	MPTS Tribunal member appointments in 2019
Report by:	Gavin Brown , Executive Manager, MPTS gavin.brown@mpts-uk.org , 0161 240 8126
Action:	For decision

Executive summary

This paper outlines the considerations behind MPTS's 2019 strategy for the appointment and induction training of Legally Qualified Chairs and Medical Tribunal members to support the MPTS in its statutory responsibilities and operational effectiveness and efficiency.

Recommendations

The Executive Board is recommended to:

That the Executive Board approves the appointment and induction training for 25 new Medical Tribunal members at a cost of £38,173.

That this activity is carried out in tandem with the SMT approved appointment of Legally Qualified Chairs.

Background

- 1** In 2018 MPTS are on track to deliver savings of around £775k, primarily achieved through the successful introduction of Legally Qualified Chairs (LQCs) and by requiring parties to submit hearing bundles in advance.
- 2** These savings have partly offset the MPTS receiving higher levels of hearing referrals than expected.
- 3** Overall, forecast spend is expected to be 3% higher than budget for the full year.
- 4** MPTS have proposed a budget of £8.757m for 2019.
- 5** We have assumed that hearing days in 2019 will remain at the level forecast in 2018 (2504 plus 72 Review on Papers days).
- 6** We have also reduced our estimate of average hearing length compared to the 2018 budget based on the actual hearing lengths recorded in this year. For example, new hearings have dropped from an average of 6.66 to 5.95 days.
- 7** The proposed increase in budget for 2019, against the forecast spend in 2018, is due to the growth bids submitted for the appointment and induction of new tribunal members and recruitment of a new Casework Assistant.
- 8** Originally the MPTS put forward three growth bids – for a Casework Assistant (£24,022), a Project Officer (£28,245) and the appointment and induction training of 25 LQCs and 50 Medical tribunal members (£163,930 – see Annex A).
- 9** At the Budget Scrutiny meeting on the 17 October 2018, the Casework Assistant growth bid was provisionally approved; we withdrew the Project Officer growth bid and agreed to offer options concerning the appointment and induction training of tribunal members for SMT to consider.
- 10** In respect of the appointment and training of tribunal members we subsequently submitted a short options paper to the SMT (see Annex B).
- 11** Following SMT, an email from GMC Finance (dated 6 November 2018) confirmed that the appointment and induction training of 25 LQCs at a cost of £87,583 had been approved.
- 12** SMT requested further explanation of the bid for the recruitment and induction training of 25 new medical members hence this paper.

Further explanation

- 13** It is essential that Tribunals are appropriately resourced to meet quorum requirements and to ensure hearings can proceed in a timely manner; approving the recommendations of this paper will help ensure we appoint sufficient Tribunal members at the right time to ensure this continues.
- 14** We welcomed SMT approving the costs for the appointment and training of new LQCs; due to a number of judicial appointments this activity is absolutely essential if we are to continue to maintain the efficiency savings highlighted earlier in this paper.
- 15** In respect of medical members, we currently have 139 to support MPTS hearings. Over the next two years, 66 medical member contracts were scheduled to end. Since our last medical appointments campaign completed at the end of 2016, 13 medical members have concluded their contracts early which equates to a loss of 5% of medical members each year outside of anticipated end dates. Historically the rate of loss increases as tribunal members end dates approach. A situation not helped by medical members requiring a licence to practice and since the last SMT meeting we have already received notification that further medical members will intend to end their contracts early next year once they cease to be in active clinical practise as they do not wish to take steps to retain a licence for only our work.*
- 16** If we do not make appointments next year then we risk not having sufficient or sufficiently trained in time tribunal members and we may not be able to resource all hearings.
- 17** Bearing in mind the financial pressure facing the GMC, the importance of ensuring that the MPTS complies with its statutory responsibilities and the need to appropriately resource all hearings, the short options paper prepared for the SMT recommended option B.
- 18** Option B is to appoint 25 LQCs and 25 Medical Tribunal members in 2019.
- 19** To make up for the 25 new medical members we need (as set out in the original growth bid) but would not be appointing, the option includes offering existing medical members an extension of their contracts for up to two further years. We have commenced action to this effect (see Annex C) but have already been notified that some individuals will not intend to accept this due to their personal circumstances, confirming that contract extension alone may not address our resource needs.

* Currently the Interpretation Act requires registered medical members to also have a licence to practise.

- 20** The introduction of 25 new Medical Tribunal members at this time will allow appropriate transition of experience to ensure decision making remains stable in future years but reduces the overall expenditure in the 2019 budget (against the original growth bid) and hopefully prevents the need for further expenditure in subsequent years.
- 21** By appointing these roles (LQCs and Medical members) together rather than carrying out two exercises we are able to reduce financial costs from reduced advertising and training costs (see analysis later in this paper) and we will also reduce staff resourcing and wellbeing impacts.
- 22** The suitability of option B is also subject to active development to achieve a more stable hearings volume across the year.
- 23** Accommodating unpredictable demand causes significant MPTS staffing and resourcing issues throughout the hearing process.
- 24** The monthly referral rate in a 12 month period has ranged from 12 to 41 referrals per month (a 242% variance).
- 25** This is then reflected in the peak and troughs of our hearing room utilisation rate (from 57% to 95%, with an average of 80%).
- 26** We are updating both GMC Council and the GMC / MPTS Liaison group on our plans in the coming weeks.
- 27** Alongside a number of staffing changes this includes activities to implement the findings of an internal review of our pre-hearing case management service. These changes will include:
 - The MPTS using legally binding case management directions earlier in the pre-hearing process.
 - Setting listing expectations for different types of cases, reducing the peaks and troughs we currently see in our listing of cases.
 - Introducing standard forms for the GMC and doctors to make pre-hearing applications, reducing time lost on incomplete or unclear applications.
- 28** Our new approach will help us maximise MPTS resources, manage our workload more effectively and support us in the delivery of a high quality service to all users
- 29** It is possible therefore that, by Q4 2020, we will be able to resource tribunals with a smaller pool of medical members.

- 30** However, at this time, with our hearing volumes as they currently are we believe that we need to maintain the pool by offering extensions of contracts and replenish it through the appointment of 25 new Medical members.
- 31** This paper therefore recommends that the Executive Board;
- approves the appointment and induction training for 25 new medical tribunal members at a cost of £38,173, and;
 - that this activity is carried out in tandem with the SMT approved appointment of 25 LQCs and the extension of existing medical tribunal members contracts for up to two years.

The cost of appointment and induction training

- 32** SMT previously part approved option B (£87,583), made up of the following activities;
- Advertising: £20,000
 - Appointment expenses: £7,708
 - Induction training (including expenses): £51,875
 - External Trainer and Provisional interviewer support: £8,000
- 33** The Executive Board are being asked to approve the following activities at a cost of £38,173;
- Appointment expenses: £7,708
 - Induction training (including expenses): £30,465
- 34** As the above demonstrates, by appointing these roles together rather than carrying out two exercises we are able to reduce financial costs from reduced advertising and training costs and we will also reduce staff resourcing and wellbeing impacts.
- 35** Newly appointed LQCs and medical members are paid half of the usual daily fee to attend training. In the case of the LQC this represents an 'in-training' daily payment of £250 whilst for medical members it is £155.
- 36** As set out in Schedule 1 of the Medical Act the MPTS are responsible for "such training as they may determine for persons whom they propose to appoint to a panel list".

- 37** The induction training that has been previously approved by the MPTS Committee is 5 days for LQCs and 4 days for medical members; the LQCs have additional training on chairing (for details of previous induction training please see Annex D).
- 38** Additionally in preparation for attending induction training all individuals have to complete a number of e-learning modules and other work at their own cost.
- 39** Training of newly appointed panel members takes place across all regulators and for new judiciary through the judicial college.
- 40** Allowance in the costs has been made for expenses and therefore, based on previous years, overall costs may be lower depending on the geographical location of those attending training.

5 – Annex A

2019 Budget growth bid proforma

Directorate:	MPTS
Cost centre:	803
Department name:	Tribunal Development Section
Business plan activity name: Legally Qualified Tribunal Members	Appointment Campaign for Medical and
Business Planning UID:	Click here to enter text.
Budget Manager:	Tamarind Ashcroft
Assistant Director:	Gavin Brown
Nature of bid:	Directorate project

1. Justification for additional resources:

We currently have a total of 298 tribunal members, 17 less than this time last year. This consists of 158 lay (including legal) members and 140 medical members. 24 medical members' contract for services will end within the next 18 months with a further 42 medical members ending their terms in the subsequent year. We plan appointments to commence ahead of existing contracts ending; this ensures a suitable period for knowledge to develop resulting in consistency of experience.

The number of LQC's has reduced to 67 and it is anticipated that this group is likely to steadily reduce due to individuals taking on full time judicial appointments. We have seen over the course of this year that we need to appoint additional LQC's to ensure we have sufficient volumes to have LQC led hearings and as our forecast hearings have not reduced as had been expected we need to ensure that we have sufficient resource to account for early contract departures.

As a high number of medical tribunal members are due to end their contract for services in the near future, we will need to appoint a sufficient number of medical members to account for these planned changes also. By appointing these roles together and in one year rather than carrying out two exercises we anticipate that we will be able to reduce financial costs from reduced advertising and training costs and we will also reduce staff resourcing impacts. We will be seeking 75 tribunal members- 50 medical and 25 legally qualified, this is slightly less than those that will be ending their contacts however reflects that we believe there is scope for individual tribunal members to increase actual sitting commitments.

Which strategic aim does this activity support?

1. Supporting doctors in delivering good medical practice

Which strategic benefit does this activity support?

S2: Right response by the right organisation, at the right time

How will the expenditure support the GMC's corporate strategy & business plan?

It is essential that Tribunals are appropriately resourced to meet quorum requirements and to ensure hearings can proceed in a timely manner, the expenditure will ensure we appoint sufficient tribunal members at the right time to ensure this continues.

Have any other alternative forms of delivery been considered?

We need to appoint additional Legally Qualified Chairs and there is no other solution to increase this pool. For medical appointments we have considered whether extending existing medical tribunal members would be suitable however this would only provide a short term solution and as some existing medical tribunal members have been ending their contracts in advance of planned end dates it would leave us in an unstable position if we relied on this to resource our Tribunals.

What are the benefits of the preferred option & are there financial benefits? – If so please nominate these in Financial Impact section below.

Appointing at this time to account for contracts concluding up to mid 2020 will provide certainty in resource support for our hearings. By having one larger appointment campaign we will only need to incur costs for one advert, one training programme and we

will only utilise staff resource for this limited period rather than at repeated events over the next 2-3 years.

What would be the impact of failure to deliver the activity & the risks associated with non delivery?

If we do not make appointments next year then we risk not having sufficient or sufficiently trained in time tribunal members and we may not be able to resource all hearings.

Links to any other projects or work programmes

n/a

Timescales for delivery

Advertisement would commence at the start of 2019 with induction training completed by the end of July 2019 so individuals are able to commence roles within Q3/4 2019.

2. Headcount requirements

If no additional headcount is required, please go to section 3

Job title	Level	Type	Start date	End date (leave blank for perm)	Recruiting Manager	Location
		Choose an item.	Click here to enter a date.	Click here to enter a date.		Choose an item.
		Choose an item.	Click here to enter a date.	Click here to enter a date.		Choose an item.
		Choose an item.	Click here to enter a date.	Click here to enter a date.		Choose an item.
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		Choose an item.	Click here to enter a date.	Click here to enter a date.		Choose an item.
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		Choose an item.	Click here to enter a date.	Click here to enter a date.		Choose an item.
		Choose an item.	Click here to enter a date.	Click here to enter a date.		Choose an item.

Please state the reason for the category of staff member been chosen?

Click here to enter text.

Why can the activity not be completed with existing resources?

Click here to enter text.

3. Financial impact

Details of costs (revenue)		2019 £	2020 £	2021 £
Account code	Description			
	Advertising and interview costs	47,125		
	Induction Training costs and expenses for 75 appointments	116,805		
	Total	163,930		

Details of costs (capital)		2019	2020	2021
Account code	Description	£	£	£

Details of savings (invest to save)		2019	2020	2021
Account code	Description	£	£	£

For office use only

- Review by facilities? Choose an item.
- Does the bid require extra resource? Choose an item.
- If yes, how much? Click here to enter text.
- Review by IS? Choose an item.
- Does the bid require extra resource? Choose an item.
- If yes, how much? Click here to enter text.
- COO approval Click here to enter a date.

5 – Annex B

Growth bid for the appointment of MPTS tribunal members in 2019

At the recent budget scrutiny meeting the element of the growth bid concerning the recruitment activity to appoint 25 Legally Qualified Chairs (LQCs) was approved.

This brief paper sets out the cost and pros (+) and cons (-) in respect of the recruitment activity of medical tribunal members.

Current volumes

We currently have 139 medical tribunal members to support MPTS hearings. Over the next two years, 66 medical tribunal contracts will end - the majority of these will end in 2019.

Since our last medical appointments campaign completed at the end of 2016, 13 medical members have concluded their contracts early which equates to a loss of 5% of medical tribunal members each year outside of anticipated end dates.

Proposals for appointments

Option A (as per the original growth bid) - £163,930 we appoint 50 medical tribunal members in 2019 alongside LQC appointments

+We are not making like for like volume replacements as we believe based on hearings volumes over the next two years we will be able to manage with a reduced medical pool.

+Appointing at this stage will enable sufficient experience for new tribunal members to grow to prevent any stark change in decision making if we delayed appointment until immediately prior to existing contracts end.

+We are able to realise savings of appointments by holding shared induction training and advertising posts together.

+We are able to confine resource impact to a single year.

-Overall cost is increased.

Option B - £125,756.50 we appoint 25 medical tribunal members alongside LQC appointments in 2019 and extend contracts of existing medical tribunal members for up to two further years.

+We will save £38,173.50 against Option A (original growth bid)

+We retain experienced medical tribunal members for slightly longer but enable a new intake to develop experience over a longer period before existing tribunal member contracts end.

+We are able to realise savings of appointments by holding shared induction training and advertising posts together.

+We are able to confine resource impact to a single year.

-We are over resourced for a longer period of time and unable to provide sufficient sitting to meet tribunal member expectations and risk individuals ending contracts earlier resulting in uncertainty.

-Unless hearings levels balance sufficiently by Q4 2020, there may a need for a further appointments campaign in 2-3 years.

-Overall cost is increased.

Option C - £87,583 we defer appointment of medical tribunal members for two years

+We will save £76,347 against Option A (original growth bid)

+resource will be able to be redeployed to support other activity within the section.

-We will incur an additional cost of £14,000 compared to option A when we appoint in 2021 by running a single campaign and the cost of the 2019 LQC appointment will increase by £14,000 as the advertising and induction training costs will be duplicated.

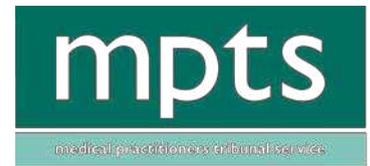
-We will lose approximately 10% of the pool over the next two years which may increase towards the end of contract extensions due to uncertainty and or revalidation requirements.

-intense resource requirements will be required over two separate years whereas running joint campaigns has administrative efficiencies.

Recommendation- Option B

Subject to active development to achieve a more stable hearings volume across the year, it is possible that by Q4 2020 we will be able to resource Tribunals with a smaller pool of medical members. The introduction of new medical tribunal members now will allow appropriate transition of experience to ensure decision making remains stable in future

years but reduces the overall expenditure in the 2019 budget and hopefully prevents the need for further expenditure in subsequent years.



9 November 2018

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5 – Annex C

To: MPTS Associates

Cc: Tribunal Clerks

Dear Tribunal Members

Extension of contracts for Medical Tribunal Members and Transfer to Interim Orders Tribunal pool

We have been reviewing our resourcing requirements and have identified two areas where we need to make adjustments.

- 1** We have continued need for medical tribunal members in both the Interim Orders Tribunal (IOT) and Medical Practitioners Tribunal (MPT) pools beyond 2019.
- 2** We need to increase the volume of both medical and lay tribunal members (not LQC's) within the IOT pool.

We therefore wish to obtain interest in respect of these areas.

Extension of Contracts for Medical Tribunal Members

At this stage, we wish for medical tribunal members, whose contract for services is due to expire before 31/12/2019 to contact us to confirm if they wish to have a two year contract extension at the end of their current term.

Individuals must ensure that they will remain able to carry out the requirements for the role, e.g. ensuring they continue to have a Licence to Practise, and must also demonstrate they have adhered to the contractual requirements for the role, e.g. attending annual training, completing appraisal requirements etc.

Medical tribunal members whose current contractual term concludes after the above date will be contacted in 2019 if our resourcing needs indicate this is required.

At this time we are not proposing extensions to contracts for lay tribunal members.

Please can medical tribunal members who wish to have an extension respond by reply no later than 23 November 2018.

Transfer to IOT pool

While the volume of work within the IOT pool remains stable we have seen a natural reduction in lay and medical tribunal members within this pool over recent years. We are now looking for approximately 8 medical and lay members to move from the MPT pool to the IOT pool **in early 2019**. If we have a greater level of interest in such movement we will take into account individual preferences alongside the need to ensure that both pools remain diverse and actual sitting availability.

For those that may require a reminder of the work of the IOT-

1. The IOT considers whether a doctor's registration should be suspended or restricted, on an **interim** basis, pending the outcome of the GMC's investigation.
2. The IOT makes no findings of fact.
3. Cases considered by an IOT are normally heard in private although there are circumstances when they may be heard in public.
4. Typically one Tribunal will sit each weekday, considering several cases.
5. IOT members will also sit on and determine Non-compliance hearings.
6. You can sit for a single day at a time or for up to 3 days in a row, this may suit those that find it difficult to provide availability for longer periods.

Those moving to the IOT pool would not commence this work until March/April 2019. We will require those transferring to the IOT pool, at a minimum, to complete a refresher eLearning course on the role of the IOT. We recognise that many individuals within the MPT pool will have sat on IOT hearings at some stage or may be familiar with the requirements from making IOT decisions as part of the MPT process and we will therefore not require attendance at face to face training. For those that require further support before they commence their role, face to face training will be available in Quarter 2 of 2019.

Please can medical and lay tribunal members who wish to move to the IOT pool respond by reply no later than 23 November 2018.

We will consider all responses to both matters once the above date has passed and will confirm the outcome no later than Friday 7th December. If you have any queries about the above matters please contact the Tribunal Development Section at tribunaldevelopmentsection@mpts-uk.org or on 0161 240 7292.

Yours sincerely

Tamarind Ashcroft
Head of Tribunal Development
Email: tamarind.ashcroft@mpts-uk.org
Telephone: 0161 240 7291

5 – Annex D

Induction training for Legally Qualified Chairs and Legal Assessors PROGRAMME

*Pre reading - 'Information Security Presentation'
E-learning – 'MPTS Investigation Overview'*

	DAY 1	Topics/ Areas Covered	Who
11:15	<i>Tea/coffee & registration</i>		
11:30	Welcome and introductions	<ul style="list-style-type: none"> - Course objectives - Delegates' objectives - Role of MPTS and GMC, role of tribunal member - Role of TDS - Role of tribunal clerk - The 'Dr Smith' case study 	TA
12:00	Medical Practitioners Tribunals Presentation, questions & answers	<ul style="list-style-type: none"> - The hearing room - The task for the tribunal - Recap on the investigation process and how it feeds into tribunal work- Rules 2-13 - Decisions made prior to hearings and not in the tribunal remit 	TA
13:00	Legally Qualified Chair or Legal Assessor	<ul style="list-style-type: none"> - What each role entails 	TA
13:15	<i>Lunch</i>		
13:45	Case management Presentation, questions & answers	<ul style="list-style-type: none"> - Pre-hearing case management - Case management during a hearing 	SB/ NT
15:15	<i>Tea/coffee</i>		
15:30	New cases Presentation Rules 17(2)(a-m)	<ul style="list-style-type: none"> - Preliminary issues 	NT/ TA
17:00	End of day 1	Recap	TA
	Homework	Part V Medical Act, FTP Rules (parts 4-8)	

	DAY 2	Topics/ Areas Covered	Who
09:00	Review of previous day		TA/ NT
09:10	New cases- cont'd Presentation, small group exercises Rules 17(2)(a-m) <i>Includes tea/coffee break</i>	<ul style="list-style-type: none"> - Preliminary issues (exercises) - Fact-finding - Impairment - Sanction - Review of 'Dr Smith' case study 	NT/ TA
13:00	<i>Lunch</i>		
13:30	Assessments – Health, performance and English Language Q&A, assessment reports Case studies	<ul style="list-style-type: none"> - Familiarisation with assessment reports and processes 	NT/ TA
15:00	Tea/coffee		
15:15	Imposing Interim Orders Presentation, questions & answers	<ul style="list-style-type: none"> - S41A Medical Act - IOP test and guidance 	NT/ TA
16:30	Reviews, restorations and post-hearing issues Presentation, questions & answers	<ul style="list-style-type: none"> - Review cases - Role of Case Review Team - Restoration - Notification/disclosure - Appeals 	NT
17:00	End of day 2		
	Homework	E&D case studies	

	DAY 3	Topics/Areas Covered	Who
09:00	Review of day 2		TA
09:15	Values and ethics for tribunal members and legal assessors Presentation, questions and answers		DCS
09:45	Equality and Diversity- Presentation, Q&A, small group sessions <i>Including tea/ coffee break</i>	- GMC/ MPTS specific	GMC E&D Team
12:00	<i>Lunch</i>	-	
12:30	Questioning and listening skills. Presentation and exercises	- Techniques for questioning within the tribunal setting	LC
13:30	Communication, decision making and evidence Presentation, Q&A	- Identify the different types of evidence - How to deal with evidence - Includes an exercise	LC
14:30	<i>Tea/ Coffee</i>		
14:45	Legally Qualified Chairing Presentation, Q&A	- Assertiveness techniques and interventions in hearings - Over-confidence	LC
17:00	End of Day 3		
	Homework	Preparation for Dr Smith exercise	

	DAY 4	Topics/ Areas Covered	Who
09:00	Review of previous day	-	TA
09:15	Introduction to mentors	-	
09:30	Chairing an MPTS hearing Presentation, Q&A		Guest speaker
10:30	'Dr Smith'- The case study including impairment. Plenary sessions with exercises Including Tea/ Coffee	- 'Dr Smith'- The case study.	TA/ TDS
13:15	<i>Lunch</i>		
13:45	'Dr Smith'- The case study Exercises- sanction		
15:00	Concluding the case Whole group discussion		TA
15:15	<i>Tea/ coffee</i>		
15:30	Quality Assurance and Appraisal	- 360 feedback - The MPTS Quality Assurance Group	CLB/CS
16:30	End of Day 4		
	Homework	Dishonesty case studies	

	DAY 5	Topics/Areas Covered	Who
09:00	Review of day 4		TA
09:10	Drafting MPTS determinations- Plenary session	<ul style="list-style-type: none"> - Consolidating understanding of process, familiarising self with determinations with specific reference to some dishonesty cases - Utilising MPTS drafting determination guidance - Familiarisation with MPTS templates/ processes 	TDS
11:15	<i>Tea/ Coffee</i>		
11:30	Administrative issues Presentation, questions & answers	<ul style="list-style-type: none"> - Mentoring - Information Security - Contract: <ul style="list-style-type: none"> - conflicts of interest - code of conduct - Register of interests - Empanelment - Fees and expenses (incl. travel bookings) - Contacts 	TDS
12:30	Review of week		TDS
12:45	End of induction training	<ul style="list-style-type: none"> - Delegates to complete feedback forms at end of day 5 	

Presenters:

DCS = Dame Caroline Swift (Chair of MPTS)

LG = Lyndy Geddes (Assistant Director, MPTS)

TA = Tamarind Ashcroft (Head of Tribunal Development)

NT = Nick Turner (Senior Legal Adviser)

SB = Samantha Bedford (Case Manager)

CLB = Carole Beard (Tribunal Development Manager)

CS = Corina Seymour (Tribunal Development Manager)

LC = Leslie Cuthbert (Judge)

TDS = Tribunal Development Section (Tribunal Development Manager)