Giving evidence at a Medical practitioners tribunal

Introduction

As a performance assessor, there may be occasions where the performance assessment report that you helped to prepare is referred to a medical practitioners tribunal. If this happens, you will be asked to appear before the tribunal to give evidence. This document aims to advise you on the hearing process.

Before the hearing

In advance of the hearing, you will be contacted by the GMC legal adviser who is responsible for the case. They will ask for your availability to attend the hearing to give evidence. The legal adviser will come back to you at a later date to let you know when you need to attend the hearing.

The legal adviser will also arrange a conference that you are required to attend, ideally in person, although it can be conducted via video or telephone link if required. This conference takes place six weeks in advance of the hearing and is also attended by the performance assessment officer, GMC legal adviser and the barrister who has been instructed by the GMC. This is an opportunity for everyone to discuss the case and ask any questions.

All hearings take place at the Medical Practitioners Tribunal Service (MPTS) in Manchester. You need to attend the hearing in person to give oral evidence to the tribunal.

Please note: Giving evidence at the hearing by video or telephone link will be the exception rather than the rule.
Why is giving evidence by video or telephone link problematic?

- The GMC no longer has video link facilities for witnesses at the London office. This means having to use an external venue, which creates the following problems:

  - **Risk to information security**
    Sending hearing bundles to external venues creates a risk that the papers could get mislaid in transit, meaning confidential data, including medical records, may fall into the wrong hands.

  - **Quality of evidence**
    Due to technical difficulties that are often encountered when giving evidence over a video link (e.g., time lapse or breaks in connections), it is preferable for witnesses to give evidence in person. From a practical perspective, it is also difficult to give evidence by video link when the witness has to refer to a lot of documents (which is often the case with performance assessments). Because of this, it is not usually suitable for assessors to give evidence by video link.

- Even if the GMC thinks it is suitable, it still needs to make an application to the tribunal (see below).

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**Giving evidence over video/telephone link**

- Witnesses can only give evidence over a video link by submitting an application to the tribunal, which would decide whether to grant it or not.

- If the defence opposes such an application (which is the usual stance), then it is highly unlikely that the tribunal will grant it, unless there are exceptional circumstances.

- It is unlikely that the tribunal would agree to such an application, especially if the doctor objected.

- Circumstances where it might be agreed that you could give evidence by video link would be if your evidence was going to be short (e.g., the evidence of a lay assessor) or if much of the assessment was agreed.
What is expected of you?

Prior to the hearing, you should make sure you are familiar with the following guidance:

- **Acting as a witness in legal proceedings**

- **Standards and guidance for expert witnesses.** This guidance has been created for all experts who the legal team instructs, so not all of the content will apply to your role as a performance assessor. We recommend you read sections 1, 2, 4 and 9.

If there are any dates you are not available to attend the hearing (eg because of clinical commitments that cannot be changed or pre booked holidays), you should let the legal adviser know as soon as possible.

If you need to book locum cover for when you are due to attend the hearing, you should let the GMC know the latest date you are able to book cover by. The legal adviser will ensure that the hearing timetable is arranged so you can make locum arrangements no later than 48 hours in advance of the date you give us.

Please be aware that the timetabling of hearings is very difficult to predict. Whilst we will try to ensure you give your evidence as scheduled, sometimes (due to unforeseen circumstances) there may be delays or last minute alterations to the timetable. We are aware that you are busy practitioners and will try to accommodate you where possible. Your understanding of the difficulties that may present is much appreciated.

You should review the performance assessment report in advance of the conference with GMC Counsel and the medical practitioners tribunal hearing. This is because you need to be familiar with the contents of the performance assessment report and your individual judgements in the database.

Arriving at the hearing

You will be asked to attend the hearing at the MPTS in Manchester on a specific date. This is the date that you are expected to give evidence.

On arrival please report to reception on the seventh floor. A member of staff will show you to the waiting room which will be on the fourth or seventh floor (depending on where the hearing is taking place).

As soon as they are able to, the GMC legal adviser and GMC Counsel will come and greet you. You should have already met both parties during the conference call.

**If you have any questions before you give evidence this is your opportunity to ask.**
You will be required to wait in the waiting room until you are called to the hearing room to give your evidence.

**During the hearing**

You will be asked to swear on the holy book (of your choice) or to affirm before you give evidence. **The Tribunal Chair will then introduce you to everyone in the room and explain the procedure (see below).**

- **Step 1:** You will give your evidence for the GMC by being asked questions by GMC Counsel.
- **Step 2:** You will then be cross examined by Counsel for the defence, or by the doctor if they are unrepresented.
- **Step 3:** The tribunal will then have the opportunity to ask you any questions.

Once the tribunal releases you, you are free to leave the MPTS.

**After the hearing**

In line with the [Associate expenses policy](#), we ask that you send any receipts and invoice to the GMC legal adviser as soon as possible.

Following the hearing, the legal adviser will provide you with a brief update on the outcome of the hearing. You will be able to find the link to the tribunal's determinations on the MPTS website in due course if you require further information.

The legal adviser will provide feedback on your performance of giving evidence during the hearing to the associates appraisal and training officer.