

**First-tier Tribunal Health, Education and Social Care Chamber
Mental Health jurisdiction**

**MINIMUM SECURITY REQUIREMENTS AND AMENITIES FOR TRIBUNAL HEARING
ROOMS IN HOSPITALS**

INTRODUCTION

The tribunal hearing is a judicial process, therefore the accommodation provided must, so far as is possible, reflect the judicial nature and importance of the proceedings and the independent function of the tribunal panel. This guidance updates the 2018 guidance, which was informed by consultation with NHS Trust Chief Executives, judicial office holders, and other stakeholders.

There are two issues which Trusts must address:

1. The safety and security of the tribunal room (see paragraphs 1-18)
2. The standard of amenities of the tribunal room (see paragraphs 19-28)

In liaison with Her Majesty's Courts and Tribunals Regional Safety and Security Team, the tribunal continues to monitor and investigate reported issues with tribunal room amenities and other more serious matters, especially where concerns about safety and security arise, or actual breaches of safety and security have taken place.

The Code of Practice to the Mental Health Act 1983 is the starting point:¹

Accommodation for hearings

12.36 *The managers of a hospital in which a Tribunal hearing is to be held should provide suitable accommodation for that purpose. The hearing room should be private, quiet, clean and adequately sized and furnished. It should not contain confidential information about other patients. If the room is used for other purposes, care should be taken to ensure that any equipment (such as a video camera or a twoway mirror) would not have a disturbing effect on the patient.*

12.37 *The patient should have access to a separate room in which to hold any private discussions that are necessary – eg with their representative – as should the Tribunal members, so that they can discuss their decision.*

12.38 *Where a patient is being treated in the community, the hospital managers should consider whether a hospital venue is appropriate. They may wish to discuss alternatives with the Tribunal office.*

If MHA administrators have any difficulty with adherence to the standards in this document, or if there is any information that hospitals would wish tribunal judicial office holders to be made aware of, please keep the tribunal informed by email to MHMembersfeedback@justice.gov.uk.

¹ In **R (Munjaz) v Merseycare NHS Trust** [2005] UKHL 58, it was held that the Code of Practice should be observed by all hospitals unless they have a very good reason for departing from it in relation to an individual patient.

STANDARDS OF SAFETY AND SECURITY

1. Panel members must be satisfied that the hearing room is safe and secure. Any concerns that panel members or parties have regarding the suitability of rooms for tribunal hearings should be raised on the day of the hearing with the Mental Health Act Administrator (MHAA) or their delegated representative if they are not on site.
2. If best efforts to resolve those concerns have been taken but:
 - The panel still has real concerns, particularly about safety or security matters;
 - The panel is not satisfied that there is compliance with the minimum requirements expected of these types of hearing rooms

The panel must consider whether they can proceed with the hearing. Panel members are not expected to discharge their duties in an unacceptable or potentially unsafe environment.

3. The decision about whether a room meets the minimum requirements for the tribunal hearing is for the panel to make. The decision as to whether the patient poses too great a risk for the hearing to take place safely in the designated hearing room is for the clinical team to make. For the avoidance of doubt however, the ultimate decision as to whether the hearing should proceed in the designated room or any other room is that for the tribunal alone.
4. For security and safety, tribunal panel members should not have to announce their car registration number or put them in a publicly accessible visitors' book. There should be a separate private book for judicial office holders to record their registration numbers if required, which should be kept out of sight at reception.
5. To prevent unregulated and inappropriate contact between patients, other parties and panel members, patients with unescorted ground leave should be prevented from going into areas where panel members are likely to be present, either immediately before but particularly after the hearing. If this cannot be achieved, panel members may expect to be escorted from and to their vehicles or to the hospital exit.
6. The panel has the right to direct that the room be laid out as they deem appropriate, having heard the views of the hospital and others as to the desirable arrangements.
7. The room provided for the tribunal hearing should be of a size adequate for the hearing and the number of persons expected to attend – typically large enough to accommodate at least 8 people, including the panel.
8. The table should be large enough for the panel and the representatives to make notes and have documents to hand. Appropriate seating must be provided for all expected attendees.
9. While coronavirus remains an issue, the room should be large enough to allow for social distancing of the attendees and be well ventilated.
10. The room must not contain items used for other purposes such as occupational therapy activities unless those items are safely stored away. A risk assessment must be carried out by the hospital in the event that such a room is used, to ensure that all items are safely stored and any non-secured items cannot be used to harm others.
11. Generally, the patient and other members attending should sit nearest to the exit so the patient can leave or be removed from the room quickly and safely if needed. If hospital staff consider that an alternative arrangement is desirable, the panel should be consulted before the start of the hearing. The panel will make the final decision.

12. A working telephone with an outside line should be provided in the hearing room, as panel members will always need access to the tribunal's administrative support centre and the duty district judge.
13. The tribunal accepts that some hospitals cannot allow panel members to keep mobile phones with them when in the secure areas of the hospital. However, in all cases, panel members must either have access to their mobile phones, or to a telephone with an outside line. If a working telephone cannot be provided in the hearing room with access to an outside line, tribunal panel members must be permitted to keep their mobile phones with them.
14. Useful hospital telephone numbers/extensions and names should be provided and clearly displayed within the room - e.g. the MHA Office/Administrator and any staff members of relevance.
15. For both confidentiality and safety, at no time should any unescorted patient be permitted to enter, or to remain in, a hearing room. In addition, unescorted patients should not be permitted to be present in the immediate vicinity of the hearing room, either within the hospital building, or outside the windows.
16. If, exceptionally, a tribunal hearing continues into the early evening, toilet facilities and security and emergency procedures should be made available to the panel. Staff on duty should be willing and able to support the tribunal in the discharge of its duties.
17. Contact details for a named responsible officer and an emergency number should always be provided to the panel on arrival in case security is required.
18. Cold water and plastic cups should be provided. If the cold water is provided in a jug or bottle it must be made of plastic and located out of reach of the patient.

STANDARDS OF AMENITIES TO BE PROVIDED

19. Ideally the tribunal hearing room should be located in a quiet part of the building, where interruptions and distractions are unlikely.
20. The MHAA should be prepared to provide the panel and all parties with directions to the hospital or community venue being used for the hearing.
21. The MHAA should be able to provide parking instructions and advice on how to obtain a permit, parking charges etc. Ideally, hospitals should consider whether they are able to provide designated or free parking for tribunal panel members visiting as guests of the hospital.
22. The hearing room should be ventilated, preferably with windows that can be opened and closed, and with air conditioning and heating so that the temperature is appropriate at all times of year. Good natural lighting or suitable electric lighting is required. Atmosphere and décor should be appropriate for a formal judicial hearing addressing difficult personal and legal topics.
23. There should be another room next to or close to the hearing room where the patient can speak privately with a legal representative, or with the tribunal medical member if necessary. This room should also have adequate seating and a table for people to make notes.
24. If possible, facilities for copying and shredding should be available as last-minute documents are sometimes produced at the hearing and these will often need to be copied. Tribunal members may also ask Administrators to shred papers for them to ensure they are disposed of appropriately.

25. Tribunal members often have to travel considerable distances to hearings, which are held in hospitals for the benefit of patients and for the convenience of the Responsible Authority and their professional witnesses. Reception staff should be aware of the hearing, the location of the hearing room and the parking arrangements. The provision of coffee and tea on arrival of the panel would be greatly appreciated.
26. Toilets should also be available within easy access/walking distance of the hearing room.
27. Tribunal panel members should be allowed to bring their own personal medicines into premises, including those designated as high security, so long as they are disclosed and accounted for when entering and leaving the premises.
28. Judicial Office Holders should be allowed to bring a laptop or tablet device to a hearing to record the evidence and access the written evidence - on the clear undertaking that, if required for security reasons, they will not be used to connect to the internet or to any mobile communication network whilst in the hospital.

Should you have any concerns regarding a scheduled hearing these should be reported to the MHT Administration team as soon as possible by email to: MHTenquiries@justice.gov.uk providing the following information.

- Name of hospital
- Date of hearing
- Whether your concern is about safety and security or amenities.
- If about safety and security, please give details:
- How the trust intend to resolve the concerns prior to the hearing

Should an incident takes place at a hearing this should immediately be reported to HMCTS by email to mhtincidentreporting@justice.gov.uk your report should contain the following information:

- Name of hospital
- Time and date of hearing
- Details of the incident
- Names and contact details of attendees.
- Action taken to resolve the incident.
- Was anyone injured in the incident and if so, what injuries occurred?
- Any recommended actions to prevent a future incident

HMCTS will investigate the report and will write the Chief Executive of the Trust to address the incident and any concerns regarding non-compliance with the requirements set out above.