



HM Courts &
Tribunals Service

First-tier Tribunal Health, Education and Social Care Chamber (Mental Health)

MINIMUM REQUIREMENTS FOR TRIBUNAL HEARINGS TO BE HELD IN HOSPITALS

INTRODUCTION

Where possible the Mental Health Tribunal has agreed to accept the invitation of Hospital Managers to hold its judicial hearings in the relevant hospital, rather than requiring the attendance of the parties and witnesses at Her Majesty's Courts and Tribunals Service (HMCTS) Centres.

This concession is made to facilitate the convenience of professionals working with the patient, to save the patient from having to travel, and to save Hospital Managers from having to arrange secure transport to bring the patient along to a Hearing Centre.

However, in return, the tribunal expects minimum standards of safety and security to be adhered to, and proper facilities and amenities to be provided for all panel members who attend at hospitals as invited guests of the Hospital Managers. The mental health Act's Code of Practice requires the Responsible Authority to provide suitable accommodation for tribunal hearings¹. A hearing room is as essential to a psychiatric hospital as an operating theatre is to a surgical hospital.

This document sets out the tribunal's minimum requirements for tribunal hearings to be held in hospitals. Managers have previously been asked to 'sign up' to the minimum standards. However, unless a written exemption is granted (generally coupled with an alternative agreed written arrangement to achieve the same end result) these standards must be adhered to whether or not the Hospital in question has signed up. If the tribunal's requirements are not met, or our facility and amenity needs are repeatedly not satisfied - the tribunal, in consultation with relevant officials from HMCTS, may consider holding its judicial hearings elsewhere.

Hospital Trusts are required to meet the duties set out in Sections 3 and 4 of the Health and Safety at Work Act 1974, which require hospitals as controllers of the workplace to ensure that HMCTS personnel are not exposed to any unlawful risks to their health or safety. Managers must provide safe access to any tribunal facilities provided and they also have a duty under the Management of Health and Safety at Work Regulations 1999 (Regulation 12 [3]) to inform panel members of any risks to their health and safety which might arise whilst on the hospital's premises. Hospitals must notify the tribunal office of any such risks at the earliest opportunity.

If Hospital Managers do not wish to invite the tribunal to sit at their hospital, or have difficulty with the requirements in this document and wish to offer an alternative arrangement to achieve a similar outcome, or need to notify the tribunal of any possible risks to the health or safety of panel members, they should email: MHincidentreporting@justice.gov.uk

In all cases, Panel members must be satisfied that the hearing room is safe and secure and that tribunal business can be concluded fairly and justly. **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.**

If best efforts to resolve those concerns have been taken but the panel still has real concerns about safety or security matters then panel members must consider whether they can proceed with the hearing. Panel members are not expected to work in a potentially unsafe or insecure environment. **However, before aborting a scheduled hearing, the tribunal judge should try to speak to a duty salaried judge AND should telephone to report the problem to a tribunal 'Delivery Manager on 0300 123 2201.**

¹ Paragraphs 32.33 and 32.34.

MINIMUM STANDARDS OF SAFETY AND SECURITY

1. The decision as to whether the patient poses too great a risk for the hearing to take place safely in the hearing room is, initially, for the hospital clinical team to make, and the clinical team will be expected to accept responsibility for their decisions. However, even if the clinical team is satisfied that the hearing can take place safely, the ultimate decision as to whether the hearing should proceed in the designated room or any other room is for the tribunal panel as a whole.
2. 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 immediately after the hearing. If this cannot be achieved, panel members should be escorted by appropriate hospital staff as they walk between the hearing room and their vehicles or the hospital exit.
3. Reception staff should be aware that the hearing is taking place, and should know the location of the hearing room and be helpful in directing panel members to the correct place. The panel must have exclusive use of the hearing room for private discussions from one hour before the tribunal start time, and members arriving after 9.30am or 1.15pm should not be kept waiting for more than a few minutes in reception areas before being escorted or (subject to Paragraph 5 below) directed to the hearing room.
4. Tribunal panel members should not have to announce their car registration numbers at reception, or write them into a publicly accessible visitors' book. If Hospital Managers require this information, there should be a separate private book for judicial office holders to record their registration numbers, and this information should always be kept confidential, and out of sight of the public.
5. If the route to the hearing room from reception involves walking through any unescorted patient areas not open to the public (whether inside or outside) then panel members and any agency tribunal clerk must be escorted to and from the room. Agency tribunal clerks must not be asked to undertake escorting duties in such areas.
6. The panel must have exclusive use of the hearing room for as long as is needed to complete tribunal business. There must then be someone to escort the tribunal out.
7. Unless there is access to an alarm in the hearing or consulting room, the tribunal judge (or a Medical Member attending a pre-hearing examination) should be given a personal alarm. Contact details for a named responsible officer and an emergency telephone number should also be provided.
8. Hearing rooms must not contain items or equipment used for other purposes such as leisure or recreational activities unless those items are safely and securely stored away. In any event, if a multi-purpose room is used for tribunal hearings, a written risk assessment must have been carried out by the hospital to ensure that all tribunal attendees are safe when the room is used. Under no circumstances may camera, microphone or recording equipment be used without the tribunal's express permission.
9. Unescorted patients must never 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.
10. The room provided for the tribunal hearing must not be so small that the panel are hemmed in or unable to exit quickly if necessary. So long as the panel are not hemmed in, the patient and other persons attending should sit nearest to the exit so the patient can leave or be removed from the room quickly and safely.

11. If Hospital staff members consider that an alternative arrangement is desirable, the panel should be consulted so that the panel can make a final decision. Ultimately, the panel has the right to direct that the room will be laid out as they deem appropriate.
12. If, exceptionally, a tribunal hearing proceeds later than expected into the early evening, toilet facilities and security and emergency procedures should be made available to the panel, and staff on duty should be willing and able to support the tribunal in the discharge of its duties and be available to escort them out at the end of the case.

MINIMUM REQUIREMENTS FOR FACILITIES AND AMENITIES

13. Most tribunal panel members visiting as guests of the hospital travel in their own cars – often undertaking lengthy journeys. The tribunal accepts that some hospitals make a small charge to park in hospital car parks, but whether or not this occurs, Managers must ensure that panel members have space to park within reasonable walking distance of the hearing venue. Wherever possible, and especially if public parking is usually full, three parking spaces should be reserved or, if no spaces are available, panel members should be permitted to use nearby staff parking areas. If contacted in advance, Mental Health Act Administrators (“MHAs”) should provide advice on availability of parking, including reserved parking, and how to obtain a permit.
14. Panel members who arrive and are unable to park due to difficulties in finding a space may also contact the MHA for advice on where to park. The MHA will provide advice and notify the other panel members and parties of any delay with the member arriving at the hearing.
15. The tribunal reimburses panel members for normal charges incurred when parking in hospital public car parks but will not accept civil parking penalty charges in relation to hospital parking. Unless adequate and readily available parking facilities are provided for panel members on hearing days in accordance with these minimum requirements then, with justification, any civil parking penalties may be resisted by panel members attending a hearing at a hospital.
16. Tribunal panel members will be willing to submit to airport-style personal screening and will agree to leave personal mobile phones in a secure locker so long as the locker is in sight of reception staff, and Hospital Managers accept responsibility for safeguarding any items placed in lockers. Panel members should be allowed to bring their personal keys and medicines into secure areas, including in hospitals designated as high security, so long as items are disclosed and accounted for when entering and leaving.
17. Now that all evidence is submitted to the tribunal by email and HMCTS policy is to go ‘paperless’, and in line with agreed practice at most high secure facilities, the tribunal requires that all judicial office holders have access to their personal laptop or tablet devices in the hearing room so that they can access documentary evidence or reference material downloaded or retained on the device, to type the evidence and submissions given at the hearing, and to do their work properly.
18. The tribunal accepts that, upon request, devices must be accounted for when entering and leaving, and should be disconnected from any mobile communication network.
19. The panel should either be offered coffee and tea upon arrival or have easy access to nearby, convenient, open and working refreshment facilities.
20. Cold water and plastic cups should be also available in the hearing room. Any jug or bottle must be made of plastic and be placed out of the patient’s reach.

21. The hearing room must be adequately ventilated, preferably with windows that can be opened and closed, with air conditioning and heating so that the temperature is appropriate at all times of year. Good natural lighting or electric lighting is essential. Atmosphere and décor should be appropriate for a formal judicial hearing.
 22. Patients should have access to a separate room in which to hold discussions with their families and representatives, and all attendees should have a suitable waiting area.
 23. The hearing room should be large enough to seat all attendees comfortably (typically there could be as many as 14 people - three panel members, a tribunal clerk, the patient, three or four professional witnesses, an IMHA, an observer, an appraiser, and two family members). There should be sufficient space separating panel members and others in the hearing room.
 24. Adequate table(s) must be provided during the hearing for all panel members, legal representatives, professional and other witnesses, and the patient. There should be sufficient desk space for the panel to keep their notes private and for panel and parties to be able to use laptops or tablets, or to make notes and have documents to hand.
 25. Tribunal panel members will always need telephone access to the tribunal administrative support centre and to a duty salaried judge. Consequently, a working telephone should be provided in the tribunal hearing room with private access to an outside line. This is absolutely essential if panel members have been asked to place their mobile phones in lockers before entering a secure area. Consequently, if a working telephone cannot be provided in the hearing room with private access to an outside line, panel members must be permitted to retain their mobile phones.
 26. In addition, useful hospital telephone numbers/extensions and names should be provided and clearly displayed in a suitable manner within the room e.g. the Mental Health Act Office or Administrator and any key staff members. Contact details for a named responsible officer and an emergency number should be provided.
 27. Facilities for copying and shredding should be available as last minute documents are sometimes produced at the hearing and these may need to be copied. If asked to do so, Hospital administrative staff should be willing to shred tribunal papers relating to patients at that hospital, in order to ensure that confidential tribunal papers do not need to be taken off site unnecessarily, and can be disposed of securely.
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