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mental health commission



Mental Health Commission

Guidance for stakeholders for the return to in-person mental health tribunal hearings in Approved Centres

V.1 22 September 2021
V.2 27 September 2021
V.3 14 March 2022
V.4 4 October 2022

Guidance for the return to in-person mental health tribunal (tribunal) hearings in Approved Centres

The Mental Health Commission (MHC) is issuing the following guidance to assist all relevant stakeholders.

Introduction

As you will be aware public health measures relating to the Covid-19 Pandemic have now been lifted.

Accordingly, in light of public health advice, the MHC has resumed in-person tribunal hearings in approved centres. However, where approved centres have a formal Department of Public Health declared outbreak of Covid 19 the tribunal hearing shall be held remotely.

This document has been prepared in line with public health advice and aims to protect the safety of residents and staff of approved centres as well as MHC Panel Members.

All parties are asked to notify the MHC by email of any issues arising from in-person tribunal hearings. The MHC shall endeavour to address the issue directly with the relevant party.

This document shall be kept under review and shall be updated as required.

Important Disclaimer – This is a Guidance document not a legal document. Furthermore, it is a matter for each individual panel member to decide to attend an approved centre in person or not. The MHC shall not accept any liability whatsoever if a panel member contracts Covid-19 while attending an approved centre.

You can contact the Mental Health Tribunals division within the Mental Health Commission on **01 636 2400**.

Mental Health Commission (MHC) Requirements

The MHC shall do the following –

1. The MHC shall not arrange in-person tribunals in any approved centre which has a formal Department of Public Health declared Covid-19 outbreak.
2. The MHC shall not arrange in-person tribunals in any approved centre if the approved centre does not meet the requirements set out in Approved Centres (AC) Requirements (Section 3) below. In the event any approved centre does not meet these requirements, the matter shall be referred to the MHC's Regulatory Team to address in accordance with Regulation 30 of the Approved Centre Regulations 2006 (SI No.551 of 2006).
3. In circumstances where an approved centre has a declared outbreak of Covid-19 or the tribunal room does not meet the requirements set out below, the tribunal shall be held by way of video conference. Panel members will only receive video conference details for hearings that are taking place by video conference and not for those taking place in person. **Each panel member must check CIS and their text alerts for any updates regarding the tribunal and the fact that it may be converted from in-person to video conference at short notice.**
4. The MHC shall monitor the status of Covid-19 in each approved centre.
5. No in-person tribunal shall be scheduled to start before 1 pm on a Monday (or on a Tuesday following a bank holiday)¹.
6. No in-person tribunal shall be scheduled to start before 10am from Tuesday to Friday².
7. No in-person tribunal shall be scheduled to start later than 3pm on a Friday.
8. The MHC shall seek to arrange all tribunals on or before day 20 of the 21 day-period provided for in Section 18(2) of the Mental Health Acts 2001-2018 (the 2001 Act).
9. There may be exceptional circumstances where an in-person tribunal is postponed on the day of the tribunal due to notification of a declared outbreak of Covid-19. The tribunal panel members may be travelling to or have arrived at the approved centre when this occurs. The approved centre shall not admit the panel members in these circumstances and the MHC shall rearrange the tribunal hearing by video conference for later that day or the following day.
10. The MHC shall not be operating hybrid tribunals.
11. The MHC shall carry out a check between 5.00 and 5.30 pm to ensure that all records of decisions

¹ The tribunal panel members shall require to be in attendance 1 hour before the hearing start time.

² The tribunal panel members shall require to be in attendance 1 hour before the hearing start time.

from Chairpersons have been received and made available to LRs. If not received, a phone call shall be made, and an email shall be sent to the relevant Chairperson to submit the record of decision as soon as possible. The MHC shall carry out a check the following morning between 9.00 and 9.30 to ensure all decisions from the day before are released to the LR if this has not already occurred.

12. The MHC shall keep panel members updated in relation to any changes to the procedures relating to in-person hearings (please see comments below in that regard).
13. The MHC's interpretation services provider, Translit, has been updated on the return to approved centres and they shall notify the interpreters in each case if the hearing is in-person or by way of video call. If the hearing is in person interpreters shall be required to attend the approved centre in person and comply with the relevant approved centre's requirements.

APPROVED CENTRES (AC) Requirements

The ACS will do the following -

1. Requirement to notify Department of Public Health declared outbreaks of Covid-19 to the MHC

ACs are required to immediately report all Department of Public Health declared outbreaks of Covid-19 to the MHC.

2. Admission to Approved Centres

2.1 All Panel Members may be required to undergo screening every time that they attend an approved centre. The screening process may vary from approved centre.

2.2 The approved centre has the discretion to refuse entry of a panel member based on their screening process. If panel members encounter any problems in this regard, they may contact by email Kevin Foley or Orla Keane at the MHC, who will review the matter and determine the appropriate steps to be taken

2.3 The approved centre shall not admit panel members where the approved centre has a declared outbreak of Covid-19.

3. Tribunal Room requirements

Each approved centre shall ensure the tribunal room meets the following requirements –

3.1 The tribunal room must be of a sufficient size to have 6 – 8 people keeping a minimum of 1m apart.

3.2 Ventilation in the room is important, with the goal being to achieve a gentle circulation of fresh air rather than strong air currents.

3.3 Masks must be worn at all times in the tribunal room and in the approved centre.

3.4 Rooms must be cleaned at least one hour before each tribunal commences. Wipes and hand sanitiser must be available in the room.

4. Records

Electronic copies of the patient's records shall be provided via CIS to all parties regardless of whether the tribunal is held in person or by way of video conference.

Legal Representatives (LRs) and Independent Consultant Psychiatrists (ICPs)

LRs and ICPs will do the following -

1. Return in person to approved centres to carry out their obligations under the 2001 Act save where there is a declared outbreak of Covid-19 case in the relevant approved centre.
2. Contact the approved centre before you attend on site. It is preferable that this is done the day before you visit. Please do not attend an approved centre without having agreed an appointment. This is also for safety reasons, in the event of a new declared outbreak of Covid-19.
3. Arrange your appointment within regular business hours, which for the purposes of this Guidance is Monday to Friday (excluding bank holidays) from 8 am to 6 pm and Saturday 10 am to 1 pm (where agreed by the approved centre).
4. Notify the approved centre in advance if you wish to have access to the patient's original clinical file and please comply with the approved centre's requirements.
5. Do not remove any documentation from an approved centre.

Chairperson's requirements

The Chairpersons will do the following –

1. Check that the tribunal room meets the requirements set out in Approved Centres (AC) Requirements (Section 3) above. The Chair shall contact the MHC if there are any concerns in relation to the tribunal room which the MHC shall address with the approved centre.
2. Please bring your laptop / tablet to the approved centre to type the Form 8 or Form 9 and / or Record of the Proceedings.
3. Complete the record of decision in typed form, where possible.
4. Following the installation of on-site multi-function devices (printer/copier), the Form 8 or 9 and the Record of the Tribunal Proceedings should be printed, signed and dated by each of the three tribunal panel members.
5. Ensure that the written record of the decision is read out to the patient, if in attendance at the tribunal, and the legal representative, unless the patient and the legal representative agree otherwise.
6. Copy the Form 8 or 9 and the Record of the Tribunal Proceedings using the on-site printer. Copies should be provided to the patient, the legal representative and the approved centre before the tribunal concludes.
7. If the on-site printer is not working, the Chairperson may print and sign on behalf of themselves and the other two panel members when they return to their home, office or anywhere they have access to secure wi-fi. Printer issues should be logged with the Tribunals team.
8. Ensure that the Form 8 or 9 and the Record of the Tribunal Proceedings are uploaded to CIS as soon as possible after the tribunal finishes. This may be done by the Chairperson when they return to their home, office or anywhere they have access to secure wi-fi.

All Panel Members

Panel Members will comply with the following –

1. Check CIS and text alerts for any updates in relation to this Guidance and the tribunal hearings to which you have been assigned.
2. Adhere to all relevant public health advice before attending any approved centre. You are also required at all times to act in line with individual approved centre protocols in relation to infection prevention & control and risk management measures. Panel members must make themselves aware of any specific guidelines for visiting the relevant approved centre.
3. If a panel member has been abroad within 14 days of an in-person tribunal and/ or required attendance at an approved centre to meet a patient in accordance with section 17 of the 2001 Act, the panel member is personally responsible for adhering to public health advice on their return as per <https://www.dfa.ie/travel/travel-advice/coronavirus/general-covid-19-travel-advisory/>. Please note that the advice differs from the region / country.
4. You may be required to undergo screening every time you attend an approved centre. The screening process may vary from approved centre. Please see attached a Sample Screening Form (**Appendix 1**).
5. The admission of panel members to the approved centre is at the sole discretion of the approved centre. If panel members encounter any problems in this regard, they may contact by email Kevin Foley or Orla Keane at the MHC, who will review the matter and determine the appropriate steps to be taken.
6. Have proof of identification ready and available when arriving at the approved centre.
7. Bring your own mask (of medical grade) and/or visor for the duration of your attendance. Have your own pen / paper.
8. Where required to use mobile phones and tablet computers / laptops while onsite in an approved centre, follow the guidance relevant to the scope of their use of same, as outlined in the [*HSPC Acute Hospital Infection Prevention and Control Precautions for Possible or Confirmed Covid-19 in a Pandemic Setting \(V2.15\)*](#)
9. Practice good respiratory hygiene, that is, when coughing and sneezing, cover your mouth and nose with flexed elbow or tissue – discard tissue immediately into a closed bin and clean your hands with alcohol-based hand rub or soap and water
10. Engage in good hand hygiene while in the approved centre to include entering and existing the building, on entering and exiting patient care areas, after touching their face / mask / visor and after using bathroom facilities.
11. The approved centre may have a separate entrance and exit area. This should be checked by the panel member prior to attending and adhered to when attending at the approved centre.
12. Panel members are not to remove any documentation from an approved centre.

APPENDIX 1 – Sample Screening Form



Feadhmeannacht na Seirbhíse Sláinte
Health Service Executive

Health Service Executive
Midland Regional Hospital
Arden Road
Tullamore
Co. Offaly

Telephone : (057) 9321501
Fax : (057) 9358102

COVID 19 Screening Assessment MRHT

For completion by all persons on entry to MRHT

Date _____

Appointment Department _____

Name _____

Contact Number _____

Have you been vaccinated Yes No

Have you any Flu like symptoms i.e. running nose Yes No

Have you had a Positive Covid test in the last 14 days Yes No

Have you been a close contact in the last 14 days Yes No

Have you recently travelled abroad Yes No