mhc
coimisiun meabhair - shláinte
mental health commission

# Mental Health Commission

## Guidance for stakeholders regarding in-person mental health tribunal hearings in Approved Centres

**V.7 November 2024**

# Guidance regarding in-person mental health tribunal (tribunal) hearings in Approved Centres

Introduction

The MHC arranges tribunal hearings to take place in-person in approved centres. However, where approved centres have a formal Department of Public Health declared outbreak (Covid 19, Norovirus or other infectious diseases) or the tribunal room does not meet certain minimum requirements the tribunal hearing may 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 outbreak (Covid 19, Norovirus or other infectious diseases).

2. The MHC may not arrange in-person tribunals in any approved centre if the approved centre does not meet the requirements set out in Mental Health Tribunals - Tribunal Room Requirements issued in May 2023. This guidance is available on the MHC website www.mhcirl.ie.

3. In the event any approved centre does not meet the Tribunal Room 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).

4. In circumstances where an approved centre has a declared outbreak (Covid-19, Norovirus etc.) or the tribunal room does not meet the requirements set out below, the tribunal may 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**.

5. No in-person tribunal shall be scheduled to start before 12 pm on a Monday (or on a Tuesday following a bank holiday).

6. No in-person tribunal shall be scheduled to start before 10am from Tuesday to Friday.

7. No in-person tribunal shall be scheduled to start later than 3pm on a Friday.

8. Where two in-person tribunals are arranged in the same approved centre on the same day there must be a minimum separation of three hours between the start times.

9. 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).

10. The MHC must ensure that tribunal hearings take place within the relevant statutory timelines. Tribunal hearings are organised with a view to facilitating the attendance of the patient's legal representative and responsible consultant psychiatrist at suitable dates/times. As a matter of courtesy, the Tribunals team first requests dates/times from the responsible consultant psychiatrist and then engages with the patient's legal representative to agree a hearing date and time. The Tribunals team has no obligation to engage in such a process. Provision of a range of dates/times at the earliest opportunity will facilitate this process.

11. 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. 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.

12. The MHC shall not be operating hybrid tribunals.

13. The MHC shall carry out a check between 5.00 and 5.30 pm to ensure that all records of decisions 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 9.00am and 9.30am to ensure all decisions from the day before are released to the LR if this has not already occurred.

14. The MHC shall keep panel members updated in relation to any changes to the procedures relating to in-person hearings.

15. The MHC's interpretation services provider, Translit, 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 to the MHC

   ACs are required to immediately report all Department of Public Health declared outbreaks of Covid-19, Norovirus or other infectious diseases to the MHC.

2. Admission to Approved Centres

   All Panel Members may be required to undergo screening when they attend an AC. The screening process may vary in ACs.

   The AC 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 kevin.foley@mhcirl.ie or orla.keane@mhcirl.ie, who will review the matter and determine the appropriate steps to be taken.

   The AC may not admit panel members where the approved centre has a declared outbreak.

3. Tribunal Room requirements

   Each AC shall ensure the tribunal room meets the requirements set out in Mental Health Tribunals - Tribunal Room Requirements

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.

   MHAAs shall be informed by the MHC of the date of the tribunal. MHAAs shall copy the required extracts from the patient's records, as set out in Appendix A, and upload to CIS.

   The patient's original clinical file must be made available to the patient's legal representative and the tribunal panel members in advance of the tribunal hearing.

5. Responsible Consultant Psychiatrists (RCPs)

   The RCP should (via the MHAA) provide their availability for the tribunal hearing as soon as possible after the submission via CIS of Forms 6, 7, 7A, 11 or 13 to the MHC. This will facilitate the arrangement of the tribunal hearing.

   The RCP must attend the tribunal and be available for the entire tribunal, which includes the delivery of the tribunal decision. If for some exceptional reason, the RCP is not able to attend for the delivery of the decision, the RCP shall provide the Chair with contact details for the on-call consultant to ensure that the decision is communicated to the approved centre.

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

LRs and ICPs will do the following -

1. Carry out obligations under the Mental Health Acts 2001 – 2018 (the 2001 Act) save where there is a declared outbreak of Covid-19, Norovirus or other infectious diseases in the relevant approved centre.

2. Contact the approved centre before attending on site. It is preferable that this is done the day before an LR/ICP visit. Please do not attend an approved centre without having agreed an appointment. This is also for safety reasons, in the event of a newly declared outbreak.

3. Arrange appointments 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 access to the patient's original clinical file is required 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 Mental Health Tribunals - Tribunal Room Requirements. 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 a 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. The Form 8 or 9 and the Record of the Tribunal Proceedings should be printed via the on-site multi-function device, 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 multi-function device. Copies should be provided to the patient, the legal representative and the approved centre before the tribunal concludes.

7. If the on-site multi-function device 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. The tribunal panel members are required to be in attendance 30 minutes before the hearing start time.
2. Check CIS and text alerts for any updates in relation to this Guidance and the tribunal hearings to which you have been assigned.
3. You are 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.
4. You may be required to undergo screening when you attend an approved centre. The screening process may vary from approved centre.
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. 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 *HPSC Acute Hospital Infection Prevention and Control Precautions for Possible or Confirmed Covid-19 in a Pandemic Setting (V2.17)*
8. 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.
9. Engage in good hand hygiene while in the approved centre to include entering and existing the building, on entering and exiting patient care areas, and after using bathroom facilities.
10. Panel members are not to remove any documentation from an approved centre.

## APPENDIX A

Patient records shall be from 24 hours prior to the date of the making of the order for Forms 6 or 11 or in the case of Forms 7, 7A or 13 shall be from five days prior to the date of the making of the order up to 5 pm the day before the tribunal or 10 am on the day of the tribunal if scheduled later than 1pm on the day of the tribunal.

Where the tribunal is on a Monday or a Tuesday after a bank holiday, patient records must be submitted by 5pm on the Friday before the hearing and the balance by 10am on the day of the hearing.

The records will include, but not be limited to:

1. admission forms
2. medical notes
3. nursing notes
4. OT notes, social care notes etc.
5. medication chart
6. clinical practice forms
7. all documents that relate to the provisions of sections 9, 10, 12, 14, 15 and 16 of the Mental Health Act 2001 as amended, and
8. other *relevant* correspondence.

The statutory forms and the patient notification form do not need to be included as they will already have been provided.

In addition, the following documents require to be provided where applicable–

1. Co Decision Making Agreement
2. Decision Making Representative Order of the Court
3. Advanced Healthcare Directive
4. Any other court orders relating to the patient.