

Mrs Attracta Wilson
Chairman of the Review Tribunal

Appointed 26th May 2015

What attracted you to apply for the role?

I worked as an advisory lawyer in Departmental Solicitors Office (DSO) for in excess of 20 years. Whereas I enjoyed that work and found it interesting and intellectually challenging, I felt it was somewhat removed from ordinary daily life. I saw the advertisement for the Mental Health Review Tribunal (as it then was) and I decided to apply. I was working part time and with reduced child-care responsibility had some flexibility time wise. I was attracted by the opportunity to work with others from varying backgrounds and the challenge of a new area of law involving vulnerable people and human rights law.

What is a typical day like on the RT?

A typically day hearing applications and referrals under the Mental Health (Northern Ireland) Order 1986 (the 1986 Order) involves re-reading reports already received and anticipating issues likely to arise at hearing. The panel convene at 1.30pm prior to the hearing and receive a report from the Medical Member who will have already examined the Patient. Clarification may be sought relative to issues emerging from the Medical Member's report and issues may be identified from the Trust reports for further exploration at hearing. The hearing commences at 2pm and typically lasts for two and a half to three hours. The hearing is inquisitorial, and the Patient is usually present. Evidence is received from the Trust (Responsible Medical Officer and Social Worker) and is tested under cross examination. The panel may have questions for the Trust witnesses and the Patient may give evidence. In any event the Patient has an opportunity to address the Tribunal at the close of the Trust evidence. Following legal submissions, the parties leave, and the panel consider and analyse the evidence and ultimately decide whether the test for detention is met. This involves a full and frank discussion of the evidence and as President I give legal guidance in relation to the statutory test. Once a decision is reached the parties are informed. In the evening following the hearing. I usually do a first draft of the decision and finalise it the next day for the approval of the panel prior to issue to the parties. Drafting a decision usually takes 2 to 3 hours.

It is harder to describe a typical day hearing cases under the Mental Capacity Act (Northern Ireland) 2016 (MCA) as that legislation was only recently commenced and a pattern has yet to emerge. To date, in all cases the panel receive papers in advance. As President I consider those papers from a legal perspective and issue directions to include directions for further information if that is required. Medical examinations and oral hearings are discretionary and to date hearings have been for the most part on the papers with no medical examination. The panel meet at 10am on the morning of the hearing and the expectation is that we will consider and determine at least three cases considering the evidence against the criteria in the MCA. Cases are determined individually and following each determination, a decision is drafted by myself as President for comment and approval by the panel before moving on to the next case. Hearings usually conclude at 4pm.

What are the biggest challenges you face in the role?

The partial commencement of the MCA was and remains a challenge as it was commenced earlier than expected and involves an area of law unfamiliar to all members. However, the Northern Ireland Courts and Tribunal Service sourced excellent training and we are now managing a full case load and making determinations on a regular basis. It is fair to say that the majority of cases to date have been of a more routine nature involving persons deprived of their liberty in nursing and care homes. More complex cases are expected and that will be challenging.

The Covid 19 crisis was certainly the biggest challenge faced by the Tribunal but thanks to the hard work and innovative thinking of the Review Tribunal Team hearings under both the 1986 Order and the MCA are being managed remotely and that is working well. Apart from those exceptional challenges the biggest challenge for me was the requirement to announce a decision on the day of the hearing. The requirement to issue a decision on the day can be daunting and removes any scope for uncertainty (which in the past, would have been further explored with the panel).

Which aspects of your professional experience have proven most useful when carrying out judicial duties?

I have always worked as part of a team and I found that experience very useful and conducive to sound decision making. I also have experience of chairing

meetings and that has proved useful in managing panel discussions and ensuring that everyone has a voice and that voice is heard.

Is the job what you imagined it would be?

Initially yes. However, since I was appointed there have been many changes. The introduction of the MCA has changed, not only working patterns and processes but also increased jurisdiction. The representation before the Tribunal has also improved. There is a greater interest in Mental Health Law among the professions and with that comes greater expertise and better representation. The need for well-reasoned written decision in accordance with more recent judicial guidance has become more pronounced. Also, membership of the Tribunal has increased creating greater diversity and introducing fresh perspectives all of which contribute to sound decision making.

With the luxury of hindsight is there anything you wish you had known before applying?

No, I don't think so. It is a very rewarding and challenging role. Decision making is never easy in that every decision impacts directly on the lives of people at their most vulnerable. This is particularly so if the decision is to continue detention. However, the role of the Tribunal is to provide a safeguard against unlawful detention and however daunting that may be, it is a privilege to serve in that role.

Would you recommend a judicial role to others?

Absolutely. It involves hard work, commitment and robust decision making. However, lawyers do that on a day and daily basis whatever their area of practice. A judicial role offers new challenges and experiences which should be embraced.

Do you have any advice for those considering applying for judicial appointment?

First, I encourage lawyers to apply. The skills honed in everyday practice, whatever that practice may be are the skills deployed in judicial office. Lawyers have a lot to offer and much to be gained in terms of experience, empathy and job satisfaction.

Secondly take advantage of the NIJAC Judicial Shadowing Scheme. Identify a position which is of interest and apply for a shadowing opportunity. This will be of great assistance in deciding whether that position is for you.

Finally, don't be put off by the application process. Having participated on selection panels my advice is to consider the question asked, whether that is on the application form or at interview and answer that question. Crucially if you are asked for an example give an example. Do not answer in generalities. In giving examples follow the STAR method. Describe the **Situation**, the **Task**, the **Action** taken and the **Result**.