

# **THE NATURE OF THE ROLE OF A FEE PAID EXPERIENCED MEMBER OF THE MENTAL HEALTH REVIEW TRIBUNAL**

The Mental Health Review Tribunal sits to hear cases of patients who are detained involuntarily or are subject to guardianship, under the Mental Health (Northern Ireland) Order 1986, when a) the patient or their relative applies to the Tribunal for a hearing, or b) the patient is automatically referred every two years. The Tribunal also hears cases of patients who are subject to Hospital Order with or without restriction. The majority of cases heard come from general psychiatry or learning disability. The Tribunal hearings are heard across Northern Ireland, usually in the locality where the patient is detained. Each Tribunal panel comprises 3 members: a legal member, who is the President of the panel, a psychiatrist and an experienced (lay) member.

Prior to the hearing, panel members will receive papers relating to the case. These will include a report from the Responsible Medical Officer (RMO) who is the psychiatrist looking after the patient and a social circumstances report from the social worker involved with the patient. In addition, there may be earlier reports and relevant papers. Before the hearing (usually on the morning of the hearing) the psychiatrist panel member will examine the patient.

Hearings start at 2pm and generally take place in the hospital where the patient resides although, in guardianship cases, the location may be elsewhere. The panel meets at 1.30pm and the medical member of the panel will give an outline of preliminary findings from the examination of the patient and will refer to any relevant points picked up through a perusal of the hospital records. The panel will then briefly discuss the case based on the written evidence received and the medical member's oral report. The legal and experienced member may seek clarification from the medical member in relation to the medical report or other medical matters. Similarly, the other panel members may seek guidance from the President in relation to legal or procedural matters. They will also consider the lines of enquiry to be pursued at the hearing and agree which member might want to ask particular questions. The panel does not make a preliminary decision regarding the possible outcome of the case.

When all the evidence has been presented the Tribunal sits in private and the three Members deliberate on the case. Each gives their opinion, with reasons, on whether the evidence presented meets the criteria of the Mental Health (Northern Ireland) Order 1986. The decision of the Tribunal is made by unanimous or majority verdict. The panel is required, in all but exceptional cases, to give a summary decision on the day. The reasons for the panel's decision for continued detention or guardianship, or discharge from the Mental Health (Northern Ireland) Order 1986 must be provided in writing to the legal representatives and the patient. The President is responsible for writing up the reasons for the decision as determined by the panel.

It is for the relevant Trust, as the Responsible Authority, to show that continued detention or guardianship is lawful under the Mental Health (Northern Ireland) Order 1986 and that the relevant criteria are met. In almost all cases both the Trust and the patient are legally represented. Under the Mental Health Review Tribunal (Northern Ireland) Rules 1986 application can be made to exclude certain evidence and, if there is such an application, it will be heard and decided upon before the patient is admitted to the hearing.

Each case raises its own particular issues and must be heard independently and impartially to ensure that the criteria of the Mental Health (Northern Ireland) Order 1986 are met in respect of detention or guardianship. Case Law from previous Tribunal hearings or Judicial Reviews may be presented at some hearings. As each case is different the length of the Tribunal hearing may vary.

Hearings are arranged by the secretariat. Panel members are asked on a regular basis and weeks in advance of hearings if they are available to sit on particular dates. They will be told of the venue for each hearing. Hearings take place at various hospital locations throughout Northern Ireland. On occasions hearings will be adjourned or, if the patient is regraded and discharged, cancelled. Unfortunately, this can happen very close to the scheduled date of the hearing.

Currently there are 27 members of the MHRT. Ten of the current composition are Legal, (including the President and Chairman); 11 are Medical members and 6 are Experienced (lay) members. Typically an Experienced Member of the Mental Health Review Tribunal would expect to sit on 10 Tribunals per year.

The Experienced Member is actively involved in each stage of the Tribunal hearing from the initial reading of reports to become familiar with the case prior to the hearing; to seeking further information or clarification from the

Responsible Medical Officer (RMO), Social Worker or the patient during the hearing; and after the hearing to agreeing in writing the reasons for the decision reached by the panel.

Together with the other two panel members the Experienced member must ensure that the patient's case and the reasons for the panel's decision are presented in language which can be understood by a lay person so that no one is disadvantaged by the use of unfamiliar terminology or jargon.

Strict confidentiality in respect of each case must be observed at all times.