

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

The legal member of the Mental Health Review Tribunal is referred to as the President of the Tribunal. At hearings the President chairs a panel of three and sits with a psychiatrist and a 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 discuss the case and the legal and lay 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. In addition, there will be discussion as to the lines of enquiry to be pursued at the hearing and suggestions as to which member might want to ask particular questions.

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.

At the hearing the Trust generally has the RMO and the approved social worker as witnesses and these witnesses will be examined and cross-examined. Panel members will also ask them questions. Very often patients will not have any witnesses but will give evidence themselves.

It is for the President to manage the hearing appropriately ensuring that it is conducted fairly and that all evidential and legal issues have been addressed.

When the hearing is finished the panel will deliberate. The President will ensure that the panel members direct themselves clearly to the criteria to be met under the legislation, the evidence, the findings of fact and the reasoning behind the panel decision. The panel is now required, in all but exceptional cases, to give a summary decision on the day. There is then a period of 14 days within which the reasoned decision must issue. It is for the President to draft the decision and to ensure that it properly addresses the evidence and the reasons for the decision. The decision is the decision of the panel and will be checked by the other panel members before being finalized and issued.

Hearings are arranged by the very efficient 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.

The work of a President of the Mental Health Review Tribunal is extremely interesting. It also carries with it great responsibility, dealing as it does with the liberty of the citizen during periods of heightened vulnerability. Very often one can see that the patient's interests may well be best served by continued detention in hospital but this is not legal if the statutory criteria are not met. Alternatively, there may be concern in relation to the risk the patient may pose if discharged but if the statutory criteria are not fully met, then, despite the risk, the patient will be discharged.

The support from working with panel members from different disciplines is very satisfying. It also brings with it welcome new perspectives to those of us from a legal background.