



FIRST TIER TRIBUNAL (HEALTH, EDUCATION AND SOCIAL CARE)
MENTAL HEALTH

Guidance for Detaining Authorities and Tribunal Panels about medical evidence for First Tier Tribunal –mental health

1.0 Background:

The increasing number of medical trainees obtaining experience in Psychiatry is a very positive initiative. This guidance, produced jointly by the Royal College of Psychiatrists and FTT-mental health/HMCTS is to ensure all Registered Medical Practitioners (referred to as doctors throughout the document) who give evidence to tribunals are qualified to do so.

It should be noted that the Certificate of Completed Training in psychiatry usually acquired at the end of ST6 (see below), fulfils the requirement for evidence of attainment of the competencies required to apply to become an Approved Clinician. It is essential, therefore, that Higher Trainees attain the required experience under supervision.

The requirement for experience under supervision applies to both trainees and Staff Grades and Associate Specialists (referred to as SAS doctors in the document).

2.0 Grades of trainee:

2.1 A range of trainees may gain experience of psychiatry at different stages of training

2.2 This section describes the different levels of training and the experience of trainees at different stages.

FY1: provisionally GMC registered doctors in the first year after qualification. Typically have a 4 month training post as part of a rotation.

FY2: doctors are fully registered with the GMC and in the second year after qualification. Typically have a 4 month training post as part of a rotation.

GPVTS trainees: these are doctors intending a career in General Practice and who have a post in psychiatry as part of their GP training rotation.

Core Trainees CT1-3; these are doctors who have decided on a career in psychiatry. They work in different posts for 6 months each. The number specifies the number of years training e.g. CT2 is in the second year of training.

Speciality Trainees ST 4-6; these are doctors who have passed the psychiatry examinations (MRCPsych) and are Members of the Royal College of Psychiatrists. They are also known as 'higher trainees'. Most trainees will become Section 12 approved doctors on entry to higher training. On successful completion of ST6 the doctor is eligible to apply for Consultant posts.

2.3 All trainees have a Consultant Psychiatrist (who, in relation to detained patients and evidence to the Tribunal, will be the Responsible Clinician unless the patient has a non-medical RC) in each post who supervises their training and performance.

3.0 Guidance on Medical Report writing

3.1 All medical reports must be written or countersigned by the Patient's Responsible Clinician, according to the Senior President of Tribunal's Practice Direction

3.2 RCs should consider in which cases trainees may be able to write the report, allowing for the trainee's experience and the complexity of the case

3.3 F1 trainees are only provisionally registered and should not write reports.

3.4 FY2, GPVTS, and Core trainees 1-3 should be fully supervised by their RC in writing reports. The amount of supervision will vary depending on the experience of the trainee and the complexity of the case.

3.5 More experienced trainees (ST4 – 6) will require less supervision to write reports. It is essential that trainees at this stage gain experience in report writing.

3.6 RCs should consider in which cases SAS doctors are be able to write the report, allowing for the doctor's experience and the complexity of the case: SAS doctors may still require RC supervision.

4.0 Experience required to give oral evidence at a tribunal hearing

4.1 RCs should consider in which cases trainees can give oral evidence. In restricted cases for example, the RC may be best placed to give evidence.

4.2 Trainees can only give oral evidence as witnesses on behalf of the RC if they have completed the following stages:

- have supervised experience of writing the medical report, and
- have observed a hearing, and
- have given oral evidence supervised by the RC at a hearing*, and
- the RC has assessed their ability to give evidence and is satisfied that they are competent
- have agreed with the RC that this is an appropriate case for them to give evidence.

**** If it is clear to the trainee, the RC or the tribunal panel that the trainee requires assistance to expand /clarify their answers, then the RC can take over the role of giving evidence***

4.3 FY1 and FY2 doctors are not expected to give oral evidence at a tribunal.

4.4 For Core trainees 1-3 and GPVTS trainees, the amount of supervision at a hearing will depend on the experience of the trainee and the complexity of the case.

4.5 ST 4-6 trainees must demonstrate that they are able to give evidence at a tribunal hearing in preparation for applications for Consultant posts.

4.6 SAS doctors can only give oral evidence as witnesses on behalf of the RC if they have completed the following stages:

- have supervised experience of writing the medical report, and
- have observed a hearing, and
- have given oral evidence supervised by the RC at a hearing*, and
- the RC has assessed their ability to give evidence and is satisfied that they are competent
- have agreed with the RC that this is an appropriate case for them to give evidence.

4.7 It is important that, where appropriate, the RC attends the hearing, in line with the guidance in the Mental Health Act Code of Practice ("It is important that the patient's responsible clinician/s attend the Tribunal, supported by other staff involved in the patient's care, where appropriate, as their evidence is crucial for making the case for a patient's continued detention or CTO under the Act").

5.0 Observations of tribunal hearings

5.1 Observation of tribunal hearings is an essential part of the training for all trainee psychiatrists of any grade and essential experience for SAS doctors.

5.2 Trainees and SAS doctors who are involved with the clinical care of the patient are encouraged to observe so they will be more effective witnesses in the future.

5.3 Observers should ask the patient's permission to observe the hearing.

5.4 Observers should check whether other members of the clinical team (student nurses etc.) are requesting observation at the same time.

5.5 Note that all observation requests are to be decided by the tribunal panel who are hearing the application on the day.

5.6 The panel will ask the patient and other parties before for making a decision to allow or refuse a request to observe a hearing.

5.7 The panel can take into account practical matters such as whether having an observer or observers in a small room will have an adverse impact on the fairness or the smooth running of the hearing

6.0 References

6.1 Contents of reports

<http://www.judiciary.gov.uk/publications/practice-direction-first-tier-tribunal-health-education-and-social-care-chamber-statements-and-reports-in-mental-health-cases/>

6.2 Mental Health Act 1983 Code of Practice, Department of Health 2015

6.3 Information for trainees about presenting evidence to tribunal hearings
<http://tron.rcpsych.ac.uk/otherresources/mentalhealthtribunalsgivin.aspx>

Updated Guidance April 2019:

Dr Joan Rutherford Chief Medical Member and Judge Sarah Johnston, Deputy Chamber President, Mental Health Tribunal

Professor Wendy Burn, President, Royal College of Psychiatrists'.