



TRIBUNALS
JUDICIARY

Mental Health Tribunal response to Covid - 19 emergency

This message to the Royal College of Psychiatrists' is from Deputy Chamber President Sarah Johnston and Chief Medical Member Dr Joan Rutherford.

The Mental Health Tribunal are aware of the pressure on clinical teams during the Covid – 19 emergency.

A Pilot Practice Direction has been issued by Sir Ernest Ryder Senior President of Tribunals. As new applications or references are received they will be listed before a Judge alone. All hearings are remote by telephone or video.

The difference this will make to clinical teams:

1. All evidence will be taken by phone using a BT Meet-Me conference call number or video when available.
2. Judges sitting alone will take evidence from the clinical witnesses.
3. The judge will call upon specialist advice from Medical Members and Specialist Lay Members where necessary.
4. The Responsible Clinician - or the doctor giving evidence - will be released after giving their evidence in all but exceptional cases.
5. No pre-hearing examinations will be carried out as no tribunal members will attend the hospital to reduce spread of infection.
6. Medical Members and Specialist Lay Members will give specialist advice as a judicial office holder of their discipline. If it is essential for the SPLM or MM to read the reports for background information before giving specialist advice to the Judge, then there may need to be a pause in the evidence for this to be done.
7. The patient will not be told the decision orally even if they have been discharged. Instead, a short decision will be sent to the Responsible Authority and the patient's representative that day. (This is to reduce risk to the clinical team as it is not possible for the judge to assess the patient's likely reaction to any decision).
8. The full decision will follow within the normal time limits - 3 days for a section 2 and 7 days for all other hearings.
9. Judges will try to proceed with hearings wherever possible.

How clinical teams can help hearings proceed efficiently and reduce their own time at a hearing:

1. **Please submit written reports for Section 2 hearings the day before the hearing is scheduled.** This means the judge can obtain any specialist advice before the hearings and not pause the evidence. It also means the patient's representative can take instructions, so adjournments for this to happen, which also use up clinical time, can be avoided.
2. **Please advise the judge if you think that the patient will be unable to stay in the room for the hearing or needs to give their evidence first.**
3. **Do tell the judge whether the patient is able to remain in hospital as a voluntary patient.** The tribunal are aware in many areas this is no longer possible so questions about this may not be relevant.
4. **Do emphasise any limitations of your evidence.** The tribunal is aware that patients are being moved from ward to ward and hospital to hospital more frequently to have 'clean' and 'dirty' covid-19 wards. So clinical teams may have less knowledge of patients.
5. **Please focus on the statutory criteria**
6. **You may wish to suggest that any discharge is delayed for follow-up by Home treatment or Community team to be arranged.** The tribunal is aware that community resources are limited and there may no longer be face-to-face contacts. So pro-active personal visits to contact a less compliant patient are not possible during this emergency.
7. **Do give your evidence by phone from a private area where you cannot be overheard.**

Other actions by the Mental Health Tribunal during this emergency:

1. Any members who wish to return to clinical work are being encouraged to do so. This includes retired medical members and specialist lay members.
2. We are looking at formats for more focussed and shortened clinical reports.

Please bear with us during this time of crisis.

March 26th, 2020