



The First-tier Tribunal (Health, Education and Social Care Chamber) Mental Health

Postponement Decision & Directions

The Tribunal Procedure (First-tier Tribunal) (Health, Education & Social Care Chamber) Rules 2008 and
the
Pilot Practice Direction: Health, Education and Social Care Chamber of the First-Tier Tribunal (Mental
Health)

By Rule 2(4) parties must help the tribunal to deal with the case fairly and justly, and must co-operate with the tribunal generally

Case Number: [REDACTED]

Date of Application: [REDACTED]

Patient: [REDACTED]

A patient now subject to a Community Treatment Order

Responsible Authority: [REDACTED]

[REDACTED] : Community

Before:

S. Johnston (Judge)

Order and Directions

1. All community patients aged 18 or over who have applied to the Tribunal under section 66(1) or section 75(2) will now have their cases listed for hearing.
2. All community patients whose cases have been referred to the Tribunal under section 68(2) or section 68(6) of the Mental Health Act 1983, will now have their cases listed for hearing.
3. Further to the duty of the parties to cooperate and help the Tribunal further the overriding objective (Rule 2(4)) I direct the representative of the patient to liaise with the Responsible Authority to;
 - a) access reports
 - b) inform the Tribunal in writing as soon as possible if the patient wishes the reference to be dealt without a hearing (Rule 35(3)(b))
 - c) agree a date for hearing with the RA and include this on the HQ1 which shall be submitted within 7 days of the date this direction.
 - d) facilitate the patient's access to the hearing via video or telephone and inform the Tribunal at least 8 days before the hearing if this is not possible.

4. Further to the duty of the parties to cooperate and help the Tribunal further the overriding objective (Rule 2(4)) I direct the Responsible Authority to;
 - a) provide any outstanding reports to the Tribunal and the representative/patient directly if they are not represented as soon as possible and no later than 3 weeks after the date of this direction.
 - b) if the patient is not represented inform the Tribunal whether the patient does not wish to attend the Tribunal or be represented and wishes the reference to be dealt without a hearing and has the capacity to make those decisions as soon as possible.
 - c) agree a date for hearing with the representative and include this on the HQ1 which shall be submitted within 7 days of the date this direction.
 - d) ensure the patient can access the hearing via video if possible or telephone if not.

5. Those cases postponed will now take place by video or telephone (with a time estimate of a ½ day) on a date agreed by the parties or on a date to be fixed between 3/6/2020 and 24/6/2020.

Reasons for Directions and Revocation of the order postponing all community cases

1. The Tribunal has now achieved a level of administrative support to be able to list cases for community patients. There will be difficulties in accessing reports and ensuring the patient can join the hearing by remote means. Given the extreme pressure on the Tribunal staff and on the RA during this time the duty to cooperate with the Tribunal is essential. To ensure that community patients' hearings can be effectively listed I have made the directions above.

Failure to Comply

In the event of non-compliance, the tribunal may take such action as it considers just and appropriate, which may include:

- requiring the failure to be remedied;
- excluding evidence that would otherwise be admissible;
- refusing to adjourn;
- adjourning the case and, if appropriate, making an order for wasted costs against a representative;
- refusing to consent to the withdrawal of an application;
- by order, requiring any defaulting party or any other person to answer questions in writing;
- by order, requiring any defaulting party or any other person to produce any specified document or report;
- by summons, requiring any defaulting party or any other person to attend personally as a witness before the tribunal.

Judge: S. Johnston

Date: 06/05/2020

Notice

If a party, or any person given notice of this direction, wishes to challenge a direction, they may do so by applying for another direction that amends, suspends or sets aside the first direction.