

MENTAL HEALTH REVIEW TRIBUNAL FOR WALES

PRACTICE DIRECTION

CORONAVIRUS COVID-19

Background

1. During the Coronavirus COVID-19 pandemic it will be necessary for the Mental Health Review Tribunal for Wales (MHRTW) to adjust its ways of working in order to limit the spread of the virus and to manage the workload appropriately. This Practice Direction is therefore issued for a period of 6 months.

Interpretation

2. In this Practice Direction:

- “the Rules” means the Mental Health Review Tribunal for Wales Rules 2008
- “the 2020 Act” means the Coronavirus Act 2020
- “the 1983 Act” means the Mental Health Act 1983

Preliminary Medical Examinations

3. (i) Rule 20 of the Rules requires a medical member of the MHRTW, so far as practicable, to examine the patient before a hearing to consider the final determination, in order to form an opinion of the patient’s mental condition.

(ii) During the COVID-19 pandemic it will not be “practicable” under Rule 20 for any preliminary examinations to take place due to the health risk such examinations present.

Determination of Applications and References

4. (i) For the duration of this Practice Direction the MHRTW shall hold hearings by telephone or by video conference where possible, as provided for by Rule 2 of the Rules, to determine applications and references unless paragraph 12(2) of Schedule 8 to the 2020 Act applies. Where these provisions apply the Tribunal may dispense with a hearing if it considers that:

- (a) holding a hearing is impractical or would involve undesirable delay,
- (b) having regard to the issues raised in the case, sufficient evidence is available to enable it to come to a decision without a hearing, and
- (c) to dispense with a hearing would not be detrimental to the health of the patient.

(ii) The President of the MHRTW shall determine as required the priority of hearings.

(iii) Where the Tribunal decides to dispense with a hearing the Tribunal shall, in accordance with paragraph 12(3) of Schedule 8 to the 2020 Act, give notice to each party of that decision and of the earliest time at which it might determine the application or reference.

(iv) The Tribunal may at any time reverse a decision to dispense with a hearing and, if it does so, shall give notice to each party and make such consequential directions as it considers appropriate.

Composition of Panels

5. (i) The MHRTW shall continue, in accordance with the 1983 Act, to be constituted by at least 3 members to include one legal, one medical and one other member who is neither legal nor medical, unless paragraph 11(1) of Schedule 8 to the 2020 Act applies. These provisions of the 2020 Act apply when the President of the MHRTW (or another member of the Tribunal appointed by the President for the purpose) considers that it is impractical or would involve undesirable delay for the Tribunal to be constituted by at least three members.

(ii) In these circumstances, in accordance with paragraph 11(2) of Schedule 8 to the 2020 Act, the President (or that other member) may instead appoint to constitute the Tribunal:

(a) one of the legal members of the Tribunal, or

(b) one of the legal members of the Tribunal and one other member who is not a legal member.

Sir Wyn Williams
President of Welsh Tribunals

Carolyn Kirby OBE
President of the Mental Health Review Tribunal for Wales

Dated: 2nd October 2020