



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

Directions Before Hearing

The Tribunal Procedure (First-tier Tribunal) (Health, Education & Social Care Chamber) Rules 2008

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.

Direction for disclosure of medical records to legal representatives and to Medical Members of the Tribunal.

Before:

S. Johnston (Judge)

To limit contact and reduce risk during the Covid pandemic I make the following directions.

Directions:

1. The RA shall send the clinical notes to the eJudiciary email address of the Medical Member of the Tribunal no later than 3 days before the Tribunal.
2. In cases other than section 2 cases upon receipt of the CNL1 form with the name of the legal representative from the Tribunal, and upon request from the legal representative for the clinical notes, the Responsible Authority shall send those notes to the legal representative.
3. In section 2 cases on request from the patient's legal representative specifying the notes they require and after the notice of hearing being received by the Responsible Authority, the Responsible Authority shall send those notes to the patient's legal representative without delay.
3. If the Responsible Authority has any doubt the legal representative is acting for the patient in relation to the Tribunal they should confirm with the Tribunal the representative is on record as acting for the patient.
4. If the RA has information in the notes that they do not want disclosed to the patient they shall highlight this in the notes and the legal representative shall not disclose this information without further order of the Tribunal.
5. Any party can apply to the Tribunal to vary this direction.

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 or permit withdrawal of an application to the tribunal;
- adjourning the case and, if appropriate, making an order for wasted costs against a representative;
- 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 (Deputy Chamber President (HESC) Mental Health

Date: 17 November 2021

Notice

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