



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

**Directions After Hearing**

The Tribunal Procedure (First-tier Tribunal) (Health, Education and 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.*

Case Number: MP/2010/19311

Date of Application: 3<sup>rd</sup> April 2009

**Restricted Patient: Albert Laszlo Haines (born 2/12/1959)**

A patient now liable to be detained under Section 37 Mental Health Act 1983  
And subject to a Restriction Order under Section 41 Mental Health Act 1983

Responsible Authority: West London Mental Health Trust  
Hospital: Broadmoor

Before:

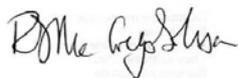
HH Judge R.J. McGregor-Johnson

Directions:

1. In accordance with the decision of the Upper Tribunal dated 17<sup>th</sup> February 2011, the First Tier Tribunal held a hearing in public on the 27<sup>th</sup> and 28<sup>th</sup> September 2011. At the conclusion of that hearing the tribunal did not announce its decision because of the late hour already reached, and the need to have a proper amount of time to consider the evidence and submissions made. Subsequently the decision not to discharge Mr Haines, together with the reasons for that decision, was communicated to the parties.
2. On 3<sup>rd</sup> October 2011 Judge Hinchliffe, the Deputy Chamber President, gave directions inviting written submissions as to whether I should make a direction under Rule 14(7) to permit the decision and/or the reasons for the decision to be made public.
3. I have received a written submission on behalf of Mr Haines to the effect that the effect of the decision itself should be made public, but not the reasons, ie the written decision. In this submission, reasons are given as to why disclosure of the decision itself should be permitted, but no specific reasons are given as to why the tribunal's written decision should not be reported.
4. On behalf of the hospital it is said that "the hospital has no objection to the decision being disclosed if it is limited to the following phrase: The patient shall not be discharged from liability to be detained." No reasoning is included in support of this position.
5. In my judgment it is important to bear in mind firstly the reasons given by the Upper Tribunal in directing a public hearing, and secondly what actually happened

at the public hearing. Mr Haines's desire for a public hearing, he having the capacity to make that decision, automatically carried with it the loss of the shield preventing publication of his name. The decision to order a public hearing, with the press free to attend, removed the shield from the publication of any other names of those involved or of any of the evidence.

6. In considering the arguments for and against a public hearing, the Upper Tribunal took into account the possible effects on Mr Haines of possibly negative publicity – see for example paragraph 46 of the judgment dated 29<sup>th</sup> July 2010. They also found that because of the nature of Mr Haines's case there was "some heightened public significance".
7. In the event, the hearing was attended by a number of press representatives. The entirety of the evidence was given in public, and was extensively reported on, including not only Mr Haines's name but also the names of those giving evidence on behalf of the hospital, and some details of the medical evidence.
8. Part of Mr Haines's concerns which led to the granting of a public hearing related to his treatment and diagnosis, and at times his case both in his evidence and in the cross-examination of the hospital's witnesses involved criticism of the way he had been treated. To the extent that it was necessary to do so in order to come to a decision, the tribunal has considered those criticisms.
9. Rule 14(7) has, in my view, to be considered in the context of the Rules as a whole, and in particular in the light of the requirement under rule 38(1) that all hearings must be held in private unless the tribunal considers that it is in the interests of justice for the hearing to be held in private. Rule 14(7) is a necessary adjunct to rule 38(1) in order to preserve the privacy of hearings held in the more usual way.
10. In my judgment, given the extent of the publicity already generated, and the element of heightened public significance already identified, it is in the interests of justice that not only the effect of the decision itself but also the reasons for it should be made public. Any issue of a possibly adverse effect on Mr Haines has already been taken into account by the Upper Tribunal in granting Mr Haines's application for a public hearing.
11. I therefore direct that the full written decision should be made public 7 days after the parties have received this Direction.



HH Judge R.J. McGregor-Johnson  
18<sup>th</sup> October 2011

#### 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.