



6 June 2012

His Honour Judge Robert K. Atherton

Re: Ian Brady

Decision on media attendance at Ashworth Hospital hearing

Arrangements have been made for the hearing in public of the application by Mr Ian Brady. The Tribunal will sit at Ashworth Hospital, Merseyside and the proceedings will be relayed to the Civil Justice Centre Manchester. A large courtroom will be available for members of the public, special provision will be made elsewhere in the building for the attendance of relatives of the victims, and a large conference room will be available for the media. A request has been made on behalf of the media for one or more of their representatives to be present in the room in which the Tribunal are sitting at Ashworth Hospital. It is not suggested that this would involve more than one or two people but it is argued that it would enable to them to have a most direct feel for the proceedings. They would be able to see more clearly the people involved and so be able to convey to the general public the atmosphere of the hearing. The Tribunal has considered this application and has concluded that it would not be appropriate for any member of the media

to be present in the Tribunal room at Ashworth. The Tribunal's reasons are now set out.

When considering the application for a hearing in public, the Tribunal considered those factors which are set out in the judgment of the Upper Tribunal in *RE AH v West London MHT and SSJ* [2010] UKUT 264 (AAC). The specific issue which is relevant to this decision is "Can practical arrangements be made for an open hearing without disproportionate burden on the authority". From Paragraph 51 of the judgment, it appears that the type of arrangements which have in fact been made in this case were canvassed for that case.

In coming to the conclusion that there should be a hearing in public in this case, the Tribunal considered that such an arrangement would have distinct advantages. Firstly, it would allow the Tribunal considerable control of the proceedings. The Tribunal consider that it is likely that attention of any member of the media present in the hearing room would tend to concentrate on Mr Brady and his behaviour. During the hearings thus far, Mr Brady has been commenting sotto voce about the witnesses and the evidence which they have been giving especially, Dr Collins, the Responsible Clinician. Given that the hearing room is not large, it would be inevitable that they would be capable of being heard. The Tribunal has been able to ignore such comments. It doubts whether such a representative would be able to do so or, indeed would consider it appropriate to do so. It is possible that comments overheard could be mistaken or misinterpreted. They are certainly going to be one-sided. They would not be capable of being challenged or verified

and could be seriously damaging to the integrity of any person about whom they were uttered.

The proposed arrangements would enable the Tribunal to continue without any undue difficulty if it became appropriate to direct that any part of the hearing should be conducted in private. The presence of such a person or persons would mean adjourning whilst the alterations are made.

The Tribunal considered that the remoteness of the locations would serve to reduce any pressure which may be put upon Mr Brady or the witnesses. Allied to this is that a significant feature of the proposed arrangements would be that if the public is not on the campus, there would be less potential for the inconvenience to others who may be visiting other patients or for interruption of the staff and the everyday life of the hospital. If a member or members of the media were allowed to be present at Ashworth Hospital, there would need to be further arrangements for that person or persons actual attendance and a facility for them to transmit their comments. It is not simply a matter of providing an escort for them to and from the hearing room; it is the consequences of their presence.

The Tribunal also considered the aim of the presence of the person or persons and whether their absence from the hearing room really would impede their proper reporting of the proceedings. DVD Recordings and Close Circuit Television is now a common feature of the method of giving of evidence in cases. Juries are expected, and do, pick up nuances in the evidence even though they are

not seeing the witness “in the flesh” Their ability to do so from such a form of evidence is not doubted. The Tribunal do not consider that the benefit of allowing such person or persons to be present outweighs these considerations.