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.

Order and Directions for all community patient who are subject to a CTO or conditional discharge
And who have applied or been referred to the Tribunal
For the duration of the Senior President's Pilot Practice Direction: Health, Education and Social Care Chamber of the First-Tier Tribunal (Mental Health)
19 March 2020

Before:

S. Johnston (Judge)

Order

1. All community patients aged over 18 who have applied to the Tribunal under section 66(1) or section 75(2) or whose case has been referred to the Tribunal under section 68(2), section 68(6)or section 71(2) of the Mental Health Act 1983, will be postponed unless they have already been listed for a paper review.

2. Those cases postponed will now take place at the venue nominated by the responsible authority (with a time estimate of a ½ day) on the first open date that is convenient to the parties after the revocation of the Pilot Practice Direction: Health, Education and Social Care Chamber of the First-Tier Tribunal (Mental Health) or further order of the Tribunal, whichever is earlier.

Reasons for Directions and Postponement

It is necessary in the interests of justice to postpone the case for the following reasons:

1. It is not possible to have a hearing conducted by telephone or video link for community patients, under the "stay at home" restrictions currently in force. It is not feasible or practicable for a community patient under the government's "stay at home" policy to attempt to participate in a hearing in these circumstances.

2. The Tribunal administration has been directed by me to prioritise listing cases where the patient is deprived of their liberty.

3. I am satisfied that postponement is a proportionate step, having regard to the extreme demands being placed on health, social care and justice services by the pandemic.

4. The case will be relisted as soon as practicable, having regard to any temporary regulations or other priorities that may prevail during the coronavirus emergency.

Directions:

1. The patient or, if represented, the patient's legal representative, shall apply to the Tribunal for a new date for hearing after the revocation of the Pilot Practice Direction: Health, Education and Social Care Chamber of the First-Tier Tribunal (Mental Health).

2. The parties shall agree a new listing window between themselves and file HQ1s for that after the revocation of the Pilot Practice Direction: Health, Education and Social Care Chamber of the First-Tier Tribunal (Mental Health).

3. All parties are at liberty to apply to vary the order and directions in exceptional cases.

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: 26 March 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.