



MENTAL HEALTH REVIEW TRIBUNAL LAY MEMBERS Information Pack

1. Introduction

Jersey's new Mental Health and Capacity & Self Determination Laws have been in place since 2018, bringing Jersey in line with current Human Rights provisions and reflecting the modern expectation for fit for purpose legislation. These Laws provides further safeguards by widening the role of the independent Mental Health and Capacity Review Tribunal. The Tribunal now hears applications for the discharge of patients who are subject to detention, to hear challenges against decisions regarding the return of patients from leave from hospital or restrictions applied to access to communications. In addition, it hears applications to review decisions made regarding whether a patient should be transferred from Jersey for treatment in another jurisdiction. Finally, the Tribunal also deals with applications pertaining to the capacity and liberty of the patient under Part 5 of the Capacity and Self Determination (Jersey) Law 2016.

2. Purpose of the Mental Health Review Tribunal

The Tribunal is an independent judicial body which provides a significant safeguard for patients who have had their liberty curtailed under the Mental Health and Capacity and Self Determination Laws. Its main function is to review the cases of detained patients under the salient Law (including those granted long-term leave), and to direct the discharge of any patients where it thinks it appropriate.

It is not the function of the Tribunal to consider the validity of a patient's initial detention in hospital or guardianship; this remains the function of the Royal Court. The Tribunal's purpose when reviewing detentions or Significant Restrictions on Liberty is to review the position on the day of the hearing and whether or not the person continues to meet the criteria for detention or restriction, and whether it is the least restrictive approach; making a reasoned determination within the appropriate aspects of the Law.

The Tribunal hearings are held in private. It is for those who believe that a patient should continue to be detained to prove their case, not for the patient to disprove it. The Responsible Authority will provide the Tribunal with evidence in the form of written clinical and social reports as prescribed in the legislation.

Free legal representation is provided for the person subject to the restrictions, from suitably qualified Advocates, who have training and been accredited by the Law Society in mental health and capacity legislation. Where the person

does not have capacity to instruct a lawyer, the Tribunal will appoint a lawyer on a “best interests” basis, taking into account the persons past wishes and desires.

After considering all the evidence, both written and oral, and submissions from the patient’s representative, the Tribunal must give its decision to the patient and then provide written reasons for the decision.

Advice on the legal requirements and procedure under which the Tribunal operates is given to members before they sit to determine an application, by the Chair (or Vice Chair/Deputy Chair) who is sitting.

Administrative support to the Tribunal is provided by a Clerk who will convene a Tribunal from the panel members available as well as arranging the distribution of all the necessary documentation to the appointed members.

3. **The Composition of the Tribunal**

The Tribunal is comprised of three different groups of members – legal, medical and lay. One member from each of the three groups is appointed to a hearing.

(a) **Legal Members**

The Bailiff appoints a Chair as well as a Vice–Chair and deputy Chairs from among the advocates and solicitors of the Royal Court of not less than 5 years standing. Either the Chair, Vice–Chair or deputy Chair presides at a hearing.

(b) **Medical Members**

The Bailiff appoints medical practitioners with appropriate experience and qualification, to the Panel of Medical Members, one of whom is appointed to each hearing. The role of the Medical Member is to help the Tribunal interpret and understand specific clinical information and its relevance or otherwise in the determination.

(c) **Lay Members**

The Bailiff appoints Lay Members who qualify by virtue of their experience in administration or application of mental health legislation, their knowledge of social services or of such other qualification as the Bailiff considers suitable. One member from the Panel of Lay Members is appointed to each hearing.

4. **Requirements of Lay Members**

(a) **Skills and Personal Qualities**

- A knowledge of the Mental Health and Capacity legislation. An understanding and professional experience of Human Rights legislation as it relates to deprivation of liberty would also be of

considerable benefit.

- A high level of intellectual capacity.
- A record of integrity and independence of mind, sound judgement and objectivity.
- Ability to treat others with respect and sensitivity including those with disabilities and mental disorders.
- An attentive listener able to scrutinise arguments dispassionately.
- An ability to work at speed and under pressure in a considerate and patient manner.
- Ability to work authoritatively as a member of a small team co-operating with others whilst remaining objective and impartial in sometimes highly charged and emotional circumstances.
- A high level of personal skills and the ability to communicate effectively with all levels of society.
- A high level of professional legal expertise with the ability to absorb and analyse information quickly and to draft informed reasons.

(b) Requirements for Hearings

- Liaise with the Clerk to the Tribunal over matters of procedure, evidence and documents submitted for consideration.

(c) Scope

- The Lay Member will review the reports presented by the Authority witnesses ahead of hearing
- Attend the hearing and assist the other panel members in making a decision
- Review and approve the written decision prepared by the Legal Member

5. Terms of Appointment of Lay Members

Lay Members are appointed by the Bailiff. They are appointed for a term of office of 5 years and upon review by the Bailiff can be re-appointed for a further term/s.

6. **Time Commitment**

A Tribunal sits for a half-day session ordinarily not exceeding 3½ hours. The duration of each case usually varies from between 1 hour to 3½ hours, depending on the information provided for the case. It is estimated that each Lay Member may be required to sit up to 15 times a year. Last year the Tribunal sat on 32 hearings. (Please note that not all cases progress to final hearing a person may be released from their restrictions prior to the hearing date).

For the convenience of the professional persons involved, most Tribunals are convened during working hours within 6-8 weeks of an application being made. On occasions, however, some hearings need to be convened at short notice, i.e. within one week in the cases of applications against detention under 28 day Assessment Orders or “out of hours” hearings for emergency transfers from Jersey. It is therefore necessary that some degree of both availability and flexibility is required from Lay Members.

7. **Remuneration**

At present, Lay Members are currently entitled to a fee of £150.00 per half day session, should a hearing last more than 3.5 hours double payment is made.

8. **Conduct of Tribunal Members**

A Tribunal member shall not hear any case if he or she is conflicted or has any interest in the outcome, whether that interest be pecuniary, personal or otherwise.

9. **How to Apply**

Application packs can be obtained from the Tribunal Service, 1st Floor, International House, 41 the Parade, St Helier JE3 3QQ or by telephoning Tracey Pearce, on **441380** or email at t.pearce@courts.je

Applicants are required to complete an application form by the required closing date and these should be forwarded under confidential cover to the Tracey Pearce, Manager, Tribunal Service, First Floor, International House, 41 The parade, St Helier JE2 3QQ by no later than **15 November 2024**. Alternatively, you may submit a current C.V. A police check will be undertaken for all appointments prior to final confirmation of appointment.