



JUDICIAL
COLLEGE

Who am I and what do I do

- Over 20 years experience in MH
- Representative, Fee Paid Judge, STJ and DCP
- Work with the CP to ensure the Tribunal runs effectively and that patients have access to effective justice
- My work includes; Managing JOH, working with Leicester (case management, high profile cases) working with stakeholders, engaging with changes such as the Mental Health Review and sitting including Restricted cases and SEND

Applications and References

- 2800 app/ref per month 33,600 per year
- S2 33 % of total 7 day listing window
- 47000 listed a year (including postponed/adjourned cases)
- About 21890 proceed to a hearing

Interlocutory applications

- Usually between 2000 and 2300 a month

e.g. Total for May 2019 2296

Total for October 2040

- Decided by Tribunal Case Workers under delegated powers and STJs

Applications for directions

- Chase reports with the RA before applying for directions
- If you are asking for a postponement agree a range of dates if possible
- Set out the directions you want made
e.g. Dr RC shall provide the medical report that complies with the Senior President's Practice Direction by date/time. In particular Dr RC should address ...
- Withdrawing

Review/Appeal

- From Jan 2019 to date 91 applications
- Set aside 23
- Leave to appeal 7
- Majority inadequate reasons e.g. not addressing subs of legal rep, not explaining rejection and acceptance of evidence
- One case pat refusing depot, only treatment leave to appeal to UT

Suggested Approach

- The relevant facts
- The Law
- The Error of Law in this case
- Explain clearly why we got it wrong

Stakeholders

- 1200 active hospitals currently
- We have a stakeholders meeting every 6 months Includes MHLA, LAA, MHCS, Law Society and some MHAAs
- From the last conference supporting the MHLA and the Law Society over pay for appointments under Rule 11(7)(a)

Reform

- HMCTS modernising the delivery of justice
- IT
 - a) video hearings
 - b) recording of hearings- an independent record capable of transcription
- TCW and Registrars

Updates

1. Work on reasons writing with judges complaints

2. TPC consultation

3. CTO paper hearings

4. Patient Feedback

5. Section 47/49 time delay before PB hearing

6. Victims

7. Recruitment – ongoing and new judges competition, SpLM

Deprivation of liberty

Cases on DOLS

Secretary of State for Justice v MM [2018]
UKSC 60

Birmingham City Council and SR;
Lancashire County Council and JTA [2019]
EWCOP 28

Welsh Ministers v PJ [\[2018\] UKSC 66](#)

Deprivation of liberty

1. Restricted patients lacking capacity

- A restricted patient who lacks capacity can be deprived of their liberty by the CoP or the DoLS supervisory body in the patient's best interests.
- The Tribunal can take this into account when considering discharge.
- The Tribunal could not defer discharge as they cannot make this a condition but could adjourn.
- The Tribunal will take into account DoLS is outside of their control and could be time limited.

Deprivation of liberty

2. Restricted Patient with capacity

Cannot be deprived of their liberty on conditional discharge

In 1 and 2 the Tribunal has no power to deprive the patient of their liberty nor to impose any condition purporting to do this.

Deprivation of liberty

3. Patients subject to CTO

Unreported case with a consent order in front of Mr Justice Hayden – A person can be deprived of their liberty if they lack capacity and are subject to a CTO so long as that CTO does not contain conditions that on their face give rise to the confinement of the individual.

Questions?

- What can we do to improve?

Copyright

“Copyright in all training materials in whatsoever form published or distributed in connection with the training of tribunal members belongs to the First Tier tribunal (mental health) or to the author of the materials where the author is specified. Training materials may be reproduced by other persons for the purpose of training on a not-for-profit basis only provided authorship is acknowledged and permission obtained. Training materials must not be otherwise reproduced except with permission”.