

Professional Reference Group Minutes
12th May 2009 Tribunal Suite, Hamilton House

In attendance:

Dr Joe Morrow – President, Mental Health Tribunal for Scotland (MHTS) - JM
Adrian Martin – Deputy Head of Administration, MHTS - AM
Russell Hunter – Legal Secretary, MHTS – RH
Joanna Keating - Joanna Keating – SG, Solicitor, Mental Health Branch 3 – JK
Stuart Lennox – ASDW – SL
Linda Reid - Social Work Advisor to the SG Mental Health Division – LR
Andrew Strachan – Practice Development Nurse – AS
Karen McLaughlan – MHTS, Minutes – KMcL

Apologies:

George Kappler
Donald Lyons
Denise Coia
Dr J Hendry

AM opened the meeting and thanked everyone for attending. He asked if the group could agree the previous minutes. The group agreed the minutes, noted that they are published on the Tribunal's website and then discussed the publishing of the minutes on the website. The group felt that it would be beneficial if a timescale could be given for providing feedback on the minutes prior to being published.

ACTION: KMcL to give a deadline for feedback when sending the minutes out to the group members

Issues from previous meeting

AM introduced the first topic and JM confirmed that the view from the Mental Welfare Commission (MWC) is that the HAVOC leaflet is not within their remit. The view of the Tribunal that we cannot involve ourselves remains unchanged. The group agreed to have the item removed from future agendas.

ACTION: KMcL to draft a letter to HAVOC explaining the Tribunal's position.

AM informed the group that we had a positive response from the Service Users' and Carers' Group when we introduced the idea of increasing the use of video conferencing facilities. AM is doing an initial assessment into costing and is drafting a proposal at the moment. AM will give the proposal to the group for them to consider once it has been completed. The group discussed the use of video conferencing and how it could help professionals with workloads and prevent

unnecessary time away from their core work. AS added that in forensic cases, there is an established need for the use of the facility where victims and witnesses can give their evidence remotely with SL and AS noting that video conferencing facilities are available at Rowanbank. JM added that the Tribunal currently use video conferencing for cases where patients, victims or other attendees in some cases wish to give evidence but not attend the hearing. AM noted that both Larch House and Royal Cornhill both have good conferencing facilities. The group went on to discuss when it would be appropriate to use the facility and JM added that he would hope to use video conferencing for procedural hearings, or where a panel would be split for various reasons. AM agreed to distribute the proposal once it was ready.

ACTION: AM to distribute proposal to group once completed – or at next meeting of the group

AM moved on to introduce a new proposal whereby the Tribunal would stop recording short-term detention's (STDs) and distributed an initial proposal paper to the group. SL and LR both agreed that it seemed reasonable as the MWC record the number of STDs anyway. LR noted that the change could result in a loss of recording the conversion rate from STD to CTO. The group agreed that the conversion rate was important in showing how effective the STDs are and if it was justified initially. The group discussed the duty to record the information and that it would remain the duty of the person(s) ultimately with the responsibility to capture the information. Currently, this duty lies with the MWC. AM suggested keeping an accurate record on the number of STDs coming in the door but only recording those that lead on to a full application, thereby capturing the information. AM added that it may well be in conflict with the Data Protection Act for the Tribunal to record STDs for people who never come before a Tribunal. The group discussed the issues further and agreed to consider the implications for the next meeting of the group. JM added that he intends to consult on the proposal with various interested parties and added that he will look at the issue of recording STDs more closely. In response to LR, AM confirmed that the Tribunal does not receive copies of patient discharges and the group discussed who receives discharge notices and the multiple recipients of the same information. SL added that it might be a useful exercise to look into duplication of processes, AM responded to confirm that he meets with the MWC and these issues are amongst those discussed. JM and the group all agreed that this is an important piece of work and agreed to review the draft proposal.

ACTION: Group to consider the draft proposal and discuss at the next meeting of the group

JM informed the group that there was nothing new to add regarding the situation with ownership of the forms and added that he remains committed to having ownership moved to the Tribunal. The group discussed the forms and their fitness for purpose. RH added that the accuracy of the information captured on forensic forms is of

concern. The forms for S193 cases do not have the relevant facility to record decisions where the panel has made no order by reason other than making no order under section 193(2), for example. The group discussed how the Convenor records this information on the current forms. The only mechanism by which such a decision can be recorded is by scoring through all available options and manually writing 'no order'. The current layout has led some Convenors to erroneously record that no order has been made under section 193(2) (because the patient poses a risk of serious harm such that it is necessary to detain the patient in hospital) when, in fact, it is accepted that they pose no such risk. JM informed the group that as there is no statutory obligation to use the forms he will stop using them if they remain in their current format. The group discussed ownership, usage, and fitness for purpose issues further. AM noted that the review of the Act may result in changes to the forms. In response to RH who explained his discussions with the MWC regarding the forms, AM asked if it might be useful for an action point to call a meeting of the Forms Group to re-look at the issues around the forms.

ACTION: JK to call a meeting of the Forms Group and invite JM to the meeting, and provide feedback to the Professional Reference Group

Matters arising

AM asked LR to explain the first point. LR has come to the end of her secondment and is moving to a new post in Aberdeen. The group thanked her for her contribution and JM noted that LR had been an integral member of the group and thanked her for her dedication and contribution.

JM confirmed that the new Curator system is working very well. Following JM's visit to Aberdeenshire, there is now full coverage across the Country. Appointment of a Curator now takes place as early as possible in the process and is made by either JM himself or an in-house Convenor meaning appointments are now made by way of a judicial decision. JM was also pleased to be able to inform the group that many Curators are coming to the first hearing fully prepared and the quality of the service and their input continues to improve, which is assisting in a reduction in the number of hearings per case. The group discussed the improvements and the impact the new appointment system has had. JM added that the level of protection for the patient remains core and outlined the protections as -

- Consideration of both MHO and RMO evidence
- Appointment of a Curator is a judicial decision
- Legal professional person appointed
- Evidence heard before a full Tribunal
- The involvement of the named person

The group discussed appointment of a Curator and their usefulness in Tribunal proceedings with JM adding that he agrees the patient should be allowed to speak regardless if a Curator is present or not. The new system remains patient focused and the best interests of the patient remains paramount, along with the continuing

work going towards reducing the number of hearings per case and maintaining national coverage. In response to LR, JM agreed that he would be happy to write a short article for inclusion in the next MHO newsletter for the August edition.

ACTION: JM to write short article for inclusion in MHO newsletter and LR to provide KMcL details of a new point of contact due to conclusion of her secondment

JM confirmed that plans for the Members' training event are well underway. Shona Robison (Health Minister) will be speaking in the morning with JM closing the event at the end of the day. There will be a series of workshops aimed at sharing ideas, which will be facilitated by nine large break off areas encouraging Members' interaction. There will be approximately 20 stalls available at nil cost to groups who wish to come along to the event and JM is keen to have a limited number of non-Members attend and asked that anyone had ideas on who should be present contact his Personal Assistant¹. The group all agreed that it would be a good way to mark the first five years of the Tribunal. LR suggested that the Scottish Recovery Network (SRN) would be keen to attend.

ACTION: KMcL to ask the PA to the President to extend an invitation to SRN

JM said that the Tribunal has now moved to the Justice directorate and the move has not had a significant impact on the functions of the Tribunal or administration. The main change is the ceasing of the Tribunal administration to be an Executive Agency, but as the President continues to delegate tasks to the Tribunal administration there has been no practical change in the functioning of the Tribunal administration. JK added that it is the operation of the Tribunal that has moved to justice. The Health Directorate of the Scottish Government still has responsibility for mental health law and is conducting a review of the operation of the Act with a view to recommending amendments to improve its functioning. JM added that he hopes for a new framework document to be drafted explaining the relationship between the Health and Justice Directorate of the Scottish Government and the Tribunal and specifying the functions devolved to the Tribunal's administration by the President.

AM moved on to speak about the planned changes to the way the reference groups meet. He acknowledged that we have moved meetings around as much as possible up until the end of the current agreed dates in August. A meeting in Inverness of the Service Users' and Carers' Group in November was extremely successful in dealing with local issues and allowed the Tribunal to gain insight into local issues for example. The Tribunal is now looking to hold the meetings of both Reference

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groups on the same day and in the same location and expanding the possible attendees of the meetings. AM suggested to the group that the meetings could take the form of a full day event, with the Service Users' and Carers' Group meeting in the morning, the Professional Reference Group meeting in the afternoon and adding a further early evening meeting for Professionals (Lawyers, Senior Health Board and Local Authority representatives for example). The plan is to have three full day events per year with one in the West, East and either north or south. JM added that he intends to keep some meetings of the Reference Groups in either Glasgow or Edinburgh. The group agreed that this proposal presented a useful way of opening up the meetings to a wider audience and asked about inviting representation from the Justice and Health Directorates as a useful measure to gauge how the Tribunal is working. The group discussed the purpose and remit of the group over the next few years. They largely felt that thus far the group has met to discuss matters of implementation and issues arising from the early operation of the Act. However, it was recognised that the remit of the group would likely evolve over the next few years and inclusion of other bodies would help set the direction for the group. LR expressed concerns over the number of people wanting to attend from more densely populated areas (such as Glasgow for example). AS, LR and JM agreed that it might be useful to invite representatives from local groups and other selected persons (or representatives) with a view to limiting attendee numbers. The group agreed that opening up the meetings would ensure all disciplines would be represented and 'local' issues could be addressed consequently.

Next Meeting: 20th August 2009, Venue to be confirmed