

Guidance for Interpreters Attending a Hearing of the Mental Health Tribunal for Scotland

Introduction

The Mental Health Tribunal for Scotland (MHTS) takes judicial decisions about compulsory care and treatment of people with mental disorders. It has statutory powers to order care and treatment of individuals, and those are set out in the Mental Health (Care and Treatment) (Scotland) Act 2003.

The Tribunal

Although it is a judicial decision making body, the tribunal is less formal than a court and should put the patient at the centre of the process. A tribunal hearing will take place before a panel of three people. They are a convener who is legally qualified, a general member with a relevant specialist skill or lived experience and a medical member, who will be a qualified psychiatrist. They might sit round a table in person, or call in to a conference telephone line or video call. All formats are equally valid and will result in a decision being taken about an individual's care and treatment. The hearing will be supported by a clerk, who is employed by the Scottish Courts and Tribunals Service.

The tribunal considers a range of applications, but the most common types of hearing are about Compulsory Treatment Orders (CTOs). These permit those caring for the patient to give treatment and in some cases, detain them in hospital for treatment without their consent. Given the significance of this, it is essential that the patient is able to participate as fully as possible, without any language barrier.

The Interpreter's Role

The role of the interpreter in MHTS proceedings is to enable communication between all of those concerned and in particular to ensure that the patient (or other party for whom you are providing a service) is able to understand what is being said and to contribute as appropriate.

You should ensure that you give an accurate interpretation of what is said, without changing, simplifying or contextualising the speech. You should take care to ensure that communication is accurate in terms of tone, language and content and as such may need to ensure that you are familiar with equivalent words where colloquial expressions or derogatory terms are used. If you are aware of any cultural sensitivity around a phrase or figure of speech, you should alert the convener as soon as possible (although please take care not to interrupt the proceedings unnecessarily).

Although proceedings are informal, they are still judicial proceedings and the role of interpreter must be undertaken with care. Where possible, formal legal language is avoided but there are still a few terms which you may be unfamiliar with. A short glossary of commonly used words and phrases is included at the end of this guidance.

Some medical terminology may also be used by those giving evidence. It is not expected that you will be an expert in technical language, but if clarification is required that may be sought as necessary by addressing the convener.

Tribunal hearings are heard in private, and are entirely confidential in nature. You are required to maintain confidentiality and to ensure the secure destruction of any notes or papers you may have in respect of a hearing.

Glossary of Commonly Used Words and Phrases

Advocacy Worker – independent supporter to the patient, who may speak on his or her behalf from a prepared statement and who may participate in the hearing if the patient wishes.

CO – compulsion order, made by a court in the first instance, then managed by the Tribunal. It also authorises specific compulsory treatment measures including detention in hospital if necessary.

Convener – this individual chairs the three person panel. They will be legally qualified and will introduce and run proceedings. Any questions or difficulties arising should be addressed to the convener.

CTO – compulsory treatment order, made by the tribunal and authorising specific measures including detention in hospital for treatment if necessary.

Curator ad litem – if a patient is considered to lack capacity to instruct a solicitor, a curator ad litem (who is a legally qualified person) may be appointed to represent their interests.

Mental Health (Care and Treatment)(Scotland) Act 2003 – this is sometimes referred to as ‘the 2003 Act’ or simply ‘the Act’. It is an Act of the Scottish Parliament which permits the tribunal to take decisions about care and treatment of individuals. All applications heard by the Tribunal are made under the Act. Those giving evidence might refer to particular sections of the Act, depending on which application is being considered. They may discuss ‘legal tests’ or simply ‘tests’. This refers to a list of requirements in the Act which must be met before an application may be granted.

MHO – mental health officer; a specialist social worker with a statutory responsibility for a patient subject to compulsory measures of care and treatment.

Named Person - this is a person chosen by the patient to be a party to the hearing, generally a trusted relative or close friend.

Parties - this refers to the person (e.g. the MHO) who has made the application and the patient and named person. However, other people may also become parties to the hearing, for example a patient’s primary carer. A party has the fullest legal rights in proceedings.

RMO – responsible medical officer; the psychiatrist legally responsible for the care and treatment of a patient subject to compulsory measures.

STDC – this is an abbreviation of ‘short term detention certificate’ granted by a doctor and authorising detention in hospital for up to 28 days.

(The term ‘order’ more generally refers to a decision taken by the tribunal, which is legally binding.)