



















The backroom effort in putting on the seven days fell mainly to Fiona and Scott. Much happens in advance, by way of ascertaining who's attending when and where, assembling and sending out materials and assisting with individual queries and problems. The pandemic has meant that they have both had to move from the seven training days to the running of our new members' training on WebEx, with hardly a break. The skills required are those of meticulous organisation and the nerve needed is that of a high wire artiste. Fortunately, they both possess both. The deck which Scott had to operate in Dundee is shown in a photo - even with an advance trip to familiarise himself, it still presented challenges on the day. Because we have other photos from Dundee, we have included a selection of those too.

Lastly, the feedback forms from the days in Stirling and Dundee displayed a favourable response to one factor beyond all others: the value of getting together in person. As one member put it, what they liked most about the day was 'seeing old mates'. So, for 2022, I hope very much that we can maintain the principle of hybrid training – not that some people attend the same event in person and others by video, but that some events are in person and others are on a video platform. But as members appreciate, quite how it looks is not entirely within our control.

**Laura Dunlop QC  
President**

## **Member Training 2021**

**A few photos from 10 November 2021 – The Steeple Church, Dundee**



## Avoiding unlawful decisions when variation of orders is sought

Two hearings in December involved mishaps in the calculation of periods of time for interim orders in the context of applications for variation of CTOs. It may therefore be of assistance to recap on how to apply the relevant provisions of the Act.

A CTO, like a person, has a birthday. So an Order originally made on the 15th of a month will, in subsequent years, expire at the last moment of the 14th of that month. The analogy is incomplete, because in its first year, the Order will expire after 6 months, if not renewed (a half birthday, in effect). The RMO may renew the Order for 6 months and, thereafter, renewal is annual on the 15th/14th model above.

While a CTO is in place, variation may be sought, on its own or in conjunction with extension of the Order. Variation alone is dealt with by section 95. Variation with extension, which arises when the RMO wishes the CTO to be renewed but not with its current measures, is dealt with by section 92. If the variation is from a community-based order to a hospital-based one, because the patient's condition has deteriorated, the patient may already be in hospital, on either a short-term detention certificate or a section 114 certificate. Pending the final determination of the application under section 92 or 95, it may be necessary to authorise detention on an interim basis, under section 105 or section 106. In some situations the Order will need to be extended as well. Failure to follow the requirements of the legislation may lead to lapse of an Order, unlawful detention or both.

There are two key numbers to bear in mind. Firstly, interim orders can only be in force for a continuous period of 56 days (section 107). Secondly, an interim order can only be granted for a maximum of 28 days at a time (section 105(2); section 106(2)).

It may be that the 56-day period has already started to run before the application comes before a tribunal. Applications are sometimes lodged close to the expiry of a CTO, or of a short-term detention certificate or section 114 certificate granted while a CTO is in force. If there is insufficient time for a hearing, an in house convener may have granted a short interim extension or variation to maintain the order and/or authorise detention until the hearing. Any such interlocutor will be included in the papers for members. Members will also appreciate from the 'birthday' analogy that it is possible to identify the date on which the CTO was due to lapse and count how many days have passed since then, to find when day 56 would be.

In the first of the hearings referred to at the outset, the initial interim extension was in house, and extended the Order with effect from midnight 11/12 October, when it would otherwise have expired. Further interim extensions were made by tribunals but, on 1 December, which was already day 51, a further 14 day interim order was made. The CTO therefore lapsed at the last moment of 6 December and no further determination could be made. In the second hearing, an interim variation of a CTO was granted for a single period of 56 days. This was contrary to section 106(2) of the Act, which only allows variation for 28 days at a time. When this came to light, further variation on an interim basis was made in house.

Neither of these cases involved interim variation to authorise detention, which would have been a more serious problem, but they do demonstrate valuable points about interim orders.

**Laura Dunlop QC**  
President

## The pull of nursing

Hello everyone, I had been speaking with some fellow members recently about how my oldest son had recently graduated with honours in mental health nursing.

This led to a request for a photo of us together in uniform. I was eventually persuaded (he needed more persuasion than me!).

Many members will know me as I have been fortunate to have been a general member since 2005, and a reviewer since 2020. Even further back, I qualified as a mental health nurse in 1986. Needless to say, I am very proud that my son took his own path into the profession in spite of a very candid discussion around the demands that would be placed on him.

Even the photo, which shows all too clearly what 35 years as a nurse can do to you, did not dissuade him!

I am sure he will enjoy providing care as much as I have done in my own career.

I would also like to say hello to all the new and not so new members and hopefully we can see each other soon as restrictions are lifted.



**Stephen McGinness RMN, BSc, MSc.**  
General member

# Useful Information

## Mental Welfare Commission Publications

- **Appeals against detention in conditions of excessive security, Good Practice Guidance, December 2021**

[https://www.mwscot.org.uk/sites/default/files/2021-12/ExcessiveSecurityAppeals\\_GoodPracticeGuidance\\_December2021.pdf](https://www.mwscot.org.uk/sites/default/files/2021-12/ExcessiveSecurityAppeals_GoodPracticeGuidance_December2021.pdf)

## Mental Welfare Commission links

- **Significant rise in numbers of people being detained for mental health treatment in Scotland, 30 September 2021**

<https://www.mwscot.org.uk/news/significant-rise-numbers-people-being-detained-mental-health-treatment-scotland>

## Other MHTS information

- **MHTS Annual report 2020-2021**

[https://www.mhtscotland.gov.uk/mhts/Annual\\_Reports/Annual\\_Reports\\_main](https://www.mhtscotland.gov.uk/mhts/Annual_Reports/Annual_Reports_main)

- **MHTS Caselaw – Tribunal decisions**

[https://www.mhtscotland.gov.uk/mhts/Legislation\\_and\\_Caselaw/Legislation\\_and\\_Caselaw](https://www.mhtscotland.gov.uk/mhts/Legislation_and_Caselaw/Legislation_and_Caselaw)

- **MHTS Website - News**

<https://www.mhtscotland.gov.uk/mhts/News/News>

**\*Please note that links to Informative Publications are included for information only. Any views expressed in these publications are those of the authors and not those of the MHTS.**

## Clerks' Contact Details

Allan	Jean	07917 898792	<p>Please email clerks on the following generic email address and not on their individual email address:</p> <p><a href="mailto:MHTSHearingsOps@scotcourtribunals.gov.uk">MHTSHearingsOps@scotcourtribunals.gov.uk</a></p> <p>Post hearing paperwork to be uploaded to:</p> <p style="text-align: center;"><b>MHTS_FFR_Order</b></p> <p style="text-align: center;">on members' website</p> <p><b>Hearing Team Leaders:</b></p> <p>Team 1: Gordon Hope – 01698 292005 <a href="mailto:GHope@scotcourtribunals.gov.uk">GHope@scotcourtribunals.gov.uk</a></p> <p>Team 2: Leanne Paterson (temp)– 01692 292007 <a href="mailto:lpaterson@scotcourtribunals.gov.uk">lpaterson@scotcourtribunals.gov.uk</a></p> <p>Team 3: Jeanette Thomson – 01698 390004 <a href="mailto:jthomson3@scotcourtribunals.gov.uk">jthomson3@scotcourtribunals.gov.uk</a></p>
Armstrong	Grant	07917 898818	
Barclay	David	07917 898806	
Barnes	Gemma	07423 779555	
Bruce	Ian	07876 884046	
Colquhoun	Michael	07825 009020	
Cowie	Paul	07917 898801	
Ferguson	Elaine	07917 898813	
Finlayson	Claudia	07423770707	
Higgins	Margaret	07884 655912	
Hussain	Hanaf	07919199538	
Kilpatrick	Hannah	07884 664658	
Lithgow	Anne	07917 898823	
McLagan	Stuart	07584 158127	
Miller	Mandy	07770 645654	
Mooney	Audrey	07876 884044	
Paterson	Chris	07715 463790	
Paterson	Ellen	07423 779977	
Paterson	Kerri	07525257314	
Paterson	Leanne	07471 350730	
Richardson	Callum	07884 655908	
Shearer	Jennifer	07423 778698	
Singh	Tajinder	07423778767	
Sinnett	Stephanie	07786 028852	
Zachary	Margaret	07917 898796	

## Useful Contacts

### Scheduling Team

(including re-setting Webroster and MHTS Website passwords)

[schedulingmhts@scotcourtribunals.gov.uk](mailto:schedulingmhts@scotcourtribunals.gov.uk)

❖ Telephone: 01698 390034

### e-Expenses Helpdesk

[webrosterexpenses@scotcourtribunals.gov.uk](mailto:webrosterexpenses@scotcourtribunals.gov.uk)

❖ Telephone: 01698 390090

### Finance Team

[opsfinancetribunals@scotcourtribunals.gov.uk](mailto:opsfinancetribunals@scotcourtribunals.gov.uk)

❖ Telephone: 01698 390054

### President's Office

[mhtspresidentsoffice@scotcourtribunals.gov.uk](mailto:mhtspresidentsoffice@scotcourtribunals.gov.uk)

**Fiona Queen, PA to President and Member Liaison Officer**

❖ Telephone: 01698 390033

**Jenna Swan, President's Office Secretary**

❖ Telephone: 01698 390001

## Newsletter Contributions

The Tribunal welcomes contributions to the Newsletter from all members.

Members who wish to contribute to the Newsletter should contact Jenna Swan at [MHTSPresidentsOffice@scotcourtribunals.gov.uk](mailto:MHTSPresidentsOffice@scotcourtribunals.gov.uk)

The following timescales will apply for contributions\*:

**January edition:** contributions by the end of November

**May edition:** contributions by the end of March

**September edition:** contributions by the end of July

**\*Contributions may require to be edited**