

GUIDANCE to TRIBUNAL MEMBERS NO. 1/2018

RESERVING INTIMATION OF THE DECISION OF THE TRIBUNAL

Purpose of this Guidance

1. The purpose of this guidance is to remind members that a decision of the Tribunal may be reserved at the end of a hearing and to detail the process which should be followed when intimation of a Tribunal's decision is reserved.

Reserving intimation of a decision

2. Rule 72(1) of the Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Rules 2005 provides:

“A decision of the Tribunal may be given at the end of the hearing or reserved.”

3. There may be circumstances where the Tribunal reaches a decision but considers it appropriate to reserve intimation of it. For example, where a patient has been brought from a hospital to a community venue and the Tribunal is concerned that the mental state of the patient may deteriorate on hearing the Tribunal's decision or where the Tribunal considers that there may be a risk to a person's safety or welfare as a result of the Tribunal intimating its decision. Alternatively, in exceptional cases, members may have been unable to reach a decision on the day of the hearing and require to reconvene to reach a decision.
4. Where a Tribunal reserves intimating its decision, it should state to the parties at the conclusion of the hearing that it has reserved its decision, and explain how notice of the Tribunal's decision and the document containing the Tribunal's findings-in-fact and reasons will be intimated to the parties.
5. Clerks have been instructed that, when intimation of a Tribunal's decision is reserved, verbal notice of the Tribunal's decision must be provided to the appropriate Medical Records department as soon as possible. Written notice of the Tribunal's decision and the document containing the Tribunal's findings-in-fact and reasons will be sent by first-class post to the parties in accordance with the Tribunal's usual procedure.

Dr J J Morrow CBE QC
President