

GUIDANCE to TRIBUNAL MEMBERS No. 2/2012

ADDITIONAL WRITING UP FEE

[revised 4 August 2020]

Purpose of this Guidance

1. The following guidance has been issued to provide clarification on when an additional writing up fee can be claimed by Tribunal Members and the process for making a claim.
2. This guidance will take effect from 1 September 2020.

Core Hours

4. The normal Tribunal working day is from 9.00 am to 5.00 pm. This forms the core hours during which Tribunal Members are expected to carry out their judicial functions.
5. A decision of the Tribunal shall be recorded in a document which contains a full statement of the facts found by the Tribunal and the reasons for the decision; commonly referred to in its abbreviated form as the FFR (full findings and reasons).¹
6. If a hearing has concluded prior to 5.00 pm, the expectation is that the FFR will be completed on the day of the hearing. If members have sat on an afternoon hearing, but no morning hearing, the expectation is that the practice of paying a full day's fee will cover the time required to write the decision.
7. In exceptional circumstances the FFR may take longer to complete. In such circumstances the Convener has up to 7 days, from the date of the hearing, to draft and submit the completed document to the Tribunal's Administration.
8. The secure Tribunal Members' website allows Members to upload documents and revise documents on the secure site.

Writing up fee for less than half a day – prior authorisation

9. Where the circumstances are beyond those described in the preceding paragraphs, and drafting of the decision is likely to take up to half a day, the Convener shall obtain sanction for the proposed additional fee in advance by contacting the Head of Operations within the Tribunal's Administration, or his/her delegated officer.

¹ Schedule 2, paragraph 13(3), Mental Health (Care and Treatment) (Scotland) Act 2003

Writing up fee for more than half a day

10. Where the drafting of the decision is likely to take more than half a day, the Convener shall obtain sanction for this in advance by contacting the President or his/her delegated Convener.

Writing up fee involving other members

11. The expectation is that where the FFR cannot be completed on the day of the hearing, the Convener will take a note of the panel's deliberations to assist in the drafting of the decision.
12. In exceptional circumstances it may be necessary for the three Tribunal Members to sit for a further period to agree the terms of the decision. In these circumstances the Convener shall obtain sanction for this by contacting the President or his/her delegated officer, setting out the reasons for the request.
13. The preferred method in this case is for Tribunal Members to use (free phone) telephone case conference facilities which are available by contacting the President's Office. This will reduce the time spent by Tribunal Members on travel and will remove or reduce venue, operational and clerking costs.

A handwritten signature in dark ink, appearing to read 'Laura J. Dunlop.' with a stylized flourish at the end.

Laura Dunlop QC
President
September 2020