

**Mental Health Tribunal for Scotland
Guidance to Tribunal Members No. 1/2013**



**Guidance for Panel Members - Holding a Hearing without the aid of a
Hearings Clerk or Venue Assist**

Introduction

1. This guidance has been produced to enable Tribunal Members to conduct a hearing in the absence of a Clerk (and/or Venue Assistant).
2. As soon as the **Scottish Courts & Tribunals Service (SCTS)** is aware that the Clerk will be unable to attend, contact will be made with the Convener or other available Members to advise of the situation.
3. Depending on the venue, a Venue Assistant may be in attendance, but this may not always be the case. Please note that the venue assistant has no training in Tribunal procedures and will not have any paperwork in relation to the case. They will, however, endeavour to be as helpful as possible.

Arriving at the venue

4. The Clerk would normally arrive at the venue before everyone else and would collect any keys or passes to open up the Tribunal rooms. **SCTS** will let you know if this is something, you are now required to do. Once you are in the Tribunal suite, you should find the Black Box, which will contain a copy of any guidance required, expenses forms for attendees and relevant end of hearing documents. An attendee sheet to inform you of the parties expected to attend and any additional documentation for the hearing will be uploaded via the Members Website.

Setting up

5. You will be required to check the rooms to be used, to see that they are in full working order. If not, please check if there are staff present in the building who can contact the appropriate maintenance team. If no one is available, please ring **SCTS** and we will endeavor to contact the appropriate personnel. You should also check for any obvious health and safety issues, such as sharp or inappropriate objects in any of the rooms.
6. Most venues should be laid out appropriately, but you can change the layout if required. You should not take any unnecessary risks in changing the room layout. Ask for help from the Venue Assistant, if one is present. If a phone is unavailable for conference calls, please contact **SCTS** to check whether a phone can be brought in from elsewhere. **SCTS** will endeavour to equip members with a recording device, and a member will have to be responsible for starting and stopping the recording. Without the necessary equipment, the hearing will not be able to be recorded. Should this prove to be a significant issue, **SCTS** will endeavor to set up a recording device at Hamilton to remotely record the hearing. If this is not possible, the Convener will be required to take detailed notes of the proceedings, which will have to be sent back to **SCTS** at Hamilton in due course.

A Welcome to the Attendees

7. Using the attendee list provided, the Venue Assistant (if one is present) should take note of attendees as they arrive and show them to the appropriate waiting rooms. If a Venue Assistant is not available, one of the Members will need to take on this role.

Attendees' Questions

8. In the absence of the Clerk, one of the Members would be expected to field any general queries from attendees regarding the format of the proceedings. Members would also be required to deal with requests for attendees' expenses claim forms.

Nurse Escorts

9. The Clerk would normally endeavor to ascertain from the escort/carer how the patient is feeling on the day, to advise Members on any particular issues. Escort nurses should not normally be asked to provide evidence at the hearing. Whether they are to provide evidence or not should be clarified before the hearing starts. Escort nurses should remain at the hearing while the patient is present.

Papers

10. For various reasons, it is possible that an attendee will not have the appropriate papers. The Venue Assistant may be able to photocopy these papers (but will not have a set of papers themselves). If no Venue Assistant is present, one of the Members will need to undertake this duty. Any papers submitted by a party at the hearing will also require to be photocopied, to ensure that all parties and the Tribunal Members have a copy. A copy of any additional papers lodged must also be sent to **SCTS** at Hamilton at the conclusion of the hearing.

Security

11. Various arrangements are in place throughout the venues. Members should make themselves familiar with these arrangements prior to the hearing starting. The hospital has a responsibility and duty of care for the patients. Should a problem arise with an attendee, the police should be notified.

The Start of the Hearing

12. When Members are ready to start the hearing, the Convener should welcome the parties, identify themselves and undertake the "housekeeping advice" appropriate to the venue, e.g. fire alarms, emergency exits, toilet facilities, comfort breaks etc. This information requires to be given out for health and safety purposes and is particularly important, given that most of the participants are unlikely to have been to the venue before.

13. Thereafter, Members will require to take a basic note of the start and finish times of the hearing, a note of those who have attended the hearing, and whether any incidents have taken place during the hearing. If recording of the proceedings is not possible, detailed notes of the evidence heard must also be taken.

Adjournments

14. On occasion, it may be necessary to adjourn a hearing. The Convener will be required to source availability from parties at the hearing and contact the Scheduling Team at **SCTS** with available dates to allow a provisional booking to be made. All paperwork for adjourned hearings should be sent back to Hamilton without delay.

Scheduling Team: - 01698 390000 (Option 2)

Decisions and Later

15. At the end of the hearing, the Convener should contact **SCTS** with the outcome and times from the hearing. If the Tribunal order form and the FFR template have not been provided to the tribunal by **SCTS** (located within Black Box), the Convener should request the required paperwork be uploaded to the members website (or emailed, where the tribunal has access to a printer) to them for completion. If an Order has been made, this should be completed and signed by the Convener, and a photocopy of this should be handed in to Medical Records on the day (if possible).

16. Paperwork can be completed by hand at the hearing if no IT equipment is available, and the decision document and all original paperwork should be returned to **SCTS** at Hamilton without delay.

17. Tribunal Members should ensure that all case papers are securely disposed of / shredded or given to another Clerk for disposal, if one of the Members has a further hearing later in the week.

18. The rooms then need to be tidied before they are vacated. The premises must be secured as appropriate.

19. If at any time you require advice, this can be obtained from the **Hearings Operations Team** on **01698 390000 (Option 3)**. You can also seek advice from the In-house Conveners or Legal Secretaries on matters such as interpretation of the Act or Rules of Procedure.