

## **Orders of the Royal Court**

**II  
2018**

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

5th day of February, 2018 before Sir Richard Collas, Bailiff; present:- Barbara Jean Bartie, John Ferguson, Esquire, Constance Helyar-Wilkinson, David Percy Langley Hodgetts, Esquire, LVO, Niall David McCathie, Terry John Ferbrache, Jonathan Grenfell Hooley, Steven John Morris, David James Mortimer, Esquires, Joanne Marie Wyatt, Peter Francis Gill, David John Robilliard, Esquires, Jurats.

**No. II Order, 2018**

ENTITLED

**THE ROYAL COURT MENTAL HEALTH REVIEW TRIBUNAL PROCEDURE  
(AMENDMENT) RULES, 2018**

# ORDER OF THE ROYAL COURT

ENTITLED

## **The Mental Health Review Tribunal Procedure (Amendment) Rules, 2018**

THE ROYAL COURT, in exercise of the powers conferred on it by sections 40(6), 46 and 106 of the Mental Health (Bailiwick of Guernsey) Law, 2010<sup>a</sup>, hereby orders:-

### **Amendment of the Rules.**

1. The Mental Health Review Tribunal Procedure Rules, 2012<sup>b</sup>, are amended as follows -

(a) in the Arrangement of Rules, delete -

(i) "36. Contents of statements.", and

(ii) "Schedule 2 – Contents of statements",

(b) for rule 2(2), substitute the following paragraph -

"(2) The composition of the Tribunal shall be as follows -

(a) a legally qualified member, who will chair the hearing,

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<sup>a</sup> Order in Council No. XV of 2011.

<sup>b</sup> O.R.C. I of 2012.

(b) a medically qualified member, and

(c) a lay member who has experience and knowledge of health or social care matters.",

(c) for rule 2(3), substitute the following paragraph -

"(3) Notwithstanding the other provisions of this rule, a person may not be appointed to sit as a member of the Tribunal if that person has attained the age of 72 years.",

(d) in rules 3, 4 and 6, for "Department" substitute "Policy & Resources Committee",

(e) in rule 7 -

(i) renumber the text of rule 7 as paragraph (1), and

(ii) immediately after paragraph (1), insert the following paragraph -

"(2) Where, for the purposes of paragraph (1), the Chairman cannot consult the Deputy Chairman due to unavailability or incapacity, the Chairman shall instead consult with the legally qualified members of the Panel.",

(f) in rule 23 -

(i) in paragraph (1)(c), for "within the time"  
substitute "within any relevant time",

(ii) delete paragraph (2)(b),

(iii) in paragraph (4) for "each" substitute "every",

(iv) for paragraph (5), substitute the following  
paragraph -

"(5) If the patient is a conditionally discharged patient, any person specified in a practice direction must send or deliver a statement containing the information and documents required by any practice direction to the Tribunal so that it is received by the Tribunal as soon as practicable and in any event within 6 weeks after that person received a copy of the application or a request from the Tribunal.",

(v) in paragraph (6)(c) and (d), for "in paragraph 3 of Schedule 2" substitute "by any practice direction",

(vi) in paragraph (7), for " paragraph 3 of Schedule 2" substitute "any practice direction",

(vii) for paragraph (8), substitute the following

paragraph -

"(8) If the patient is a restricted patient, the responsible authority must also send the statement under paragraph (7) to any other person specified in a practice direction, and that person must send a statement of any further relevant information to the Tribunal as soon as practicable and in any event within 3 weeks after that person received the relevant authority's statement."

(g) delete rule 25(3),

(h) in rule 28(1) -

(i) immediately after "10", insert "calendar", and

(ii) immediately after "received the application",  
delete "notice",

(i) delete rule 36,

(j) in rule 37 -

(i) delete the entries for "the Committee" and "the  
Department",

(ii) immediately after the entry for "applicant",  
insert the following entry -

""**Clerk to the Tribunal**"" includes any other person designated by the Policy & Resources Committee to discharge the functions, and exercise the powers, of the Clerk,"

- (iii) for the entry for "enactment", substitute the following entry -

""**enactment**"" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,"

- (iv) immediately after the entry for electronic means, insert the following entry -

""**Health & Social Care Committee**"" means the States of Guernsey Committee for Health and Social Care,"

- (v) delete the entry for "Home Department",

- (vi) in the entry for "legal representative" -

(A) for paragraph (b), substitute the following paragraph -

"(b) any person who is subject to the supervision of an Advocate of the Royal Court of Guernsey and is -

(i) a member of the Bar of England and Wales, of the Bar of Northern Ireland, or of the Faculty of Advocates in Scotland, or

(ii) a Solicitor of the Senior Courts of England and Wales, of the Court of Judicature of Northern Ireland, or in Scotland, or", and

(B) delete paragraph (c),

(vii) in the entry for "non-business day", immediately after "1958," insert "and "**business day**" shall be construed accordingly",

(viii) immediately after the entry for "paying person", insert the following entry -

**"the Policy & Resources Committee"**  
means the States of Guernsey Policy & Resources Committee,"

(ix) in the entry for "responsible authority" -

(A) in paragraph (a), for "Department"

substitute "Health and Social Care Committee",

(B) in paragraph (b), for "the Committee" substitute "the Sark Committee",

(x) immediately after the entry for "Royal Court", insert the following entry -

""**the Sark Committee**" means the Medical Committee of the Chief Pleas of Sark,"  
and

(xi) for the entry for "subordinate legislation", substitute the following entry -

""**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,"

(k) in Schedule 1, for the words "except where disclosure" to the end of the sentence, substitute "other than in accordance with the Mental Health (Bailiwick of Guernsey) Law, 2010 or in any case required by law",  
and

(l) delete Schedule 2.

**Citation and commencement.**

2. These Rules may be cited as the Mental Health Review Tribunal Procedure (Amendment) Rules, 2018 and come into force on 6<sup>th</sup> February, 2018.

J. TORODE,

Her Majesty's Greffier.