

## Sarah Johnston Q&A Session

Thursday 17<sup>th</sup> October 2024 from 14:45 Friends  
Meeting House, London

Sue Green, co-chair of MHTMA thanked Sarah for attending the conference.

Sarah updated the members before answering questions:

- Stable number of cases. May be an increase if new Mental Health Bill gets through.
- Stable adjournment rate published at 9%.
- Less than 0.5% appeals.
- New salaried judge exercise just opened and in the middle of current recruitment for specialist members. Next medical members recruitment will be deferred as we have a lot of psychiatrists in position currently and we need to wait until there are more consultants who would be eligible to apply.
- There are the most judicial office holders that there has ever had in Tribunal, but many judicial holders only sit for the minimum number of days and as a result there are still not enough members for hearings which is why we are getting emails at the last minute asking us if we are available.
- NLM fee reviews from MOJ - previous Lord Chancellor received report and agreed with a number of recommendations. No immediate amendments to fee structure with ongoing work on working practices review.
- Training. The next Judicial College Prospectus 2025-2026 is about to be launched and everyone who is not on the core course needs to sign up for 2 courses.
- Victim Impact Statements to tribunals in restricted cases under the new Victims and Prisoners Act 2024, victim can lodge a Victim Impact Statement and request to attend the tribunal remotely to read their statement unless good reasons not to be allowed. Initially these hearings will be listed all day and carefully managed by a district tribunal judge. This will not come into effect for the MHT until next year.  
Tim McInerney parole board member. In relation to victim's attendance at RPP hearings. Need to anonymise members of the panel. SJ said that, unlike the parole board it is not intended that victims attend in person or remain for the entirety of the hearing.
- Rule 35 – This has been amended to extend the ability for detained patients to have paper hearings to mirror those which currently relate to CTO patients. Patient has to be over 18 represented and patient's representative has to say that they do not want to be present. Patient must be deemed to have capacity and must have seen the reports. Not allowed on first hearing and then only one paper hearing, next hearing has to be oral. Not going to come into effect until December. It will be a 3-person panel as required by the SPT's composition statement.
- Sue Green asked whether everyone who sits is going to have to agree to sit on these new paper hearings. SJ responded that she would take this on board and the process will be refined. There is some talk of putting paper hearings into the second half of day but the Tribunal is expecting numbers to be very small.
- Debbie Postgate asked if there is a shortage of restricted judges. SJ responded yes, there is a shortage of availability for all judges.
- Security working group formed in response to a judge in Milton Keynes being attacked. Reviewed as tribunals sit in hospitals and not in HMCTS buildings. New directions have been issued requesting an update from the RA if the patient is potentially violent with a date to respond. If there is a response or there is no response the matter will be sent to a DTJ for further directions which can include listing to CVP. SJ and be listed by CVP. New

directions are issued to ensure that before hearing starts the RC and solicitor will meet with the panel and be asked if any issues and concerns about security.

- Minimum standards – long document which will be revised. 91% of all venues have signed up and others are being chased but these venues often hold less than 10 tribunals per year.

## 1. Security

Please up- date on security issues and when we might expect any further guidance/ standards and whether this will be issued to all JOH's and not just to Judges:

Specifically:

- a) What to do on arrival if there appears to be an issue with the room?
  - i. *Make the decision yourself. Check with administrator whether another room and if feel unsafe adjourn hearing. You are not expected to sit if you don't feel safe.*
  - ii. *If there is an incident fill in forms and send back so it can be followed up.*
- b) Further steps being taken in relation to the scrutiny of CTO community venues and patients who might pose a risk in that setting.
  - i. *At the moment the system can't identify what is a community venue and what is a hospital and assess whether there are any issues at those units. The liaison DTJ's will be tasked to review the community venues in their areas.*
- c) Has the new PHE Guidance been issued?
  - i. *This has been sent out and is on the website.*

## 2. Bookings

Recent change in cancellation notices:

- a) Is there any reason why in the majority of cases we are no longer advised of the reasons for cancellation which many of us find of interest especially when for example we have proactively case managed the case or this occurs when a case is part heard. Can this be reinstated in all cases?
  - i. *The reasons will be re- instated on the cancellation notices. Only contact administration if there is an error, anything else contact SJ's office.*

How flexible is the booking system.

- b) Is it possible to ask to sit only in one location for a limited period of time?
  - i. *There is limited capacity to add a second profile for members as the ability to do so is constrained by the system and loss of administration building has made working conditions difficult but hopefully have a new building now. Restrictive system, you can cross off locations but this has to be done manually and added back on manually.*
  - ii. *If a regular thing for a set period, a second profile may be able to be made so availability given for both profiles.*

There has been an increasing number of urgent requests to sit at short notice.

- c) Is there any reason for this and is there a recruitment issue? Is there anything we might do to help?
  - i. *SJ will ask office to look at the suggestions which members have put forward. The office have to follow judicial finance guidance and there are no half days bookings. Restricted cases, CAMHS and, face to face cases will be dealt with by a specific team and listed first from November.*

### **3. Lack of Nearest Relative's views**

Is there anything you can do to reinforce the need for it to be sought and included?

- i. *Training on evidence given to tribunals. Joan Rutherford and SJ did some training to AMHP's . Specialist members may have ideas but SJ thinks it's better to do it on the day. This should also be directed to care coordinators.*
- ii. *DO - suggested a crib sheet could be sent out with expectations. SJ said template reports may need looking at again. SJ said trusts are responsible for giving reports.*
- iii. *JE – practice templates don't deal with everything, could add instructions into templates on practice directions.*
- iv. *CP - issue of nearest relatives is significant and more often than not box says N/A and is blank. Relatives have not been contacted as people feel they are not allowed. SJ – Consent is not needed to get views, only to disclose information.*

### **4. PHE's**

- a) In view of the 'wait list' which SJ reported had been extended and cases being listed at short notice, can those with a PHE be listed first?
  - a. *Those with PHE's should not be in these lists but a PHE can be late applications when lawyer gets involved and then falls outside of normal listing procedures. If this does happen let SJ know...*
  - b. *DA - Can you do it on the morning and claim for it. SJ – yes check the guidance but I think it is if you are booked less than 10 days in advance.*
- b) Following on from this – at what point does the short booking notice translate to 'not practicable' under Rule 34(1)?
  - a. *Many variables, need to tell judge it's not practicable, especially if it will result in a long working day for the MM and patient can ask for it to be adjourned but in practice very few do.*

*AB – Experience of working on panel as a team of equals. Arose at training in York that some cross ticketed judges do not appear to understand the joint working practices of the MHT and the need to send the decision to the panel before submitting it. May not be used to it and need more training. SJ - need to tell people they are not right about this. In training it is dealt with and training emphasis that it is the decision of the whole panel.*