

Mental Health Law Briefing

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Changes to The Tribunal Service

The MHRT is about to undergo a number of changes. The Tribunals, Courts and Enforcement Act 2007 received royal assent on 19th July 2007 and the first stage of implementation in relation to the Tribunal Service will take place in October 2008. The Act introduces changes in a number of areas of law, including amongst others the requirements in relation to judicial appointments and the law in relation to enforcement of Judgments and Orders. However, of perhaps the most interest to those working in the healthcare sector are the amendments made to the Tribunal Service and, in particular, the effect this will have on both the Care Standards Tribunal and the Mental Health Review Tribunal (MHRT).

The Act aims to provide a new simplified framework for Tribunals by bringing all the various Tribunal jurisdictions together. Under the provisions of the Act a new two tier system will be implemented, a First Tier Tribunal and an Upper Tribunal. The majority of the existing Tribunals (including the Care Standards Tribunal and the Mental Health Review Tribunal) will be moved into the First Tier and Upper Tribunal system. The Upper Tribunal will act as an appellate Tribunal from the First Tier Tribunal. Accordingly, the First Tier Tribunal will hear the initial matter and if the decision is to be appealed, then this would go, in the majority of cases, to the Upper Tribunal.

Under the Act the two tier tribunal system is split into a number of chambers, in which the current Tribunals will be placed. As from October 2008 the Care Standards Tribunal and Mental Health Review Tribunal will become a part of the Health, Educational and Social Care First Tier Chamber. The Mental Health Review Tribunal will be renamed the 'Mental Health Review Panel' and the Care Standards Tribunal will probably also be given a new name.

The aim of the various amendments is to try and simplify the current Tribunal system. Although it is not envisaged that the changes will amount to a revolution, there is an indication that the procedural rules relating to Tribunals may be amended so that there is one set of generic rules for all Tribunals. We understand that the Government are considering amendments to the procedural rules with a view to speeding up the overall process. These issues are currently being considered and the Government's proposals are still awaited.

Under the new system, individuals who wish to appeal their MHRT decisions will go to the Upper Tribunal as opposed to using Judicial Review proceedings. We understand that generic procedural rules will also be put in place for proceedings in the new Upper Tribunal.

Further information about the proposed changes, website www.tribunals.gov.uk

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