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Stop Press: Court Ruling to Open Floodgate for Claims

In a Judgment handed down this week, the High Court have ruled that the common place delays in hearings before Mental Health Review Tribunals, breach patients' rights to speedy hearings pursuant to Article 5(4) of the European Convention on Human Rights, which is now incorporated into English Law under the Human Rights Act.

Before the Human Rights Act came into force, many commentators speculated that the delay inherent in the Tribunal system could be open to challenge because of the provisions of Article 5(4). In 7 test cases that were heard together, patients challenged the delay in holding tribunal hearings. The patients complained that they had suffered delays up to 27 weeks, including repeated cancellations of hearings.

The patients argued that the continued delays were unjustified and detrimental, breached Article 5(4) and were representative of inadequacy and inefficiency in the Tribunal system. The Court heard evidence that delays had been increasing over the last ten years.

The Judge held that even if a patient's case was unmeritorious, this did not deprive him of the right to a speedy hearing pursuant to Article 5(4). Although there were clearly issues of finance involved in the resources available to tribunals, the Judge held that nevertheless the Human Rights Act had been breached. To the extent that failures were caused by lack of resources (including staff shortages and shortages of psychiatrists, or the pressure of work on them) this was the responsibility of central government.

The 7 patients will now apparently be applying for compensation, presumably from the Secretary of State for Health. However, there will doubtless be many other patients who will have similar complaints and will now be seeking compensation in respect of the delay.

A full transcript of the judgment is not yet available but a further *Mental Health Law Briefing* will follow when it is.

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Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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