

ORGANISATIONAL MODULES 2024

**MUCKAMORE ABBEY HOSPITAL INQUIRY
WITNESS STATEMENT**

**Statement of Attracta Wilson
Date: 16 May 2024**

I, Attracta Wilson, make the following statement for the purpose of the Muckamore Abbey Hospital (MAH) Inquiry.

The statement is made on behalf of the Review Tribunal NI in response to a request for evidence by the Inquiry Panel. This response has been prepared in conjunction with Mairead Phillips, Secretariat of the Review Tribunal NI, a Principal Officer in the Northern Ireland Courts and Tribunals Service (NICTS) with management responsibility for Secretariat staff in the Tribunals Hearing Centre, Royal Courts of Justice, Belfast within which the Review Tribunal operates. Ms Phillips has been employed as a civil servant with NICTS from 1989.

This is my first statement to the Inquiry.

There are no documents produced with my statement.

Qualifications and positions

1. I am a qualified solicitor. I was admitted to the Roll of Solicitors in the Republic of Ireland on the 28 October 1982, and to the Roll of Solicitors in Northern Ireland on the 04 November 1988.
2. I have held the following positions in Northern Ireland:
 - From 04 November 1988 until November 1989, I was employed as an Assistant Solicitor with McCartan Turkington Breen, Solicitors Belfast.

- From November 1989 until my retirement in February 2020 I was employed as a Principal Legal Officer with Departmental Solicitors Office (DSO). I worked part time in that role.
- On the 12 August 2004 I was appointed as a part time Chair of the Industrial and Fair Employment Tribunal for Northern Ireland, a position I still hold.
- On the 24 July 2008, I was appointed as a legal member of the Mental Health Review Tribunal (MHRT) as it then was.
- On the 01 April 2015, I was appointed as Chair of the Review Tribunal (RT). As Chair I have leadership and management responsibilities on the judicial side, in addition to which I also sit as a legal member of the RT. I make this statement in my capacity as Chair.

Module

3. I have been asked to provide a statement for the purpose of M1: Patient Advocacy and Representation.
4. My evidence relates to paragraphs 10 to 13 of the Inquiry's Terms of Reference.
5. By way of background, the Review Tribunal (RT) was established as the Mental Health Review Tribunal under Part V of the Mental Health (Northern Ireland) Order 1986 (the Order) with jurisdiction to hear and determine applications and references under the Order. This extends to applications and referrals relative to guardianship, patients detained for assessment and for medical treatment and detention of patient under Part III of the Order, i.e., patients detained through the criminal justice system. For the purpose of this statement, I am concentrating on patients detained in hospital for either assessment or for medical treatment under the Order.
6. The routes to the RT are as follows:
 - Any patient detained under the Order is entitled to apply for a Review Tribunal (RT) hearing within the period of six months beginning with the date of admission to hospital and thereafter once during any period of renewed

detention. In general terms, this entitles a patient to apply for a RT hearing within six months of admission and there after annually.

- The patient's nearest relative may also apply to the RT on behalf of the patient under Article 71 of the Order following notification of renewal of any period of detention.
 - If a patient's detention in hospital for medical treatment is not considered by a RT in any two-year period, there is a duty on the Health and Social Care Trust as Responsible Authority to refer the case to the RT.
7. The statutory jurisdiction of the RT was extended under the Mental Capacity Act (Northern Ireland) 2016 following its partial commencement on 02 December 2019. On that date the MHRT became the RT, and it acquired jurisdiction to consider applications and referrals from or in respect of persons (P) deprived of their liberty in any place in which care or treatment is available. MAH would fall into the category of such a place.
8. Patients detained in MAH during the reference period were for the most part detained under the Order. However, it is possible that there were others detained under the MCA. There is a distinction between the two. A patient detained under the Order is detained in a hospital, initially for an assessment period under Article 9 of the Order, and thereafter for medical treatment under Article 12 of the Order provided the test for detention is met. i.e.

*'.....the patient is suffering from mental illness or severe mental impairment of a nature or degree which warrants his detention in hospital for medical treatment; and
(b)..... failure to so detain the patient would create a substantial likelihood of serious physical harm to himself or to other persons;*

9. Persons detained under the Order are presumed to have mental capacity regarding the right to apply to the RT, and in relation to their detention unless it is established to the contrary.
10. The test for detention under the MCA is different and includes evidence of the availability of appropriate care and treatment in the place where P resides, lack of capacity on the part of P relative to their care arrangements amounting to a deprivation of liberty, risk to of serious harm to themselves and/or of serious physical harm to others in the absence of detention and their best interests.
11. Patients detained in MAH were typically those suffering from a severe mental impairment defined in the Order as follows:

“severe mental impairment” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning and is associated with abnormally aggressive or seriously irresponsible conduct on the part of the person concerned.’

12. I have been asked to address a number of questions/ issues for the purpose of my statement. I will address those questions/issues in turn.

Q1. An explanation of the role of the Review Tribunal for Northern Ireland for patients at Muckamore Abbey Hospital (MAH) and/or their relatives across the time period covered by the Terms of Reference, that is between 02 December 1999 and 14 June 2021. In answering this question please provide:

- i. An explanation of the method(s) by which a patient at MAH and/or their relatives are made aware of the Review Tribunal process.**

13. The RT is an independent judicial body. It has no role in making patients or their relatives aware of the processes involved in the application process. The RT secretariat would only become involved with a patient or their relative at

MAH once an application has been received from the patient or their legal representative or by a referral from the Belfast Trust. The patient or relative would be made aware of the RT process by the trust. Individuals can however access the Review Tribunal processes via the Department of Justice website¹.

ii. An explanation of the method(s) by which the Review Tribunal communicates with patients at MAH and/or their relatives.

14. Once the application/referral has been registered by the secretariat, an acknowledgement letter is sent to the patient advising they will be notified of a hearing date in due course. When the hearing date has been scheduled, the secretariat will notify all parties involved in the hearing by letter with at least 14 days' notice of the hearing date in accordance with the requirements of Rule 20 of the Mental Health Review Tribunal (Northern Ireland) Rules 1986 (the Rules). Any engagement with the RT in advance of the hearing is through the secretariat and is normally initiated by the legal representative for the patient

15. In advance of a RT hearing, a panel comprising a legally qualified Chair (the president), a psychiatrist and an experienced member is assigned to the case. The panel is provided with the detention forms, the application/referral, all reports relied upon by the Trust to support continued detention, a risk assessment and any papers relied upon by the patient. At that point the panel will usually be advised as to whether the patient is legally represented. If not, the president has power under Rules 10(3) of the Rules to appoint a legal representative to represent the patient in advance of the hearing.

16. It is not unusual for the Trust to contact the secretariat in advance of the hearing asking that a legal representative be appointed in accordance with the Rules. In such cases the secretariat, contacts the president who authorises the appointment in accordance with the requirements of the Rules.

17. There will be occasions when the absence of a legal representative becomes

¹ [Review Tribunal | Department of Justice \(justice-ni.gov.uk\)](http://www.justice-ni.gov.uk)

apparent on the day of the hearing. In such cases I would expect the hearing to be adjourned to facilitate the appointment of a legal representative.

18. It would be highly unusual to proceed to hearing where the patient is unrepresented. This may happen when a patient refuses to engage with the appointed solicitor, or objects to the appointment. In such cases it is incumbent on the RT to ensure that every effort is made to minimise any disadvantage to the patient in proceeding without representation. This includes more careful explanation of the processes and more anxious questioning by the panel of the Trust witnesses as part of the inquisitorial process. In all cases the use of legal jargon is discouraged.
19. RT hearings apart from those listed when Covid-19 restrictions applied, are held in the hospital setting. Hearings are private unless the patient requests a public hearing, and the RT is satisfied that a public hearing would not be contrary to the patient's interests. I am not aware of any public RT hearings having taken place since the Order was commenced.
20. The RT has power to admit "such persons as it considers appropriate" to the hearing. This power is relied upon where appropriate to admit members of the patient's family to the hearing. In my experience family members have only been excluded in cases where the patient objects to their being in attendance, and such cases are rare.
21. The patient usually attends the hearing. There may be occasions when the patient chooses not to attend, and their legal representative is content for the hearing to proceed in their absence. I cannot recall any occasion when a hearing proceeded without the patient or their representative present. If this were to appear likely I would expect the hearing to be adjourned to facilitate an appearance by the patient and/or their representative.
22. A patient attending the hearing is frequently accompanied by a nurse and occasionally two nurses depending on the patient's presentation and potential for distress or challenging behaviour. On some (infrequent in my experience) occasions a Patient Advocate will attend to support the patient. However, this

is not something that the RT arranges, and I have no knowledge of how or in what circumstances it is arranged.

23. There is a requirement under rule 22(3) of the Rules for the president to explain the manner of proceeding to the parties. This is done in terms which the patient can understand. I would expect all presidents in providing this explanation to make every effort to put patients at their ease, to explain that they can ask for a break at any time (within reason) and to keep an eye on the patient throughout to ensure they appear comfortable and are not distressed, and to offer a break if appropriate.

24. Patients may give evidence to the Tribunal. This varies from case to case. It is not unusual when a patient is legally represented for them to decline the opportunity to give evidence following consultation with their representative. However, the patient will always be given an opportunity to address the Tribunal once all evidence is given. This is a requirement of Rule 22(5). The distinction is that if the patient elects to give evidence they may be cross examined. If they choose to address the Tribunal at the close of the case, there is no cross examination though there may be questions from the panel.

25. It is my practice to ask family members present whether they would like to address the Tribunal at the conclusion of the case.

26. There is no contact with the patient or their families by the RT other than that described above prior to the hearing. Following consideration of the hearing papers there may be contact by the president with legal representatives by way of practice directions. This happens if further information/clarification is required in advance of the hearing. This will usually be by way of practice directions to the Trust on whom the burden of proof rests.

iii. An explanation of the process(es) by which the Review Tribunal involves patients at MAH and/or their relatives in the Review Tribunal process.

27. Response incorporated in the reply above.

- iv. Whether the Review Tribunal made patients and/or their relatives aware of any representation or advocacy services to assist them to engage with the Review Tribunal process.**

28. Response incorporated in the reply above.

Q2. Do you wish to draw to the attention of the Panel any other matters not covered by the above questions that may assist in the Panel's consideration of paragraphs 10-13 of the Terms of Reference?

29. I do not recall any allegations of abuse at MAH being raised by anyone with the RT, or of any member of the RT raising any suspicions of abuse. I believe I would recall, if any such allegations were made.

30. As part of the hearing process as required by the Rules, the medical member of the panel conducts an examination of the patient in advance of the hearing. Apart from the period during which Covid-19 restrictions applied and examinations were conducted remotely, the medical examination follows a pattern. There is consultation with a nurse who is familiar with the patient and who gives an account of the patient's presentation. The medical member is afforded access to the patient notes and records and also carries out an examination of the patient for diagnostic purposes.

31. The patient may be examined in private or with a nurse in attendance. A nurse is more likely to be in attendance during the examination if there are any behavioural aspects to the patient's mental condition which may pose a risk.

32. I cannot recall concerns being raised by any medical member regarding suspicions or signs of abuse in any patient. I believe that I could recall any such concerns being raised. I should point that the medical member does not undertake a physical examination.

Declaration of Truth

The contents of this witness statement are true to the best of my knowledge and belief. I have produced all the documents which I have access to and which I believe are necessary to address the matters on which the Inquiry Panel has requested me to give evidence.

Signed: *Attracta Wilson*

Date: 16 May 2024