



TRIBUNALS
JUDICIARY

June 2014

Mental Health jurisdiction
Postponements and adjournments following recent changes in listing practice

In January 2014, His Honour Judge Phillip Sycamore, President of the First-tier Tribunal Health, Education and Social Care Chamber wrote to salaried tribunal judges and registrars in the mental health jurisdiction to provide guidance in accordance with paragraph 7 of Schedule 4 of the Tribunals, Courts and Enforcement Act 2007 on handling applications for postponements and adjournments.

The guidance does not seek to interfere with judicial independence and decision making but sets out factors salaried judges and registrars may wish to take into account when considering requests to postpone and adjourn a hearing. Factors to consider are:

- Hearing dates are fixed based on information provided in the "Hearing Questionnaire" (HQ1) found in the Forms and guidance section on the Justice website www.justice.gov.uk/tribunals/mental-health The HQ1 asks for at least three days or six half days within a listing window of three/four weeks.
- The decision-maker should always find out the position with regard to the HQ1 when considering an application to postpone or adjourn
- Unless there are exceptional circumstances the Chamber President is of the view that applications should generally be refused if no HQ1 was received from the person applying for a postponement or adjournment, or if the required availability was not offered.
- If a party files an HQ1 showing a date as available, the most compelling evidence of an exceptional situation should be required if granting an application from that party to postpone or adjourn from that date, on grounds of subsequent non-availability.
- Where a legal representative is appointed after the case has been listed they should also accept the listed hearing date subject to any exceptional circumstances.
- The decision-maker should give reasons for every decision, including the grant of a postponement or adjournment and, if this guidance cannot be followed, to explain why not.
- If, following a refusal to grant a postponement or adjournment, the application is renewed or repeated, compelling new grounds must be put forward together with an explanation for not including the new grounds in the original application. Repeated applications for the same order, based upon the same grounds, are to be discouraged.