



Mental Health Accreditation Scheme

Guidance

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A. An introduction to the Accreditation Scheme

The Mental Health Accreditation Scheme covers the representation of patients in all proceedings before the First-tier Tribunal (Mental Health) under the Mental Health Act 1983.

B. Who is eligible to apply for membership?

Applications for membership of the scheme may be accepted from admitted solicitors, Fellows and Members of the Institute of Legal Executives, trainee solicitors, solicitors' clerks and others, subject to approval by the Solicitors Regulation Authority.

Non-solicitor applicants must be employed by a solicitor.

Members will also be required to undergo a criminal records bureau enhanced disclosure prior to admission to the scheme. We will send you the relevant form during the application process.

C. What types of membership are available?

Membership is for a term of three years after which a member will be required to demonstrate their continued suitability to remain on the scheme by successfully completing a process of re-accreditation.

D. The level of experience you will be required to demonstrate

Applicants must attend an approved training course prior to applying for membership of the accreditation scheme.

Applications must be submitted within six months of attendance on the approved course and you must enclose a copy of the course certificate with your application.

Those applying for re-accreditation do not need to attend a compulsory training course.

The compulsory training course will be provided by specifically approved training organisations. It will be of two days' duration.

You can find a list of course providers on our website.

E. How to apply and what you should include

Applicants must be able to demonstrate that within the period of not more than 12 months preceding submission of the application they have represented at, or observed, four hearings before the First-tier Tribunal (Mental Health):

- one section 2 hearing
- one section 3 or unrestricted section 37 hearing
- one restricted hearing
- one other hearing of whatever type

Applicants should also list all First-tier Tribunal (Mental Health) cases they have been present at either as a representative or an observer in the 12 months preceding submission of the application.

You should include the date, location and address of tribunal; the section of the Mental Health Act under which the patient was detained or otherwise subject to compulsion (i.e. guardianship, community treatment order, conditional discharge etc.); and whether you were present as a representative or an observer. Please do not include the patient's name in the application form.

Applicants are referred to the guidance on observation of tribunal hearings which was issued by the Deputy Chamber President of the First-tier Tribunal (Mental Health) on 5th November 2009, the relevant parts of which are on our website.

Applicants must provide four written case reports, to include one restricted and one unrestricted hearing, which were attended either as a representative or an observer within the period of not more than 12 months preceding submission of the application.

The purpose of the case reports is for the applicant to demonstrate both an understanding of the law and procedure and an ability to represent clients effectively in tribunal proceedings.

Case reports should be between 750 and 1,000 words and should be organised under the following headings;

- The factual background (circumstances of admission, section of the MHA, previous psychiatric history, current treatment etc.)
- The evidence presented in support of detention or compulsion
- The client's instructions
- Any preliminary or procedural issues dealt with by the tribunal
- The issues raised in questioning witnesses on behalf of the client
- The issues put to the tribunal in closing submissions
- The tribunal's decision and how it dealt with the issues

We have compiled a case report form to enable you to address the above, which can be found on our website.

F. How you will be assessed

When the application is received we will send you an acknowledgment email. We will then send your application to an assessor for marking.

All initial applicants will be required to attend and pass an interview at The Law Society's London office.

In all other applications, if the assessor considers it necessary, you will be invited to attend an interview at the Law Society.

It is a requirement of membership to the Mental health Accreditation Scheme that you have a Disclosure & Barring Service (DBS) enhanced disclosure. You will be provided with further information about making a DBS enhanced disclosure when your application is acknowledged. As DBS checks can take up to six weeks, we would strongly encourage you to start the process as soon as possible.

We can accept an enhanced disclosure that you have previously been issued, provided that it is not more than 3 months old.

Please note that we do not request references unless considered necessary by the Accreditation Unit or the external assessor.

G. What other checks and assessments are made?

You must demonstrate that you are a fit and proper person to become an accreditation scheme member, and must continue to be so throughout your membership. The Law Society reserves the right during the currency of any voluntary scheme membership to investigate any matter which may call into question the fitness and propriety of any scheme member to act as such, and to take whatever action is considered appropriate at whatever stage of the investigation.

The Law Society will examine whether your past record reveals that you have committed any offences involving fraud or other dishonesty or violence.

The Law Society will also be concerned with any practice in which you may have engaged in the course of any business or employment which do not conform with the best standards of professional conduct. Evidence showing delays in dealing with cases, failure to answer correspondence and failures or delays in responding to enquiries from regulatory and revenue authorities will raise doubts as to your competence to remain a scheme member.

The assessment of fitness is not a mechanical exercise whereby compliance with a number of specific requirements ensures the grant of an authorisation. It is rather a judgement based on the review of your whole record and individual circumstances.

If the Law Society, with due regard to the rules of procedural fairness, determines that you have ceased to be a fit and proper person to continue to be a member of the scheme, or that the fitness or propriety to act as such has been compromised, it may refuse, revoke or suspend the membership or attach conditions to it. Members affected by a decision taken under this paragraph have a right to request a review in accordance with the procedures set out elsewhere in this document.

Where a complaint or other matter which may affect your suitability to remain on the scheme is considered to be of sufficient seriousness, the Law Society may suspend your membership pending the completion of the investigation and any proceedings as may arise.

H. What fees are payable for making your application?

Please see the website for the most up to date fee schedule.

I. Information on re-accreditation

Members of the scheme are subject to re-accreditation after three years of initial membership. Thereafter, when current members' re-accreditation next falls due members will be required to re-accredit every five years. A reminder will be sent to members three months prior to the due date.

Under the re-accreditation procedures and criteria you will be asked to demonstrate your continued competence by:

- providing relevant information on the application form
- providing four case reports, compiled from cases completed during the past 12 months
- having a satisfactory professional record and satisfactory Criminal Records Bureau enhanced disclosure

The Law Society will also carry out checks against internal records and other sources as may be considered appropriate.

Referees should include at least one Tribunal Judge.

J. Our requirements for continued professional development

The Law Society requires all Mental Health Accreditation Scheme members to familiarise themselves with changes in law, practice and procedure, by completing six hours of Mental Health law-related continuing professional development (CPD) training per year throughout their period of membership.

As part of the re-accreditation process, we will require scheme members to supply details of CPD training they have completed during the period of their membership.

K. What standards of competence are expected of a member of the scheme?

Applicants to the MHRT Accreditation Scheme are required to demonstrate the following standards:

- Knowledge of the law and procedure which are essential to representing clients before First-tier Tribunal (Mental Health)
- Ability to prepare and present cases effectively for clients in proceedings before First-tier Tribunal (Mental Health)
- Sufficient knowledge of those areas of law, such as mental capacity, community care and human rights, which are relevant to advising and representing clients within the scope of the mental health franchise
- Sensitivity to and awareness of the particular difficulties clients may face because of mental disorder and by virtue of being subject to Mental Health Act powers.
- Commitment to representing clients with mental disorder.
- Adherence to the terms and conditions of Law Society Accreditation Scheme Membership
- Adherence to the Mental Health Accreditation Scheme code of practice.