



**Sir Oliver Heald QC MP
Minister of State for Courts and Justice
House of Commons
London
SW1A 0AA**

6 October 2016

Via email

Dear Sir Oliver

Transforming our Justice System Consultation

On behalf of the Mental Health Alliance, we write to flag our very serious concern about how the proposed reforms to the Tribunal system would affect people detained under the Mental Health Act 1983.

The Mental Health Alliance is a coalition of more than 75 organisations from across the mental health spectrum and beyond that work together to advocate for fair implementation of the Mental Health Act in England and Wales.

Some of our members will be responding to the consultation in more detail, but we wanted to raise this specific issue with you as a matter of urgency.

The Mental Health Act criteria for detention and discharge are based on a person having a mental disorder, so psychiatric diagnosis is fundamental to decision-making under the Act. As a consequence, the focus of the Mental Health Tribunal is based on an understanding of the illness and associated needs and risks. Medical evidence is therefore an integral part of its process.

It is for the detaining authority to prove that a patient meets the criteria for continued detention. If, as proposed, the medical member of the Tribunal were removed, there would not be any independent medical professional evaluation of the Responsible Clinician's (RC's) evidence. This would inevitably give more weight to the RC's evidence and would place the patient at a substantial disadvantage. The tribunal will lose this valuable expertise as well as the patient losing an important safeguard. This would bring into serious doubt the fairness of the process and could potentially breach Article 6, right to a fair hearing.

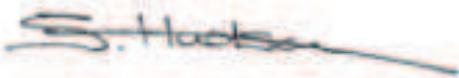
The Tribunal does not consider medical evidence alone, receiving social reports and, of course, hearing from the patient. The lay member of the Tribunal brings their own expertise on mental health and helps provide a broader perspective that safeguard against a narrowly medico-legal view.

When carrying out a mental health review, the First Tier Tribunal is deciding on a person's liberty. The seriousness of such a decision is reflected by having a three-person panel. In our view it would be unacceptable to have this decision taken by a one-person panel sitting in private without the transparency of open court.

These factors all mean that the current composition of panels is necessary for practical and effective access to justice, not something to be decided on a case by case basis.

As a matter of urgency we seek reassurance that the Government will not weaken the justice system for detained patients by applying this proposed measure. We would be delighted to meet with you and/or colleagues to discuss our concerns further and can best be contacted through Alison Cobb (a.cobb@mind.org.uk or 020 8215 2267) or Suzanne Hudson (shudson@bipolaruk.org or 0333 323 4008).

Yours sincerely



Suzanne Hudson

Chair, Mental Health Alliance and Chief Executive, Bipolar UK

Alison Cobb

Vice Chair, Mental Health Alliance and Senior Policy and Campaigns Officer, Mind

Andy Bell

Vice Chair, Mental Health Alliance and Deputy Chief Executive, Centre for Mental Health

A copy of this letter has also been forwarded to Lord Justice Ryder, Senior President of Tribunals.