Fee-paid Medical Members of the First-tier Tribunal swear the judicial oath (or affirm) that they “will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law” and “will well and truly serve our Sovereign Lady Queen Elizabeth the Second in the Office of a Tribunal Member and [I] will do right to all manner of people after the laws and usages of this Realm without fear or favour, affection or ill will”.

Purpose of Office: The purpose of the office is to assist in the conduct of Mental Health Tribunal hearings by providing a medical view both during the hearing itself and in subsequent decision-making.

Jurisdiction: The First-tier Tribunal (Health, Education & Social Care Chamber) (Mental Health) is an independent judicial body responsible for deciding upon the necessity for the continued compulsory detention of mentally disordered patients in hospital or the continuation of a conditional discharge, guardianship, or a community treatment order. Its powers and duties are set out in the Mental Health Act 1983 as amended (the Act). Its procedures are defined respectively in The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008.

All patients liable to be detained under the provisions of the Mental Health Act 1983 as amended, or subject to a conditional discharge, guardianship or a community treatment order have the right to seek a review of their case by applying to the tribunal. Furthermore, if a patient has not made an application by the end of a period specified in the Act, the Secretary of State for Justice or the hospital managers (as the case may be) are obliged to refer the patient’s case to the tribunal, thus ensuring that all cases are subject to regular review. Patients are also referred to the tribunal when recalled from Community Treatment Orders or from Conditional Discharge.

The power of the tribunal is significant, with a responsibility to balance the liberty of the subject with potentially serious risk to the patient, their families and the public. There is a heightened public interest in the outcomes of Restricted Patients Panel cases, and there are occasions when the wishes and feelings of victims need to be considered. The tribunal has different powers and procedures in respect of restricted patients (i.e. those who have been accused or convicted of criminal offences and on whom the Crown Court or Ministry of Justice has imposed restrictions on discharge). These powers include, where appropriate, the making of a conditional discharge, a deferred conditional discharge pending arrangements being made or an absolute discharge. The criteria, which must be applied when considering whether to discharge a patient, are laid down in the Act. In respect of unrestricted patients, the tribunal may, where appropriate, order a patient’s discharge immediately or on a future date, or it may recommend that the patient be considered for a community treatment order or (with a view to facilitating discharge) it may recommend leave of absence, transfer to another hospital, or transfer into guardianship. Tribunal hearings are usually held in private.

The First-tier Tribunal (Health, Education & Social Care Chamber) (Mental Health) covers the whole of England under current arrangements, a tribunal will be composed of three members including one legal member (known in England as a tribunal judge), one medical member and one specialist lay member. The jurisdiction in England is administered by Her Majesty’s Courts and Tribunal Service.
Main Activities
The main activities of a Medical Member of the Tribunal is:

- **Examining the Patient Prior to the Hearing (pre-hearing examination/PHE) according to Rule 34** i.e. all Section 2 cases, all cases where the patient (or the patient’s representative) has requested a PHE in writing or when directed by the Tribunal.
- To read the reports submitted by the Detaining Authority prior to such an examination
- To examine the patients relevant inpatient and community records ONLY if examining the patient
- To advise the Tribunal of any matters which require further direction e.g. if the patient says they are not represented at PHE, or if the patient is AWOL at the time of the PHE

At the Hearing
- To meet the other members of the tribunal panel immediately prior to the hearing
- To report to other members of the tribunal panel on the PHE (if done)
- To advise on and explain medical terminology and technicalities, as required
- To question the patient's doctor in relation to the patient's history, progress, treatment, prognosis and future care and other witnesses as agreed amongst the panel
- To participate fully in the decision making after the hearing has concluded, including contributing to the drafting of the decision

Other Responsibilities
- To be fully conversant with the Act and other relevant legislation. To be abreast of medical developments in the field of mental disorder
- To attend training courses and meetings of members of the tribunal as required from time to time to discuss current procedures and practice
- A Tribunal member is also expected to be IT-literate and to make the fullest use possible of electronic means of research and communication, including the ability to use secure email

June 2014