



Policy & Procedures – Annual Audit for Mental Health Legal Aid Scheme

Mental Health Tribunals - Mental Health Commission

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1. Policy Statement and Scope

- 1.1 This policy outlines the appropriate checks to be carried out in relation to solicitors who are on the Mental Health Commission's Legal Representatives Panel.
- 1.2 This policy applies to all solicitors who are on the Mental Health Commission's Legal Representatives Panel.
- 1.3 This policy will be subject to amendment and review periodically. The MHC aims to review and update all its policies every two years, save where required to update sooner.

2. Definitions

- 2.1 *Legal Representative*: Means a solicitor who is on the Mental Health (Legal Representatives) Panel.
- 2.2 *Mental Health Legal Aid Scheme*: Mental Health Legal Aid Scheme 2005 set up in accordance with Section 33(3)(c) of the Mental Health Act 2001.
- 2.3 *On-hold*: no new cases will be assigned to a legal representative, including new cases where the legal representative had previously been assigned to a case for the same patient.

3. Responsibility

- 3.1 Head of Legal Services for the MHC(DSS) / Division Lead for the MHT Team:
Overall responsibility for the application of this policy and ensuring that all legal representatives on the Mental Health (Legal Representatives) Panel have all relevant, appropriate, up to date professional checks.
- 3.2 Paralegal:
Responsibility for the collection and validation/verification of the professional checks.
- 3.3 Mental Health Tribunals Manager:
Responsibility for the update and maintenance of appropriate records, in particular, on the relevant IT systems.
- 3.4 Executive Officer(s)/Clerical Officer(s) within the Tribunals Team:
Ensure the update and maintenance of appropriate records.

4. Process Overview

- 4.1 The Mental Health Commission (Commission) is required to carry out certain checks in relation to legal representatives on an annual basis.
- 4.2 The Commission must receive copies of the following documents from legal representatives:
 1. Professional Indemnity Insurance
 2. Practising Certificate issued by The Law Society of Ireland
- 4.3 There is a three (3) stage process to collect this information:
 1. 30 November: Written confirmation of professional indemnity insurance to be received by 30 November.
 2. 31 December: Written confirmation that an application for a practising certificate for the following year has been filed with The Law Society of Ireland to be received by 31 December.
 3. 31 January: A copy of the legal representative's Practising Certificate as issued by The Law Society of Ireland to be received by 31 January

5. Stage 1 - Professional Indemnity Insurance

- 5.1 The Commission will write to all legal representatives on the first Monday of November each year requesting submission of up to date professional indemnity insurance details. The renewal date for professional indemnity insurance is 1 December each year and legal representatives with up to date policies will receive confirmation of cover from their insurers prior to 1 December.
- 5.2 On the third Monday in November, the Commission will issue a reminder to all legal representatives who have not provided up to date professional indemnity insurance details (only one reminder shall be issued).
- 5.3 If the relevant professional indemnity insurance details are not provided by 30 November, then the Commission will place the relevant legal representative on hold until the information is provided.

6. Stage 2 - Confirmation of Application

- 6.1 The Commission will write to all legal representatives on the first Monday of December requesting confirmation in writing that they have applied to The Law Society of Ireland for their practising certificate for the upcoming year.
- 6.2 On the third Monday in December, the Commission will issue a reminder to all legal representatives who have not provided confirmation in writing that they have applied for their practising certificate (only one reminder will be issued).
- 6.3 If the confirmation in writing is not provided by 31 December, then the Commission will place the relevant legal representative on hold until the information is provided.
- 6.4 ***Furthermore, and of importance, a legal representative should not accept any cases from the Commission as and from 1 January if no reapplication has been made.***
- 6.5 The Commission are advised by The Law Society of Ireland that confirmation of application for a practising can be provided by way of:
 1. Automatic email confirmation if making application through credit/debit card online, or
 2. Screenshot of online PC application history if applying by paper/online by EFT or cheque.

7. Stage 3 - Practising Certificate & tax details

- 7.1 All legal representatives are required to provide the Mental Health Commission with a copy of their new practising certificate by 31 January.
- 7.2 On 1 February, the Commission will issue a reminder to all legal representatives who have not provided their new practising certificate (only one reminder will be issued).
- 7.3 If the practicing certificate is not provided by 28 February, then the Commission will place the relevant legal representative on hold until the information is provided.

NOTE: IF A LEGAL REPRESENTATIVE DOES NOT COMPLY/RETURN DOCUMENTATION AS OUTLINED ABOVE, THEY WILL BE PLACED ON HOLD AT ANY OF THE THREE STAGES

8. Audit & Evaluation

- 8.1 An annual audit will be undertaken by the Mental Health Tribunals Manager to determine compliance to this policy and procedure. Results of these audits are presented to the Senior Management Team.

9. Change control

The following table details changes made to **this policy**:

CHANGE CONTROL LOG		
Date	Description	Approved by