

CTO Notice Guidelines

(updated 31 August 2015)



S52 of the *Mental Health Act 2007* requires that the applicant for a Community Treatment Order (CTO) must notify the affected person in writing of the application and provide the person with a copy of the proposed treatment plan. If the affected person is not detained in a mental health facility or the subject of a current CTO, then the application cannot be heard for at least 14 days after the notice is given (this means 14 plus 1 days (i.e 15 days) from the date it was given to the person). If the notice is posted then an extra week is required before the application can be heard i.e. a total of 3 weeks.

The 14 day notice period may be waived by the Tribunal if it decides that it is in the affected person's best interests that the application be dealt with earlier (**NOTE:** this will be in exceptional circumstances – Please refer to the Tribunal's Practice Direction: Abridgement of CTO Notice Requirements).

The Mental Health Act does not set a timeframe for notice in cases where the person is detained in a mental health facility or the subject of a current CTO. However, in these cases the Tribunal will need to be satisfied that the person has been given reasonable notice to allow them to prepare for the hearing and to arrange legal representation if they wish.

Please apply the following guidelines for notice:

- a) **For people detained in a mental health facility** - the 14 day requirement **does not** apply however 'reasonable' notice is required:
 - 1) Notice should be served in person, usually at least 2 days prior to the hearing.
- b) **For people on a current CTO** - the 14 day requirement **does not** apply however 'reasonable' notice is required :
 - 1) If the notice is served personally, 7 days notice would normally be considered as reasonable;
 - 2) If the notice is posted, the above 7 days plus 4 clear working days have elapsed, so say 2 weeks.

NOTE: If the affected person is on a current CTO at the time notice of the application and a copy of the treatment plan is served then the 14 day requirement **does not apply**, even if the current order expires prior to the date of the hearing.

- c) **For people not on a current CTO** - the 14 day requirement **does** apply :
 - 1) If the notice is served personally, 14 plus 1 days (i.e. 15 days) notice is required (e.g if the notice was personally served on a Tuesday, then the earliest a hearing can be held is on the Wednesday in 2 weeks time);
 - 2) If the notice is posted, 3 weeks notice is required (e.g if the notice was posted on a Tuesday, then the earliest a hearing can be held is on the Tuesday in 3 weeks time).
 - 3) The 14 day requirement may be waived if the Tribunal decides it is in the person's best interests that the hearing is heard earlier. However, procedural fairness requires generally that notice be given in accordance with the periods specified above.

Please note that serving the documents personally does not mean leaving the documents in a letter box, slipping them under a door or handing them to another person to give to the affected person. The documents MUST be handed to the affected person personally for notice to be achieved. If this cannot be done then the documents should be posted to the last known address of the affected person and sufficient time allowed applying the above guidelines.