

Supplementary written evidence submitted by Hundredfamilies.org (VIC0046)

At the Justice Committee hearing on June 15 2022, considering the draft Victims' Bill, Mr Paul Maynard MP asked about the potential benefits and disadvantages of victims giving personal statements at Mental Health Tribunals (also known as First Tier Tribunals (mental health)).

We are the only national registered charity supporting families who have lost loved ones as a result of killings by people with serious mental illness and have considerable experience assisting victims in this area. We would like to offer some background information, based on our work, which we hope might assist in answering the question.

1. Our comments relate to mentally disordered offenders who have committed serious offences and particularly those who have been convicted and sentenced to be detained in hospital under the Mental Health Act ([Sections 37](#) and 41). [Section 41 restriction order](#) is applied because it is necessary to protect the public from further serious harm from such offenders.
2. We understand the [Tribunal is an independent judicial body](#) operating under the Mental Health Act 1983 (as amended in 2007), and is part of HM Courts and Tribunal Service (i.e. a constituent part of the criminal justice system).
3. Like the Parole Board, Mental Health Tribunals consider the release of previously dangerous offenders. Unlike the Parole Board, however, from our experience Tribunals do not always have access to adequate risk information to inform the safety of the decision to release.
4. [Evidence](#) suggests this can be because they take a snapshot view of the offender at the time (rather than a longitudinal comprehensive risk history) and [are less concerned with public safety](#) than the Mental Health Casework section at the Ministry of Justice. This is also evidenced by the large numbers of [recalls to hospital](#) of previously discharged patients by the Tribunal, and by [very high rates of re-offending](#), (particularly over longer time-frames). (See also [here](#) and [here](#)).
5. Around two thirds of the victims of mentally disordered offenders [will be family, friends and close neighbours](#).
6. In our experience families can often provide significant additional risk information to the Tribunal to improve the assessment of risk.
7. We know, for instance, of cases where convicted mentally ill offenders have made threats, inappropriate comments, or revealed extremely graphic information about the index offence to family members, in phone calls or in letters from hospital, which were completely unknown to the treating team. It was only when the families reached out to them with this critical risk information, that the clinicians became aware.
8. The [Parole Board acknowledges](#) the utility of Victim Personal Statements. They say:

“VPS can provide useful context and information for the [Parole] panel about:

- the original impact of the offence when it was committed;*
- the lasting impact of the offence since it was committed; and*
- the impact that the prisoner’s release would have on them, their family, their community, or those with close ties to them or their family.*

VPS may provide the panel with information relevant to questions it may explore with the prisoner for example,

- the impact of their behaviour,*
- their insight into their behaviour,*
- their remorse,*
- their empathy; and*
- appropriate licence conditions*

9. We suggest Tribunals would similarly benefit from hearing a Victim’s Personal Statement.
10. We are aware that Victim Personal Statements are allowed without any legal difficulty at Mental Health Tribunals in Wales, [in Scotland](#) and in [Queensland, Australia](#) and have been found to be helpful to the work of the Tribunal.
11. It is difficult to understand why they are not allowed in England.
12. We understand there is no legitimate public interest in Tribunal hearings for patients who have not committed serious offences, but that case law suggests there certainly is for patients who have been dangerous when previously unwell;
13. [Lady Hale has said](#) in the Supreme Court:
“There is a difference between cases where a court or tribunal is administering the property, care or treatment of a patient in his own best interests and cases which are concerned with the proper management of a patient who has in the past been dangerous. There is a balance to be struck. The public has a right to know, not only what is going on in our courts, but also who the principal actors are.”
14. Similarly in a case of Michael Stone, a mentally disordered patient who killed a woman and her young child and then attempted to restrict the amount of information given to his victims’ family, [Mr Justice Davis said](#):
“Mr Stone’s right to privacy in this context ... have arisen out of Mr Stone’s own acts – acts found to have been criminal. He has, as it were, put himself in the public domain by reason of those criminal acts, which inevitably created great publicity.... “
15. We think this is a matter of fairness.
16. All victims of serious offences should be treated equally – we see no reason why victims of mentally disordered offenders should have fewer rights and entitlements than victims where the offender is not mentally disordered. We had no say in the person who killed our loved ones.

17. In our view allowing victims to present Victim Personal Statements at First Tier Tribunals (mental health) would:
- *significantly increase the voice of the victim in the criminal justice process*
 - *improve the accurate assessment of risk and dangerousness*
 - *increase transparency and accountability of the Tribunal system and*
 - *assist victims better to cope and recover.*
18. We are not aware of any disadvantages.
19. We hope this information is helpful but would be very happy to answer any questions you may have.

June 2022