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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 519**

The Mental Health Tribunal for Scotland  
(Practice and Procedure) (No. 2) Rules 2005

PART VII

GENERAL RULES

*The hearing*

**Hearings in public or private**

**66.**—(1) Subject to the provisions of this rule, hearings shall be held in private.

(2) Where a patient applies in writing for a hearing to be held in public, the Tribunal may make an order that a hearing be held in public.

(3) The Tribunal may refuse to make an order under paragraph (2) where any of the requirements of paragraph (4) is met.

(4) The requirements are that a public hearing—

- (a) would fail to safeguard the welfare of the patient or any other person;
- (b) would not, in all the circumstances, allow the fair hearing of the case; or
- (c) would prejudice the interests of justice.

(5) The Tribunal shall refuse to make an order under paragraph (2) only to the extent necessary to protect the interest which is being protected by the refusal and only in relation to those parts of a hearing in respect of which any of the requirements of paragraph (4) is satisfied.

(6) The following persons shall be entitled to attend a hearing, even although it may be held in private—

- (a) the President;
- (b) any member of the Tribunal, or a member of staff of the Tribunal, with the agreement of the Convener;
- (c) a member of the Council on Tribunals or of its Scottish Committee; and
- (d) an interpreter or other person giving other necessary assistance to a person entitled to attend the hearing.

(7) The Tribunal may exclude from any hearing or any part of a hearing, any person, other than a representative of the patient or a relevant person, where it is considering a document or report withheld from disclosure in accordance with rule 47, and in any case where the Tribunal decides to so exclude such a person, it shall inform the person excluded of its reasons and record those reasons in writing.