

MENTAL HEALTH TRIBUNAL

PRACTICE NOTE 5

APPLICATIONS FOR INTERSTATE TRANSFERS

I. PRELIMINARY

1. This Practice Note has been issued by the Rules Committee of the Mental Health Tribunal in accordance with section 209(1) of the *Mental Health Act 2014*.

Introduction and purpose

2. The Mental Health Tribunal has decision making functions with respect to a range of hearing types under the Act.
3. Under section 321(1), an authorised psychiatrist or the chief psychiatrist may make an application to the Tribunal for an interstate transfer of treatment order to transfer responsibility for treatment of a person, who is subject to a Community Temporary Treatment Order or a Community Treatment Order, to an interstate mental health facility.
4. Under section 323(1), an authorised psychiatrist or the chief psychiatrist may make an application to the Tribunal for an interstate transfer order for a person, who is subject to an Inpatient Temporary Treatment Order or an Inpatient Treatment Order, to be taken to an interstate mental health facility.
5. The Tribunal must hear and determine these applications as soon as practicable. In determining the application, the Tribunal must, to the extent that is reasonable in the circumstances, have regard to the views and preferences of the persons specified for that purpose.
6. The Tribunal requires the authorised psychiatrist or chief psychiatrist who made the application, to give the Tribunal a report in order to assist the Tribunal to hear and determine that application for review as soon as practicable and to consider the matters it is required to consider under the Act.
7. To this end, the purpose of this Practice Note is to assist authorised psychiatrists and the chief psychiatrist to provide the report required to conduct the review under sections 321 or 323.

Scope of application

8. This Practice Note applies to the authorised psychiatrist or chief psychiatrist who made an application to the Tribunal for an:
 - 8.1 interstate transfer of treatment order under section 321(1); or
 - 8.2 interstate transfer order under section 323(1).
9. The guidance in this Practice Note does not exhaustively determine the matters which the authorised psychiatrist may provide to the Tribunal. In each case, the Tribunal may require the authorised psychiatrist or chief psychiatrist to provide further information and/or attend the hearing of the application.

10. This Practice Note identifies the type of application and the minimum information that is required in a report with respect to that application.
11. Reports must be provided to the Tribunal as soon as is reasonably practicable or as otherwise directed by the Tribunal.

Commencement date

12. This Practice Note takes effect on 1 July 2014.

Definitions

13. Unless otherwise specified, all references to sections in this Practice Note are to sections of the *Mental Health Act 2014*.
14. Unless otherwise specified, terms in this Practice Note have the same meaning as in the Act.
15. This Practice Note may be referred to as '*PN 5 - Applications for interstate transfers*'.

II. CONTENT OF REPORT

16. Where an application is made under section 321(1) or 323(1), the authorised psychiatrist or chief psychiatrist must provide a report to the Tribunal that contains the following information that clearly identifies:

Identifying details

- 16.1 With respect to the person who is the subject of the relevant Order, that person's --
 - (a) name;
 - (b) Unit Reference number;
 - (c) residential address and/or other address for service;
 - (d) date of birth;
 - (e) details of the relevant Order under which the person is subject, including the expiry date of the Order;
 - (f) the name and contact details of all of the patient's:
 - (i) treating psychiatrist;
 - (ii) medical officer; and
 - (iii) case manager (however described);

Person's background details

- 16.1 Whether the person the subject of the Order is being supported by any of the following:

- (a) carer;
 - (b) family or friends;
 - (c) guardian; or
 - (d) nominated person;
- 16.2 If the person is being supported by any person referred to above in 16.1, with respect to each person, give details of their:
- (a) names; and
 - (b) relationship to the person;
- 16.3 Details of the person's current diagnosis;
- 16.4 Description of the person's current clinical presentation;
- 16.5 Details of the circumstances leading to the person's current admission (if applicable); and
- 16.6 Details of all current medications to which the person is subject (including both psychotropic and general);

Necessity to transfer to another mental health service

- 16.7 Details of the reasons for the authorised psychiatrist or the chief psychiatrist being satisfied that the transfer of responsibility for the treatment, or the taking of the person (as the case requires), is necessary for the person's treatment;

Consent

- 16.8 Details of the reasons for considering the person does not have the capacity to give informed consent to the transfer, or being taken to the interstate mental health facility (as the case requires); and
- 16.9 If the person does have the capacity to give informed consent, but does not consent to the transfer or being taken (as the case requires):
- (a) details as to the person's capacity; and
 - (b) confirmation that the person does not consent and their reasons for this;

Transfer is permitted by law

- 16.10 Written confirmation that the transfer or the taking of the person (as the case requires) is permitted by or under a corresponding law;

Approval

- 16.11 Written confirmation from the interstate authority that it agrees to the transfer of responsibility or to admit the person (as the case requires);

Views and preferences

- 16.12 Details of the views and preferences of the person who is the subject of the application, about the proposed transfer of responsibility or being taken to an interstate mental health facility (as the case requires), and the reasons for those views and preferences, of the person, including:
- (a) the recovery outcomes that the person would like to achieve;
 - (b) a copy of any advance statement of the person;
- 16.13 Details of the views of the following persons (if applicable), with respect to the person who is the subject of the application:
- (a) nominated person;
 - (b) guardian;
 - (c) carer;
 - (d) parent, if the person is under 16;
 - (e) if the person is the subject of a custody to the Secretary Order or a guardianship to the Secretary Order, the Secretary to the Department of Human Services; and
 - (f) if the person is a security patient, the Secretary to the Department of Justice.

END OF PRACTICE NOTE