

# MENTAL HEALTH TRIBUNAL

## PRACTICE NOTE 2

### APPLICATIONS FOR REVIEW OF A REFUSAL TO GRANT LEAVE OF ABSENCE TO A SECURITY PATIENT

#### I. PRELIMINARY

##### Authority

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. This includes reviewing a decision of an authorised psychiatrist made under section 281 to refuse to grant a security patient a leave of absence.
3. The Tribunal must hear and determine an application for review of this refusal as soon as practicable and must have regard, to the extent that it is reasonable in the circumstances, to the matters referred to in section 281(4).
4. The Tribunal requires the authorised psychiatrist who made the decision to refuse to grant the security patient a leave of absence 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.
5. To this end, the purpose of this Practice Note is to assist authorised psychiatrists to provide the report required to conduct the review under section 284.

##### Scope of application

6. This Practice Note applies to an authorised psychiatrist whose decision to refuse a security patient a leave of absence is subject to Tribunal review under section 284(1).
7. 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 to provide further information and/or attend the hearing of the application.
8. This Practice Note identifies the type of application and the minimum information that is required in a report with respect to that application.
9. Reports must be provided to the Tribunal as soon as is reasonably practicable or as otherwise directed by the Tribunal.

##### Commencement date

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

##### Definitions

11. Unless otherwise specified, all references to sections in this Practice Note are to sections of the *Mental Health Act 2014*.
12. Unless otherwise specified, terms in this Practice Note have the same meaning as in the Act.
13. This Practice Note may be referred to as '*PN 2- Applications for review of a refusal to grant leave of absence to a security patient*'.

## **II. CONTENT OF REPORT**

14. Where an application is made under section 284(1) and the authorised psychiatrist has been notified of that application, the authorised psychiatrist must provide a report to the Tribunal that contains the following information that clearly identifies:

### ***Identifying details***

- 14.1 With respect to the security patient the subject of the decision not to grant a leave of absence under review, that patient'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 to which the security patient is subject;
  - (f) the names of all of the security patient's:
    - (i) treating psychiatrist;
    - (ii) medical officer; and
    - (iii) case manager (however described);

### ***Patient's background details***

- 14.2 Whether the security patient is being supported by any of the following:
  - (a) carer;
  - (b) family or friends;
  - (c) guardian; or
  - (d) nominated person;
- 14.3 If the person is being supported by any person referred to above in 14.2, with respect to each person, give details of their:
  - (a) names; and
  - (b) relationship to the person;

- 14.4 Particulars of the security patient's current diagnosis;
- 14.5 Description of the security patient's current clinical presentation;
- 14.6 Particulars of the circumstances leading to the security patient's current admission (if applicable); and
- 14.7 Particulars of all current medications to which the security patient is subject (including both psychotropic and general);

***Purpose of requested leave***

- 14.8 The purpose of the security patient's proposed leave, including whether it is for the purpose of receiving treatment or medical treatment:
  - (a) if the purpose of the proposed leave is for treatment, particulars of:
    - (i) the period of leave (up to seven days) sought; and
    - (ii) the treatment or medical treatment sought;
  - (b) if the purpose of the proposed leave is for another purpose, particulars of:
    - (i) the period of leave (up to 24 hours) sought; and
    - (ii) the purpose of the leave sought;

***Reasons for decision to not grant leave***

- 14.9 Particulars of the reasons for refusing to grant leave, including:
  - (a) any evidence available; and
  - (b) if leave was refused on the basis that the authorised psychiatrist was not satisfied on the evidence available that the health and safety of the patient or of another person will not be seriously endangered as a result, the reasons for not being so satisfied;

***Views and preferences***

- 14.10 Particulars of the views and preferences, and the reasons for those views and preferences, of the security patient, including:
  - (a) the recovery outcomes that the security patient would like to achieve; and
  - (b) a copy of any advance statement of the security patient;
- 14.11 Particulars of the views of the following persons (if applicable), with respect to the security patient:
  - (a) nominated person;
  - (b) guardian;

- (c) carer;
- (d) parent, if the security patient is under 16; and
- (e) if the security patient 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;

**END OF PRACTICE NOTE**