Mental Health Tribunal of Victoria

Report on Compulsory Treatment instructions

Guidance for preparing the report

The Report on Compulsory Treatment should be a collaborative report prepared by registrars/medical officers and case managers, and reviewed and endorsed by the authorised psychiatrist (or delegate) to ensure that all relevant information is included in the report and the Tribunal's decision is based on a *holistic* understanding of the patient. Details should be written in plain English, avoid jargon and acronyms and explain medical terminology using descriptive language to enable patients to understand the contents.

Please note that insufficient evidence to substantiate the treating team's position that the treatment criteria are met will mean that the Tribunal cannot make a Treatment Order. Please ensure the Report is sufficiently detailed.

Attaching documents to the report is permitted and will reduce the time required to prepare this report and the amount of time required by the Tribunal to prepare for each hearing. Information contained in attached documents does not need to be repeated in this report and responses to questions can refer to the relevant attachment. However, it is not sufficient to answer questions simply by referring the Tribunal generally to a patient's clinical file.

Patient's Access to Information

Under section 191(1) of the *Mental Health Act 2014*, the designated mental health service must give a person who is the subject of a proceeding access to any documents in its possession in connection with the hearing at least **48 hours** before the hearing.

The Tribunal has released a detailed Practice Note and related resources to guide all participants in hearings on a patient's right to access documents before hearings, when and how an application to deny access to documents needs to be made and the procedure to be followed in the hearing of such applications.

In particular, the Practice Note sets out certain documents (including this Report) that the Tribunal considers always have the requisite 'connection with the proceeding.' The Tribunal requires designated mental health services to give patients access to these documents (*at a minimum)* unless the authorised psychiatrist is satisfied that the serious harm test is met. If this is the case the authorised psychiatrist must apply to the Tribunal to deny the patient access to the particular documents.

If there is no document on a patient's file that, if disclosed, may cause serious harm to them or another person, then the most straightforward strategy to comply with section 191 of the Act will usually be to give the patient access to the current volume of their clinical file.

For further details please refer to Practice Note 8- Access to Documents and related resources available on the Tribunal's website.

Treating team attendance at the Tribunal hearing

At a minimum, services must ensure a medical officer with relevant experience as well as direct and sufficient knowledge of the patient is available to provide information to the Tribunal. A consultant psychiatrist should also be available (by telephone will be

adequate) to provide information where necessary. If clinical staff at the hearing do not know the patient and the consultant is unavailable, it is unlikely the Tribunal will be able to make a Treatment Order. (The Tribunal acknowledges that if it is a person's first compulsory admission the treating team will be in the process of developing this knowledge.) The Tribunal also strongly encourages the attendance of case managers as their perspective and input is invaluable.

Planning for Tribunal hearings by treating teams needs to involve assessing the complexity of a particular matter and if the circumstances of a particular case are complex the treating psychiatrist should attend. Of course complexity cannot always be predicted and questions can arise on the day, as such the treating psychiatrist needs to be available to contribute to a hearing (including by telephone) in the event issues or questions arise requiring their input. If it is not possible for the treating psychiatrist to be available another senior clinician with sufficient knowledge of the individual patient's current circumstances and treatment plan must be able to cover for them.

Last updated: January 2017