

## ECT Application – Young Person (Voluntary)

A Guide for Mental Health Services and private clinics when making an ECT Application for Young Persons who are being treated voluntarily

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### Mental Health Act 2014

Section 94(2) of the *Mental Health Act 2014* ("the Act") states that a psychiatrist may make an application to the Tribunal to perform a course of electroconvulsive treatment on a young person who is not a patient if -

- (a) the young person has given informed consent in writing to the performance of a course of electroconvulsive treatment; or
- (b) the young person does not have capacity to give informed consent but -
  - (i) a person who has the legal authority to consent to treatment for the young person has given informed consent in writing to the performance of a course of electroconvulsive treatment on the young person; and
  - (ii) the psychiatrist is satisfied in the circumstances that there is no less restrictive way for the young person to be treated.

A young person for the purpose of this Division, means a person who is under the age of 18 years. A young person is not a patient for the purposes of the Act if they are not a compulsory patient, security patient or forensic patient (see section 3).

### Time limitations

Section 95(1) of the Act provides that the Tribunal must list and complete the hearing of an application for the performance of a course of electroconvulsive treatment, as soon as practicable and within five (5) business days after receiving the application.

### Powers of the Tribunal

Pursuant to section 96(2) of the Act, the Tribunal must grant or refuse the application. The Tribunal can only grant the application if it is satisfied that -

- (i) the young person has given his or her informed consent in writing to the performance of electroconvulsive treatment; or
- (ii) the young person is not a patient and does not have capacity to give informed consent and a person who has the legal authority to consent to treatment for the young person has given informed consent in writing to the performance of a course of electroconvulsive treatment on the young person and there is no less restrictive way for the young person to be treated.

In deciding whether there is no less restrictive way for the young person to be treated, the Tribunal must, to the extent that it is reasonable in the circumstances, have regard to the matters specified in section 94(3) of the Act.

## Making an application to the Tribunal

### Documents and resources

The Tribunal has published the following documents, which the applicant psychiatrist should read before making an application to the Tribunal. These documents are all available on the MHT website at [www.mht.vic.gov.au](http://www.mht.vic.gov.au)

1. Practice Note 1 - Tribunal documents and attendance requirements
2. MHA132 - Application for ECT
3. MHT8 - ECT Report - Young Persons (Voluntary) and instructions

## Lodging the application

Applications are made by submitting the following completed forms to the MHT:

- MHA132 Application for electroconvulsive treatment
- MHT8 Electroconvulsive treatment report - Young Persons (Voluntary)

The completed documentation is to be sent by email (preferred) or faxed to the Tribunal at:

Email: [mht@mht.vic.gov.au](mailto:mht@mht.vic.gov.au)

Facsimile: (03) 9032 3223

After submitting the required documents the applicant psychiatrist or their delegate is required to telephone the Tribunal Registry in relation to the application and provide the following particulars to the Registrar -

1. The name of the Mental Health Service or private clinic making the application;
2. The name and contact details of the psychiatrist making the application;
3. The name and contact details of a contact person (to act as a liaison with the Tribunal) in relation to the application;
4. Name and contact details of compulsory notification persons, parents, carers or guardians;
5. The name of any other persons attending the hearing (i.e. family members);
6. Preferred date and time for hearing;
7. Reasons for urgency if the application is urgent (refer to *Urgent Applications* below).

## Urgent Applications

Section 95(2) of the Act allows an applicant psychiatrist to request an urgent hearing if the psychiatrist is satisfied that the course of ECT is necessary as a matter of urgency -

- (a) to save the life of a young person; or
- (b) to prevent serious damage to the health of a young person; or
- (c) to prevent a young person from suffering or continuing to suffer significant pain or distress.

The Tribunal must list and complete the hearing of urgent applications as soon as practicable after receiving the application.

It is important for the applicant psychiatrist to indicate on the MHA 132 Application for ECT whether the application is urgent and how many days the application should be heard within. Please note that pursuant to section 95(1) a hearing must be conducted within five (5) business days after receiving the application.

## Tribunal Hearing

### Listing the hearing

A Registrar will liaise with the applicant psychiatrist, or the identified contact person to organise a hearing date that is mutually convenient to the treating team, the young person and family members, noting that s 95(1) of the Act requires all ECT applications to be listed and heard as soon as practicable and within five (5) business days after receipt of the application.

The hearing will be held at the Mental Health Service or private clinic in a room suitable to accommodate all attendees. Where the hearing is to be conducted at a private clinic the registrar will seek additional information on hearing room arrangements and access instructions for the division members and registrar.

The Registrar will then confirm in writing the date, time and location of the hearing with all parties and compulsory notification persons.

## Attending the hearing

The Tribunal requires the applicant psychiatrist to attend the hearing (see Practice Direction 1 of 2014 regarding attendance requirements). It is beneficial that the young person subject to the proceeding attend the hearing as well as their family members, any nominated person and any other support person they may wish to bring to the hearing.

The Tribunal division will be constituted by three Tribunal members -

- o a legal member
- o a psychiatrist member and
- o a community member.

The Registrar may also attend to assist with arrangements for the hearing.

The duration of the hearing may take up to 2 hours. It would be expected that all parties are available for this time. The Tribunal always endeavours to conduct hearings with minimal legality and formality. The Tribunal's focus is on hearing from all those in attendance at the hearing, and for the discussion to be constructive and respectful of all participants.

## Notification of the determination/Order

The Tribunal can adjourn the hearing or make a determination to either grant or refuse to grant the application. If the Tribunal grants the application it will set the number of treatments and the timeframe in which those treatments must be completed. Section 97(b) provides that the date by which ECT must be completed is within six (6) months after the date on which the Tribunal grants the application.

The Tribunal members will give both the young person who is the subject of the application and the applicant psychiatrist a copy of the determination at the hearing.

If the Tribunal grants an ECT Order the registry will produce and distribute a written ECT Order as soon as practicable after the determination is made. This Order will be distributed to the psychiatrist, the young person subject to the proceeding and any compulsory notification persons.

## Enquiries

For any enquiries regarding an ECT Application for Young Persons (Voluntary) please contact the registry of the Mental Health Tribunal at [registry@mht.vic.gov.au](mailto:registry@mht.vic.gov.au) or on (ph.) 9032 3222.