

# MENTAL HEALTH TRIBUNAL

## PRACTICE NOTE 3

### APPLICATIONS FOR REVIEW OF THE VARIATION OF AN ORDER SPECIFYING TREATMENT WILL BE PROVIDED BY ANOTHER DESIGNATED MENTAL HEALTH SERVICE

#### 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.
3. Under section 66, a person who is subject to an Order which has been varied by an authorised psychiatrist, or by a direction of the chief psychiatrist that the Order be varied, may apply to the Tribunal for review of the decision to vary the Order or to direct the variation of the Order.
4. In hearing an application made under section 66, the Tribunal must, to the extent that is reasonable in the circumstances, have regard to the matters referred to in section 65(4).
5. The Tribunal requires the authorised psychiatrist or chief psychiatrist who varied or directed the variation of the Order, 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.
6. 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 section 66.

##### Scope of application

7. This Practice Note applies to the authorised psychiatrist or chief psychiatrist who varied or directed the variation of an Order under section 65.
8. 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.
9. This Practice Note identifies the type of application and the minimum information that is required in a report with respect to that application.
10. Reports must be provided to the Tribunal as soon as is reasonably practicable or as otherwise directed by the Tribunal.

## **Commencement date**

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

## **Definitions**

12. Unless otherwise specified, all references to sections in this Practice Note are to sections of the *Mental Health Act 2014*.
13. Unless otherwise specified, terms in this Practice Note have the same meaning as in the Act.
14. This Practice Note may be referred to as '*PN 3 - Applications for review of the variation of an Order specifying treatment will be provided by another designated mental health service*'.

## **II. CONTENT OF REPORT**

15. Where an application is made under section 66(1), the authorised psychiatrist or chief psychiatrist must provide a report to the Tribunal that contains the following information that clearly identifies:

15.1 With respect to the person who is the subject of the 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;
- (f) the names of all of the patient's:
  - (i) treating psychiatrist;
  - (ii) medical officer; and
  - (iii) case manager (however described);

### ***Person's background details***

- 15.1 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;

- 15.2 If the person is being supported by any person referred to above in 15.1, with respect to each person, give details of their:
- (a) names; and
  - (b) relationship to the person;
- 15.3 Particulars of the person's current diagnosis;
- 15.4 Description of the person's current clinical presentation;
- 15.5 Particulars of the circumstances leading to the person's current admission (if applicable); and
- 15.6 Particulars of all current medications to which the person is subject (including both psychotropic and general);

***Necessity to transfer to another mental health service***

- 15.7 Particulars of why the transfer of the person to another designated mental health service is necessary for the person's assessment or treatment;

***Approvals***

- 15.8 Other than where the variation is made upon the direction of the Chief Psychiatrist, whether the authorised psychiatrist, of the designated mental health service which is to assess or treat the person has approved of the variation; and
- 15.9 If such approval has been given, a copy of that approval or written confirmation of that approval;

***Views and preferences***

- 15.10 Particulars of the views and preferences of the person who is the subject of the application, about receiving treatment at another designated mental health service, and the reasons for those views and preferences, of the person, including:
- (a) the recovery outcomes that the person would like to achieve; and
  - (b) a copy of any advance statement of the person;
- 15.11 Particulars 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 years;

- (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**