



Mental Health
Tribunal

Mental Health Tribunal **Competency Framework**

April 2022

Introduction

This Framework of Mental Health Tribunal Competencies identifies the knowledge, skills, behaviours and attitudes that Mental Health Tribunal members are expected to demonstrate in performing their role.

The Framework recognises that members are appointed for their specialist expertise, skills and experience and refers to this specialist knowledge where relevant.

The Framework is based on the Council of Australasian Tribunals (COAT) Framework of Tribunal Competencies. It was reviewed in 2021-22 in consultation with members of the Tribunal and the Tribunal's Advisory Group.

It provides a guide to the full range of critical abilities and qualities expected for both newly appointed and experienced Tribunal members. Members are expected to demonstrate not only that they have achieved high levels of knowledge and technical competence, but also that they have developed the behaviours, motivation and values that are essential to professional excellence.

This Framework is part of a shared understanding between members and the Tribunal. Tribunal members are expected to demonstrate the competencies and standards of conduct outlined in this Framework; they are also entitled to expect the Tribunal's ongoing and pro-active support in performing their roles. Such support includes comprehensive induction training, professional development and mentoring programs, administrative and registry support and a supportive working environment committed to the wellbeing of members including occupational health and safety.

The Framework is divided into eight primary competencies, associated qualities and performance indicators as follows:

- A. Knowledge and Technical Skills**
- B. Fair Treatment**
- C. Communication**
- D. Conduct of Hearings**
- E. Decision Making**
- F. Efficiency**
- G. Professionalism and Integrity**
- H. Leadership and Management .**

The following passage from the introduction of the COAT Framework applies equally to the Mental Health Tribunal Competency Framework:

Each headline competency represents a core element of the role of a Tribunal Member. All of these are integrated to produce 'professional excellence.' Professionalism, as opposed to technical competency, represents the highest standards of conduct that the community has a right to expect of Tribunal members and to which all members should aspire.

Performance indicators are associated with each competency. They provide examples of how competency would be demonstrated in practice. The examples given of necessary knowledge, skills and behaviour are intended to be illustrative – they are not exhaustive.

Members are not expected to meet all performance indicators on appointment. Competency in each area will develop over time, through experience and participation in a structured professional development program.

The Framework is designed to provide fair and transparent criteria to facilitate the appraisal of Tribunal members. It will also facilitate a competency-based approach to training to ensure that an individual's on-going professional development needs are effectively met.

A. Knowledge and Technical Skills

Relevant qualities:

Conscientiousness, commitment to high standards.

Competency

- Legal members possess a detailed knowledge, and other members possess a sound working knowledge of the legal framework and jurisdiction of the Tribunal as set out in the *Mental Health Act 2014* (the Act).
- Possess a sound working knowledge of the *Charter of Human Rights and Responsibilities Act 2006* (Charter).
- Possess a detailed knowledge of the Tribunal's procedure and apply that procedure appropriately.
- Possess familiarity with the Tribunal's hearing framework materials.
- Legal members must have been admitted to practice and meet requirements such as a period of post-admission experience, as legislated.
- Psychiatrist members must hold either practising or non-practising registration as a medical practitioner in the specialty of psychiatry.
- Registered medical practitioner members must hold practising registration to practice in the medical profession and have knowledge of and experience in relation to the treatment of mental illness.
- Legal and community members possess a sound working knowledge of mental health conditions and treatments.
- Possess a sound working knowledge of IT systems and other programs that support the Tribunal's work.
- Have a sound knowledge of confidentiality and privacy obligations and apply that knowledge in practice.

Examples of performance indicators

- Can accurately describe and explain the Tribunal's legal framework, jurisdiction and procedures to participants in hearings.
 - Properly applies appropriate legal principles to issues before the Tribunal.
 - Absorbs and analyses complex and competing factual and legal material.
 - Logically identifies and articulates the critical issues of a case.
 - Stays up to date with changes to relevant law and procedure.
 - Stays up to date with the requisite level of knowledge of mental health conditions and treatment options (including ECT).
 - Stays up to date with developments in psychosocial supports and services.
 - Participates in on-line meetings and hearings efficiently and communicates effectively using on-line tools.
 - Manages virtual hearings including the technical and communication requirements of those hearings.
 - Can complete e-determinations in an accurate and timely manner.
 - Identifies potential confidentiality/ privacy breaches and prevents them occurring.
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B. Fair Treatment

Relevant qualities:

Fairness, courtesy, tolerance and compassion.

Competency

- Is aware of and respects diversity in all its forms including differences in beliefs, gender, race, religious customs, age, ability, cognitive capacity, sexual orientation, social or economic status and lifestyles.
- Possesses a sound understanding of the Tribunal's obligation to ensure a fair hearing and applies that understanding in practice.
- Respects, upholds and promotes the objectives and principles of the Act and the Charter.

Examples of performance indicators

- Treats all people attending, appearing or working in the Tribunal with courtesy, respect and dignity.
 - Ensures that the requirements of those with special needs are properly met.
 - Takes account of all factors that may unfairly discriminate and undermine full and effective participation by hearing participants.
 - Identifies, acknowledges and sets aside personal prejudices.
 - Uses appropriate forms of address and language.
 - Asks questions and makes comments in a manner that develops rapport and allows each participant the opportunity to contribute their views.
 - Is kind, sensitive and non-discriminatory.
 - Enhances and promotes fair and equal treatment, e.g. by appropriate approach, attitude, verbal and non-verbal communication.
 - Recognises and responds to the needs of individuals and assists them to participate as fully as possible in the hearing process.
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C. Communication

Relevant qualities:

Courtesy, patience, tolerance, fairness, sensitivity, compassion and self-discipline.

Competency

- Communicates effectively with patients, family members, carers and other support persons, other members, legal representatives, advocates, mental health service staff and Mental Health Tribunal staff.
- Promotes and takes responsibility for effective, kind and respectful communication between all participants in hearings.
- Uses clear, concise, recovery-oriented and plain language in hearings.
- Legal members – use plain, sensitive language in preparing concise, well-reasoned and legally sound statements of reasons.

Examples of performance indicators

- Communicates with all people attending, appearing or working at the Mental Health Tribunal with kindness, courtesy, respect and dignity.
 - Treats all participants in a way that promotes rapport, minimises distress and preserves therapeutic relationships.
 - Employs active listening skills, e.g. is attentive, patient and checks understanding.
 - During tele or video conference hearings is sensitive to privacy and safety of all participants.
 - Uses appropriate body language, e.g. gestures, facial expression, eye contact, tone of voice etc., taking into account cultural and diversity considerations.
 - Makes use of interpreters, signers and communication aids to ensure effective communication with all participants.
 - Asks clear and concise questions relevant to the legal issues and solution-focused objectives of the hearing.
 - Has a clear understanding of cultural context and the experience of ATSI and Culturally and Linguistically Diverse (CALD) communities.
 - The presiding member effectively communicates with the other members during the hearing and deliberations to ensure that there is an opportunity for full discussion, and that each member is able to express an opinion on the issues to be decided.
 - Articulates decisions using clear and concise language so that the participants understand the findings, reasons and decision.
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D. Conduct of Hearings

Relevant qualities:

Courtesy, patience, tolerance, fairness, sensitivity, compassion and self-discipline.

The conduct of hearings is a shared responsibility of all three members of a Tribunal division. While the legal member is the presiding member, all members are required to contribute, collaborate and be active in their participation and the exercise of the Tribunal's functions.

Competency

- Participates in discussions at the start of the hearing day to establish a shared understanding of processes, hearing procedures and various responsibilities.
- Uses pre-hearing discussions to plan and clarify issues for each hearing, including how the division will work together during the hearing.
- Conducts hearings in a manner that establishes and maintains the independence and authority of the Mental Health Tribunal and enables meaningful participation by all involved in hearings.
- Manages the hearing process to facilitate the fair and timely determination of the matter.
- Ensures that the hearing addresses all relevant issues.
- Adopts a patient-centred, strengths-based and solution-focused approach to hearings.

Examples of performance indicators

- Is punctual and well-prepared for hearings.
 - Provides a clear explanation of the purpose, the process and the people involved in the hearing.
 - Behaves in a measured, respectful and non-confrontational manner and manages disruptive or challenging conduct calmly.
 - Maintains a proper balance between supporting those appearing at hearings to participate fully and the impartiality of the Tribunal.
 - Incorporates the principles of the Act into hearings (eg recovery, full participation in community life) and encourages participants' engagement with those principles.
 - Is family and carer-inclusive where appropriate.
 - Understands and applies the principles of procedural fairness.
 - Able to give practical effect to the rules of procedural fairness in the Tribunal context, e.g. managing each party's attendance, non-attendance, representation and access to documents.
 - Ensures that each participant in hearings is properly heard and promotes a dialogue between participants.
 - Asks relevant and necessary questions; avoids unnecessary, personal questions.
 - Prioritises effectively and minimises delays and irrelevancies.
 - Uses the power to adjourn appropriately and sparingly in accordance with the Act and principles of procedural fairness.
 - Maintains an effective, professional and cooperative working relationship with the Tribunal and mental health service staff.
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E. Decision Making

Relevant qualities:

Decisiveness, confidence, courage, independence and impartiality.

Competency

- Exercises objectivity, sound judgment and the appropriate exercise of discretion.
- Identifies and assimilates relevant facts and evidence.
- Uses a structured decision-making process to produce sound, well-structured, concise and clear reasons for decisions.
- Makes and delivers decisions in a timely manner.

Examples of performance indicators

- Weighs relevant issues of law and fact to formulate reasoned and coherent decisions.
 - Objectively and impartially evaluates all information.
 - Applies specialist expertise, where relevant, to understand and evaluate the information.
 - Presiding member effectively communicates with other members to ensure there is an opportunity to express an opinion on all issues to be decided.
 - Opinions of all members are respected and if differing from the majority are communicated as part of the decision in a professional and sensitive manner.
 - Delivers oral decisions and reasons for decision that are clear and explains the reasons for the decision concisely.
 - Checks that participants understand the decision and the reasons.
 - Explain the party's legal rights and options e.g. appeal rights and ability to ask for another hearing.
 - Legal members - produce legally sound, well-structured, written statements of reasons that use clear and concise plain language.
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F. Efficiency

Relevant qualities:

Commitment to serving the public. Commitment to efficient administration and self-discipline.

Competency

- Manages pre-hearing preparations, the conduct of hearings and deliberations to facilitate fair and timely decisions.
- Makes effective use of all available Tribunal resources, including IT resources.
- Able to adapt to and use new technologies to conduct hearings and perform all aspects of the role.

Examples of performance indicators

- Works effectively throughout the hearing day to ensure that hearings are finalised in a timely manner.
 - Adopts a proactive approach focusing on key issues.
 - Exercises discretion during proceedings to ensure the efficient use of time.
 - Promptly discharges administrative responsibilities.
 - Prioritises effectively.
 - Is punctual and thoroughly prepared for each hearing.
 - Contributes to the timely finalisation of statements of reasons.
 - Uses and manages IT and other resources effectively and in accordance with legal requirements and Tribunal guidelines.
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G. Professionalism and Integrity

Relevant qualities:

Capacity to handle stress, integrity, sense of ethics, patience, honesty, tolerance, consideration for others and personal responsibility.

Competency

- Maintains the independence, authority and reputation of the Tribunal and its members.
- Actively and effectively manages privacy and secrecy obligations.
- Maintains personal independence and integrity.
- Promotes and demonstrates the highest standards of behaviour.
- Participates in discussions at the end of the hearing day to debrief and reflect on the division's decision-making and the conduct of individual hearings.
- Promotes health, well-being and safety in the workplace, including understanding and managing personal obligations, responsibilities and rights.

Examples of performance indicators

- Shows an ability and willingness to learn and develop professionally.
 - Participates in professional development activities and Tribunal performance appraisal processes.
 - Complies with the training requirements of the Tribunal and takes responsibility for ongoing, professional development.
 - Recognises and discloses potential or perceived conflicts of interest.
 - Behaves with dignity and professionalism.
 - Manages own reactions and the pressure of complex situations.
 - Manages work demands and is proactive in self-management.
 - Respects and complies with the law.
 - Avoids any perception of bias by avoiding language or conduct that might give rise to the perception of an absence of impartiality.
 - Remains and appears impartial between participants, whether individuals, professionals or public bodies.
 - Is respectful and works in a collegiate way with other members and Mental Health Tribunal staff.
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H. Leadership and Management

Relevant qualities:

Responsibility, imagination and commitment to efficient administration.

Competency

All Members:

- Encourage and facilitate teamwork.
- Manage and adapt to change.
- Support and assist other members to develop skills and knowledge.
- Support and assist other members by participating in professional, reflective and constructive conversations about Tribunal practice, including contributing to feedback processes.

Members in leadership positions (including all full and part time members):

- Lead and deliver key projects.
- Possess administrative and leadership skills of a high order.
- Support, mentor and develop members' professional skills and knowledge.
- Encourage and facilitate teamwork.
- Adopt a strategic approach to the professional development of other members.
- Manage and foster knowledge transfer.
- Possess high level presentation skills.

Examples of performance indicators

All Members:

- Respond constructively to discussions and feedback from colleagues after hearings or as part of feedback processes.
- Appropriately deal with performance issues.
- Effectively manage tasks allocated to them.
- Use initiative to creatively solve problems.
- Participate in mentoring and/or appraisal processes.
- Contribute to organisational improvement projects as requested.

Members in leadership positions (including full and part time members):

- Be approachable and available for consultation and discussions with other members.
 - Use appropriate project management methods to lead and complete key organisational projects to enhance the operation and procedures of the Tribunal.
 - Effectively organise and manage meetings (such as PRGs), participate and encourage contribution.
 - Initiate and support innovation and continuous improvement.
 - Delegate appropriately to support and foster professional development of members.
 - Work with CEO, Registry and Corporate Services to facilitate innovation and improve performance of the Tribunal.
 - Support and mentor members in performing their role.
 - Develop a strategic approach to knowledge-sharing and contribute to the professional development and performance appraisal of members.
 - Encourage and foster an appropriate and consistent approach to complex legal and factual issues.
 - Interact regularly, and develop and maintain relationships with external stakeholders, including mental health services, advocacy bodies and consumer representatives.
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