

MENTAL HEALTH REVIEW TRIBUNAL

Mental Health (Compulsory Assessment and Treatment) Act 1992

TO THOSE INVOLVED IN THE ADMINISTRATION AND HEARING OF APPLICATIONS TO THE MENTAL HEALTH REVIEW TRIBUNAL

24 March 2020

Tēnā koutou,

RE: COVID 19 – Arrangements for applications to Tribunal

Following the Government's announcement that New Zealand is now at alert level 3, and will shortly be at alert level 4, the Tribunal has made temporary changes to the way it operates. They will be reviewed over time. We outline those and seek your cooperation.

Applications to the Tribunal involve the liberty of the individual. Pursuant to the Mental Health (Compulsory Assessment and Treatment) Act 1992 hearings are required to commence within 21 days, or if an adjournment is directed by the Tribunal, within 28 days, of an application being made. The Tribunal will continue to receive and hear applications in accordance with its statutory duty, unless its functions are suspended.

It intends to do so in a way that best helps avoid unnecessary risk to those involved in hearings and recognises the additional pressure which Tribunal hearings can place on already strained resources.

Please only make applications where necessary

If the circumstances are not pressing, then it is best to delay making an application until after the current crisis has passed or reduced, and when applications will be able to be heard without the limitations resulting from Covid-19.

The Tribunal encourages applicants, their counsel, District Inspectors and health professionals to liaise, by means which avoid or limit direct contact, with a view to trying to address issues which might otherwise lead to an application being made.

Examples of such issues include changes to medication and leave, which are often the catalyst for applications to the Tribunal, but which fall outside of its jurisdiction.

Applications ought to be emailed to the Secretariat

The Secretariat staff are now mainly working from their homes. This means post may not be regularly cleared.

The best way to file an application is by emailing the application form to Secretariat@mhrt.co.nz.

Earlier telephone conferences

Pre-hearing telephone conferences will occur earlier than usual, 10 days after receipt of the application. This is to enable:

- more time for understanding and planning hearing requirements;
- an earlier opportunity for applicants and health professionals to try to resolve issues which have led to an application.

Please can those attending be in a position to have meaningful discussion.

The Secretariat will advise of the date and time of the telephone conference by email. It is unlikely to be changed. The Secretariat already faces a significant burden. This means the applicant and his or her lawyer and responsible clinician will need to make arrangements to attend the telephone conference, or to ensure a suitably informed person attends in their stead.

Hearings will mainly be by video-conference, using Zoom

Individual Tribunals have a discretion as to how they conduct hearings, and in particular the extent to which they are in person, by video-link, by telephone or a combination. There is also potential for reviews to be conducted without a formal hearing, if the Tribunal is satisfied no person wishes to be heard in respect of the review.

Unless a Tribunal decides otherwise, hearings will occur with the Tribunal attending by video-conference, using Zoom, a system familiar to many District Health Boards and lawyers.

Whether the applicant and other participants attend by Zoom individually, or meet at a facility such as a hospital to collectively attend by Zoom, will need to be addressed at the telephone conference.

A common format is likely to be:

- the three Tribunal members, each of whom will be in different locations, attending by Zoom;
- the health professionals attending by Zoom, but being located together in the relevant DHB facility;
- the patient and his or her lawyer and support person attending by Zoom from the same or individual locations.

It is likely that hospitals and other facilities where hearings occur will have their own requirements for entry and health and safety. Patients and others involved in hearings will need to liaise with health professionals in advance of hearings so that they can understand and comply with those requirements.

The initial examination

Hearings are preceded by a member of the Tribunal examining the patient. This is a statutory requirement. Examinations tend to be swift, often focusing on whether the patient understands the purpose of the hearing and can participate meaningfully. They tend to be conducted by the psychiatrist member of the Tribunal.

Individual Tribunals will decide how best to conduct those. The means may include in person, by telephone or by Zoom immediately before the hearing commences. Tribunals may ask the Secretariat to issue advice in advance regarding the method. If that is not done, it can be assumed the examination will occur immediately before the hearing, by Zoom, with the patient and his or her lawyer or support person, should the patient want them present.

Aspects of Zoom hearings

In advance of the hearing, the Secretariat will email a link to the Zoom conference. The email may include additional instructions from the Secretariat.

When you click on the link you will be prompted to download the software. To ensure there is no delay of the hearing, please can those participating join five or ten minutes in advance of the hearing.

After you have joined, please turn on the microphone and the video.

You are not permitted to record the hearing.

The Zoom platform can become unstable, particularly when, as seems likely, there is significant internet use.

To help ensure private, smooth and clear hearings:

- please use a quiet, private room;
- please join the Zoom conference using a secure wired internet connection or using a secure Wifi connection with good internet reception;
- please use a laptop or desktop, not a mobile phone;
- if there are reception or clarity problems, it may help to turn off the video;
- please observe the discipline of only one person talking at a time.

Please can participants provide the Secretariat with a phone number that they can easily be contacted on during the hearing, in case there are any connection problems.

Other issues

The Tribunal, directly or through the Secretariat, may raise other issues, or may give other instructions, in the course of preparation for hearings. Please can you respond to them as best as possible.

If there are any issues you are aware of which are likely to impact on the smooth and safe running of a hearing, the please raise those by email with the Tribunal, through the Secretariat.

Thank you

The Tribunal and I recognise that this is a time of great uncertainty and that reviews impose additional demands, when people may have a different focus. Thank you for your cooperation.

We hope you, your families and whanau, stay safe.

Ngā mihi nui,



James Wilding QC
Convener
Mental Health Review Tribunal