

MENTAL HEALTH REVIEW TRIBUNAL

Mental Health (Compulsory Assessment and Treatment) Act 1992

[Date]

TO: The Director Area Mental Health Services

AND TO: The patient or any lawyer for the patient

AND TO: The District Inspector Mental Health

AND TO: Any other person directed to be provided with notice

NOTICE OF APPLICATION FOR REVIEW AND PROCEDURE FOR HEARING

Dear Sir / Madam,

RE: [Patient name]
Application received on:
Application no:

A. An application for review has been made

The above-named patient has applied to the Mental Health Review Tribunal for a review of his or her condition.

Reviews are prescribed by the Mental Health (Compulsory Assessment and Treatment) Act 1992. They reflect important rights of the patient. A key part of the exercise of those rights is ensuring that applications are heard in a timely and proper manner, and within the statutory timeframe. The purpose of this letter is to help facilitate that.

B. The application must be heard within 21 days, or with an extension at latest 28 days, of the date of the application being received

Pursuant to section 79(5) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 review hearings are required to commence within 21 days of the Tribunal receiving the application.

The Secretary, Mental Health Review Tribunal, PO Box 10730, The Terrace, Wellington

Phone: 0800-114-645, Fax: 04-890-7301

The Tribunal can extend that time by no more than 7 days. Good reason will be required if there is an extension of 7 days, to 28 days.

That means that the application will be heard within 21 days, in most cases, and no more than 28 days, of the date stated above when the application was received.

The Tribunal will give notice of the hearing date soon, however arrangements for the hearing, the provision of reports and for the attendance of relevant people, should be commenced now.

C. Where will the application be heard?

The application will be heard at the District Health Board or community facility nearest to where the patient lives, unless directed otherwise by the Tribunal. It is the responsibility of the District Health Board to ensure that appropriate facilities are made available. The usual requirements include:

- a room that can comfortably sit 7 to 10 people.
- suitable desks and chairs.
- water, tea and coffee facilities.
- security where appropriate.

D. Who will be required to attend?

Hearings usually include:

- the patient.
- family or whanau or a support person, if the patient seeks their attendance.
- the patient's lawyer.
- the responsible clinician.
- a second health professional.

E. What reports must the DAMHS and health professionals provide and when?

Please can the DAMHS ensure that at a minimum of 7 days before a hearing:

- the responsible clinician provides a report to the Tribunal, in accordance with the *Guidelines for reports to the Review Tribunal by Responsible Clinicians: March 2018*. For convenience, those are attached.
- the second health professional provides a brief report to the Tribunal. In practice the form of second health professional report used for compulsory treatment order hearings can be used.

It is preferable if the reports are received by the Tribunal at least 10 days in advance of the hearing.

The reports, and their timely provision, are necessary to ensure the patient and lawyer have time to consider them in advance of the hearing and to ensure that the Tribunal is able to prepare. In practice, they can help the resolution of issues which have led to a review.

Because those reports require care it is best if steps are taken now to prepare them. On several occasions inadequate reports or delayed reports have undermined the Tribunal's ability to hear cases. This is a serious matter.

F. What happens next?

From here:

- *Arranging a lawyer:* The Tribunal would welcome the District Inspector of Mental Health or DAMHS facilitating the provision of a lawyer should the patient wish one, and advising us of that lawyer as soon as possible.
- *The telephone conference:* A telephone conference will occur, to be attended by the responsible clinician, the patient or his or her lawyer and a member of the Tribunal. Notice of the date will be given shortly. If the District Inspector or anyone else wishes to attend we ought to be advised urgently. The purpose of the telephone conference includes ascertaining whether the patient intends to proceed with the review and addressing any administrative aspects.
- *Notice of the hearing date:* The hearing date will be notified. The Tribunal endeavours to allocate dates convenient to the parties, but with the Tribunal members usually flying in from elsewhere, and the sometimes conflicting commitments of the patient, lawyers and health professionals, that is not always possible. A date within the statutory timeframe must be set. The Tribunal recognises this can cause inconvenience.
- *The reports of health professionals:* The reports from the responsible clinician and second health professional will be provided to us and disseminated to parties.
- *The hearing:* The hearing will occur on the date notified.

G. What if I cannot make arrangements to attend a telephone conference or the hearing?

If a responsible clinician cannot attend the telephone conference then he or she or the DAMHS needs to ensure that a suitable and senior person, for example the DAMHS or a clinical director, attends in his or her place. Any lawyer who cannot attend needs to ensure that an agent is instructed. Non-attendance means that the utility of the telephone conference is undermined.

If a responsible clinician, second health professional or a lawyer cannot attend the review hearing on the date notified, then he or she will need to ensure that suitable arrangements are made for

another suitable person to attend in his or her place, eg a temporary responsible clinician who is familiar with the patient or another lawyer.

It is vital that such arrangements enable the hearing to proceed in a meaningful manner. They should be raised with the Tribunal as soon as possible and can be discussed at the telephone conference. If need be, the Tribunal can issue a witness summons.

H. Where can I get more information

More information about the process can be obtained from a range of sources including:

- the Mental Health (Compulsory Assessment and Treatment) Act 1992.
- The Ministry of Health's website, <https://www.health.govt.nz/new-zealand-health-system/key-health-sector-organisations-and-people/mental-health-review-tribunal>
- a District Inspector of Mental Health.
- a lawyer.

We thank you for your cooperation.

Yours faithfully

Kelly Slater & Jackie Harrison

Mental Health Review Tribunal Secretariat