



# Director of Forensic Disability

## POLICY

**Title:** Support to the Mental Health Review Tribunal

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### 1. Policy Statement

*The Mental Health Act 2016* requires the Mental Health Review Tribunal (MHRT) to review Forensic Disability Service (FDS) clients' forensic orders at intervals of not more than six months. The FDS must provide the MHRT with relevant information about the circumstances of the client, including their progress in programs, changes to risk and any recommendations in relation to a client's forensic order.

### 2. Purpose

This policy sets out the support the FDS is to provide to the MHRT to assist the MHRT to perform its functions.

### 3. Scope

This policy applies to all staff at the FDS. The Administrator, Senior Practitioner and any other person performing a function, or exercising a power, under the *Forensic Disability Act 2011* (the Act) must comply with this policy.

This policy must be implemented in a way that is consistent with the purpose and principles of the Act.

### 4. Authorising Legislation

Section 91 of the Act.

### 5. Policy

#### 5.1 Mental Health Review Tribunal

The Mental Health Review Tribunal (MHRT) is an independent decision making body under the *Mental Health Act 2016*. The MHRT's primary purpose in relation to clients at the FDS is to review their forensic orders. In making decisions, the MHRT must balance the rights of the patient with the rights of others, including victims of unlawful acts, and the need to protect the community. Further, in exercising its jurisdiction, the MHRT must act independently and is not subject to direction or control by any entity.

The MHRT panel is made up of lawyers, registered psychiatrists and community members and may consist of between one and five members. MHRT hearings in relation to FDS clients usually convene with a four member panel.

In relation to FDS clients the MHRT decides whether to confirm or revoke their forensic order, the category of the order (inpatient or community), whether the client is to receive any

treatment in the community, and whether any other client relevant conditions should be included or removed from the client's forensic order.

## **5.2 PREPARATION FOR THE MHRT HEARING**

The MHRT will undertake reviews of each forensic disability client's forensic order at approximately six-monthly intervals, or sooner if an application for an early hearing is made. Prior to the MHRT hearing the Administrator and Senior Practitioner must ensure a range of tasks are undertaken and completed in preparation for the hearing. The Administrator is the initial point of contact for matters related to MHRT hearings and forensic orders.

### **5.2.1 Client Self-Report**

The Senior Practitioner must ask the client if the client wishes to provide a self-report to the MHRT. The Senior Practitioner must keep a record of when this occurred and the client's response. The client Self-Report form is available on the MHRT website (<https://www.mhrt.qld.gov.au/>). If the client decides to complete a client Self-Report it must be attached as a relevant document to the clinical report.

### **5.2.2 Clinical Report**

The FDS is required to prepare a clinical report for the MHRT hearing that outlines the forensic disability client's clinical care, assessment and conduct during the previous six months. The Senior Practitioner is responsible for preparing the clinical report, with input from a range of FDS staff, including the Administrator.

The Administrator must ensure the Senior Practitioner is aware of review dates and times and prepares and submits the clinical report to the MHRT within the timeframes required.

The Senior Practitioner must complete the clinical report in accordance with the MHRT template - *Clinical Report Forensic Order (Disability) Review – MHRT* (refer to the Mental Health Review Tribunal website <https://www.mhrt.qld.gov.au/> for relevant template) and provide the clinical report and other relevant documents to:

- The Director of Forensic Disability – ten days prior to the date the MHRT hearing.
- The MHRT - at least seven clear days prior to the hearing date, as required under section 723 of the *Mental Health Act 2016*. Therefore, the clinical report must be provided on a business day at least eight days prior to the hearing.
- The client, the subject of the review, at least seven clear days prior to the hearing. The Senior Practitioner must ensure the clinical report is explained to the client in a way that is understood by the client.

As stated above the clinical report must be written using the MHRT template and contain information about the client as required by the MHRT. This includes information relating to the client's:

- intellectual functioning;
- history of care and support;
- circumstances leading to the initiation of the forensic order;
- current functional assessment/review of Individual Development Plan (IDP);
- risk assessment;
- current treatment/care;
- social circumstances, network and their capacity to support the person;

- intended accommodation in the future;
- financial affairs, including status of support arrangements, such as National Disability Insurance Scheme;
- cultural information; and
- Limited Community Treatment (LCT), including arrangements in place and how it has been utilised over the preceding period and current conditions.

The clinical report should outline any challenges or progress made by the client over the previous six months. This should include, but not be limited to, the following information:

- participation in, and outcomes from, rehabilitative and habilitative programs (e.g. skill development, changes in behaviour, outcome measures);
- engagement and participation in the community and LCT outcomes;
- any responsivity issues and how these will be or have been addressed; and
- current risk and protective factors.

The clinical report must also provide recommendations and reasons for the continuation of the forensic order and/or the reasons for any recommendations to change the conditions of the client's forensic order. The information contained in the clinical report should assist the MHRT to understand the rationale for the Senior Practitioner's recommendations.

Relevant documents should be attached to the clinical report in order to justify and support the Senior Practitioner's clinical reasoning and recommendations. The client's current Individual Development Plan (IDP) is an example of a relevant document that should always be attached to the clinical report.

The clinical report must be approved and signed by the Senior Practitioner.

### **5.2.3 Client support**

The Senior Practitioner must ensure the client has been supported to review the clinical report and had the opportunity to discuss its contents. Where the client has an appointed guardian, the clinical report should be provided to the guardian by the Senior Practitioner.

As stated above the Senior Practitioner must ensure that client is supported to complete a self-report form (refer to the Mental Health Review Tribunal website <https://www.mhrt.qld.gov.au> for form) to assist in expressing their views to the MHRT. The client should also be offered the opportunity to be accompanied at the hearing by a member of their support network and if they would like to be accompanied by a member of their support network this should be facilitated by the FDS.

The Administrator must ensure that requests, by a client's allied person, legal representative, advocates and/or guardian, to visit the client for the purpose of preparing for the hearing, are facilitated.

## **5.3 The Mental Health Review Tribunal Hearing**

### **5.3.1 Facilities and FDS support**

The MHRT may decide to conduct the hearing of the client's forensic order in person, at the FDS. Alternatively, the MHRT may conduct the hearing of the client's forensic order via teleconference or videoconference.

Where the hearing is scheduled to occur on site, the FDS must ensure a room is available that can comfortably accommodate 12 people. Where a hearing occurs via technology, either via teleconference or videoconference, the FDS must have appropriate technology to facilitate the hearing.

If the MHRT hearing proceedings are to be recorded the FDS should, where requested and where practicable, assist the MHRT with the MHRT's recording of proceedings.

The FDS must also provide an adequate environment for forensic disability clients to meet with their legal representative, allied person, guardian or other support persons as and when required.

If requested the FDS should make available administrative facilities, including computers, telephones, photocopy machines, printers and stationery for the purposes of MHRT proceedings.

An FDS staff member must be made available to assist the MHRT members with any administrative tasks they require and to facilitate the needs of clients and others attending the hearings. The MHRT should be notified of the name and contact details of this staff member. Additionally and if required, all staff are expected to provide practical support to MHRT panel members for hearings conducted at the FDS.

### **5.3.2 Attendance at the hearing**

The client has a right to attend their hearing. Clients also have a right not to attend and some client may exercise this right and not attend their hearing. The FDS should attempt to support the client's attendance by ensuring they understand the purpose of the hearing, address any concerns the client may have and make arrangements that may assist the client to feel more comfortable in attending.

The MHRT will arrange legal representation for the client, unless this has already been arranged by the client or their allied person/guardian.

The Director of Forensic Disability, the Attorney-General and the client's legal representative have a right to appear, may ask questions of the FDS treating team and will likely make submissions in relation to the client's forensic order. The client's guardian or a member of their support network may also attend the hearing and provide information to the MHRT but do not have a right to make submissions.

The Senior Practitioner is required to attend all MHRT hearings for forensic disability clients. The Senior Practitioner will be expected to speak to and answer questions in relation to reports and other material prepared by the FDS. Where the Senior Practitioner is unavailable, a member of the clinical team will attend in their place. Other FDS staff involved in the client's care and management may also attend the MHRT hearing to provide relevant information to the MHRT.

### 5.3.3 Mental Health Review Tribunal decision

After having heard the evidence during the hearing the MHRT will make a decision about the client's forensic order and any conditions attached to the forensic order. In most cases the MHRT decision will be provided to the client and the parties at the completion of the hearing proceeding. However, in some cases the MHRT may decide not to release their decision immediately. In all cases, the MHRT will provide written notice of their decision. The written decision will provide information about the client's forensic order, including the category of the forensic order (inpatient or community) and the conditions attached to the forensic order.

The Senior Practitioner must ensure the client understands the status of their order and the current conditions of their LCT.

The Administrator must give notice of the applicable forensic order to the client's allied person.

### 5.4 Record keeping

A copy of every clinical report must be kept in the client file.

Upon receipt of the MHRT decision the Administrator must ensure that it is placed in the client file.

The Administrator must also ensure the Senior Practitioner changes the client's IDP to give effect to any changes to the forensic order that have occurred as a result of the MHRT's most recent decision.

### 5.5 Confidentiality

The clinical report, attached relevant documents and MHRT decisions contain sensitive and confidential information about clients.

The Administrator must ensure that confidential information is managed in accordance with the confidentiality of information provisions contained within section 122 of the Act. If staff are unsure about whether information can be shared with another party, they should seek advice from the Senior Practitioner or Administrator of the FDS.

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**Designation:** Director of Forensic Disability

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