

## Northern Territory of Australia

### Mental Health and Related Services Act

#### Practice Direction No 2 – Hearing Procedure

Pursuant to section 129(2A) of the *Mental Health and Related Services Act*, I, Vincent Michael Luppino, President of the Mental Health Review Tribunal make the following Practice Direction.

1. This Practice Direction shall be known as Practice Direction No 2 - Hearing Procedures.
2. The procedure to be adopted at a Hearing shall be as set out below Provided That, where the Tribunal is of the view that the circumstances of any particular case warrant a departure from the procedures set out herein, the Tribunal may, in accordance with section 129(2) of the Act, determine any change to the procedure to be adopted in that event.
3. The member of the Tribunal appointed pursuant to section 118(3)(a) of the Act, or any other member with a sufficient understanding of the legal aspects of the Act, the legal issues involved in the particular Hearing and the principles of procedural fairness, shall preside at the Hearing.
4. The order of proceedings at a Hearing of the Tribunal shall be as follows:-
  - 4.1 Opening and welcome;
  - 4.2 Introduction by persons in attendance including a brief description of their intended role;
  - 4.3 Determination of the need for an interpreter and the extent of the translation services required;
  - 4.4 Explanation of the proceedings to the patient;
  - 4.5 Determination of the need to appoint a legal practitioner to represent the patient;
  - 4.6 Determination of applications for leave for Members of the Public to attend the Hearing;
  - 4.7 Determination of issues of access to medical records;
  - 4.8 Description of the nature of the application before the Tribunal and the specific order sought by MHS;
  - 4.9 Identification of the Report and any other material submitted to the Tribunal by MHS in support of the application;

- 4.10 Confirmation that the Patient's Legal Representative has had an opportunity to discuss the Report with the patient;
- 4.11 Ascertaining the extent to which the patient agrees or disagrees to the orders sought;
- 4.12 Questioning of MHS staff by the Tribunal;
- 4.13 Questioning of MHS staff by the Patient's Legal Representative;
- 4.14 Supplementary questioning of MHS staff by the Tribunal;
- 4.15 Evidence from other persons, if any;
- 4.16 Presentation of patient evidence and/or submissions on behalf of the patient;
- 4.17 Closure of evidence;
- 4.18 Tribunal members consider the evidence;
- 4.19 Tribunal decision;
- 4.20 Consideration of ancillary matters and orders such as costs, limitations of access to information, access to record of proceedings;
- 4.21 Formal orders and closure.

Dated this 28<sup>th</sup> day of April 2009.

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V M Luppino  
President,  
Mental Health Review Tribunal