

Northern Territory of Australia

Mental Health and Related Services Act

Practice Direction No 5 - Tribunal Reports

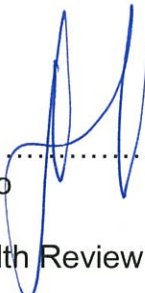
Pursuant to section 129(2A) of the *Mental Health and Related Services Act*, I, Vincent Michael Luppino, President of the Mental Health Review Tribunal make the following Practice Direction.

1. This Practice Direction shall be known as Practice Direction No 5 - Tribunal Reports.
2. MHS shall provide a Report to the Tribunal for each Hearing. The Report shall be duly completed and shall address all criteria set out in the Act relevant to the orders sought with all necessary particulars and a succinct summary of the relevant history and events including details of any relevant past treatment.
3. Unless the Tribunal otherwise directs, it shall not be necessary for the Report to be verified on oath.
4. Without prejudice to the right of the Tribunal to accept or reject any hearsay evidence in any particular case, hearsay evidence may be given in the Report if the Report identifies any evidence which is of a hearsay nature and the degree of hearsay (i.e., whether first or second hand or subsequent degrees) where that it is not apparent on the face of the Report and, subject to paragraph 5 hereof, sets out the source or sources of that hearsay.
5. MHS may refrain from identifying sources of hearsay evidence in the Report where MHS is of the opinion that there is good reason to do so, such as possible adverse effect to the therapeutic relationship, confidentiality or privilege, concerns for well being of the patient or another person and the like. Notwithstanding the foregoing, MHS shall disclose such information to the Tribunal if the Tribunal requires and thereafter MHS shall make such other disclosures and on such basis as the Tribunal directs, whether in the nature of an undertaking pursuant to section 132(4) of the Act, or otherwise.
6. For the purposes of paragraph 5 hereof, the Tribunal may give such ancillary directions as it deems necessary and may hear evidence or submissions in the absence of the patient.

7. Where MHS seek to rely on any past events, the Report shall contain full details of the nature and relevance of the events and specifically, if the event is not directly proximate to the current admission or application, the reasons that the event is considered to be diagnostically significant or appropriate.
8. The Report shall contain all evidence which MHS seek to rely on in the application before the Tribunal and supplementary evidence, other than evidence resulting from direct questioning from Tribunal members or on by or on behalf of the patient, may only be given with leave of the Tribunal.
9. The Report shall be provided to the Tribunal no later than 4.00 pm on the second day preceding the Hearing and where the appointed day is a public holiday, then in lieu, by 12 noon on the day preceding the Hearing.
10. MHS may provide the Tribunal with a separate addendum to the Report in the case of the following applications:-
 - 10.1 Where MHS propose to request that the Tribunal conduct the Hearing in the absence of the patient pursuant to section 131(6) of the Act;
 - 10.2 Where MHS opposes any proposed application pursuant to section 135 of the Act for a Member of the Public to attend a Hearing or where MHS do not oppose the attendance of the person but are aware that the patient opposes the attendance of that person;
 - 10.3 Where MHS seek any order by way of restrictions of access to medical records pursuant to section 132 of the Act;
 - 10.4 Any other matter which MHS believes merits preliminary consideration by the Tribunal.
11. Any addendums submitted for the purposes of paragraph 10 hereof shall contain all necessary particulars and details and specify the reasons why MHS believe that any direction or order sought is, or is not, appropriate.
12. The Tribunal shall give notice of any applications of the type referred to in paragraph 10 hereof to the Patient's Legal Representative before the commencement of the Hearing.
13. The Tribunal shall consider any application of the type referred to in paragraph 10 in the absence of the patient. Until the Tribunal otherwise orders, the addendums shall not be provided to the patient or to the Patient's Legal Representative and where the Tribunal determines to

provide the addendums to the Patient's Legal Representative, the Tribunal shall also determine whether the Patient's Legal Representative shall be required to give any undertaking pursuant to section 132(4) of the Act.

Dated this 28th day of April 2009.


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V M Luppino
President,
Mental Health Review Tribunal