



PRIVACY PLAN



Table of Contents

1.0 Introduction

- 1.1 Scope
- 1.2 Background
- 1.3 Mental Health Review Tribunal
- 1.4 Privacy Plan Requirements

2.0 Implementation

- 2.1 Implementation schedule
- 2.2 Implementation process

3.0 Legislation

- 3.1 Legislation Administered by the Mental Health Review Tribunal
- 3.2 Legislative requirements superseding the NPPs
- 3.3 Other legislation dealing with privacy issues

4.0 Policies on the Management of Personal Information

- 4.1 Queensland Government Policies
- 4.2 Mental Health Review Tribunal Policies

5.0 Personal Information

- 4.1 Types of Personal Information held by the Mental Health Review Tribunal

6.0 Access to Personal Information

- 5.1 Freedom of Information Act 1992

7.0 Complaints about Breach of Privacy

8.0 Approval of Privacy Plan

- | | | |
|-----------------|----------|--|
| Schedule | 1 | Legislative requirements superseding NPPs |
| | 2 | Other legislation dealing with privacy issues |
| | 3 | Policies on the Management of Personal Information |
| | 4 | Personal Information held by the Mental Health Review Tribunal |



1.0 Introduction

1.1 Scope

This privacy plan applies to the Mental Health Review Tribunal, established under Chapter 12 of the *Mental Health Act 2000*.

1.2 Background

An Information Privacy Scheme has been developed by the Queensland Government for the public sector to protect the privacy of personal information held by Queensland Government departments and agencies.

Privacy standard IS42A, based on the National Privacy Principles under the *Privacy Act 1988* (Cth), was issued by the Department of Innovation, and Information Economy, Sport and Recreation Queensland on 18 September 2001. IS42A applies only to Queensland Health and associated statutory authorities. Information Standard 42 applies to all other departments and agencies.

The standard requires that personal information be managed in accordance with a set of Privacy Principles. Personal Information is defined in IS42A as being:

“information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion”.

IS42A also clearly defined “health information” as follows:

- (a) information or an opinion about:
 - (i) the health or disability (at any time) of an individual; or
 - (ii) an individual’s expressed wishes about the future provision of health services to him or her; or
 - (iii) a health service provided, or to be provided, to an individual; that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service or
- (c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances.

Some types of personal information are exempt from IS42A, including:

- covert activity
- witness protection
- disciplinary action and misconduct
- whistleblowers
- cabinet and executive council documents
- commissions of inquiry



1.3 Mental Health Review Tribunal

The Mental Health Review Tribunal commenced operation on 28 February 2002 under the *Mental Health Act 2000*.

The Tribunal is an independent statutory body established under Chapter 12, Part 1 of the *Mental Health Act 2000*. The Tribunal consists of the President and part time Tribunal members, including lawyers, psychiatrists and persons with other relevant qualifications and/or experience. The Act also provides for an Executive Officer and other staff necessary for the Tribunal to carry out its functions.

The *Mental Health Act 2000* provides for the involuntary assessment and treatment of persons with mental illnesses, while at the same time safeguarding their rights and freedoms while balancing these rights and freedoms with those of other people. The purpose of the Tribunal is principally to review involuntary detention and/or treatment of persons with mental illnesses, along with certain other functions as established by section 437.

The Mental Health Review Tribunal, in accordance with the decision of State Cabinet in September 2001, must comply with the National Privacy Principles (NPPs) set out in Information Standard No. 42A.

1.4 Privacy Plan Requirements

The Mental Health Review Tribunal is required under section 3.1 of Information Standard 42A to:

- Develop a privacy plan to give effect to the NPPs
- Publish the privacy plan on their website (where a website has been developed)
- Implement the privacy plan according to a schedule developed in the privacy plan
- Review and update the privacy plan annually

Further the Mental Health Review Tribunal must ensure that the privacy plan includes:

- The implementation schedule for giving effect to the NPPs
- The legislation administered by the Tribunal and the legislative requirements, if any, related to personal information that will supersede the NPPs
- The contact details for the Tribunal's privacy officer
- The nature of the records of personal information kept by or on behalf of the Tribunal
- The purpose for which each type of record is kept
- The classes or types of individuals about whom records are kept
- The period for which each type of record is kept
- The persons who are entitled to have access to personal information contained in the records and the conditions under which they are entitled to have access
- The steps that should be taken by persons wishing to obtain access to that information.



The Mental Health Review Tribunal's privacy plan is intended to satisfy NPP 5.1 requiring the policies, relating to the management of personal information by the Tribunal, be set out in a document and made available to any person who requests it.

2.0 Implementation

2.1 Implementation Schedule

The Mental Health Review Tribunal is committed to continued implementation of the National Privacy Principles and Information Standard No.42A through the Mental Health Review Tribunal Privacy Plan.

The Tribunal's implementation of Information Standard No. 42A occurred in stages. Since the publication of the Tribunal's 2003 Privacy Plan, the following activities have been undertaken:

- Education of Tribunal staff and members on IS42A - completed June 2003
- Development of a process for handling complaints regarding privacy right - completed September 2003
- Development of a broader Compliments and Complaints process - completed October 2004
- Publication of the Tribunal's Privacy Plan and overview of consumer's privacy rights on website - completed
- Review of existing operation procedures and policies to ensure compliance with the Privacy Principles - ongoing
- Application of the National Privacy Principles when developing new policies and operational procedures - ongoing

2.2 Implementation Process

The following activities are on-going to ensure continued implementation and support of the National Privacy Principles:

- Ensure that policies and operational procedures being developed reflect IS42A
- Continuing Education of Tribunal Staff and members on changes to Privacy legislation and policy
- Development of literature/brochures on privacy rights for clients/patients

3.0 Legislative Requirements

Information Standard 42A is an administratively based privacy scheme. It should be noted that where a matter is covered by IS42A and is also dealt with in specific legislation, the specific legislative provisions will apply rather than the relevant NPP.

3.1 Legislation administered by the Mental Health Review Tribunal

The Mental Health Review Tribunal and the Tribunal's jurisdiction are established in Chapter 12, Part 1 of the *Mental Health Act 2000*.

Section 528 (Confidentiality of information – officials) establishes that Tribunal members, the Executive Officer and staff who acquire information about another person's affairs must not disclose the information or document/s to anyone else. This strict duty of confidentiality extends to persons providing services to the Tribunal, including Corrective Services Escort officers, external auditors and cleaners.

Section 528(3) lists the only exceptions to the strict duty of confidentiality, permitting disclosure:

- a) to the extent necessary to perform the person's functions under or in relation to the *Mental Health Act 2000*
- b) to the extent necessary for the other person to perform that person's functions under *Mental Health Act 2000*
- c) if the disclosure is otherwise required or permitted by law
- d) if the person to whom the information relates agrees to the disclosure or giving of access and the person is an adult when the agreement is given.

Section 528 is the primary provision establishing the need for Tribunal to safeguard the privacy of patients, staff and members, unless an exception permits the lawful disclosure of information.

3.2 Legislative requirement that supercede NPPs

The Mental Health Review Tribunal is subject to and responsible for administering legislative provisions of the *Mental Health Act 2000* dealing with privacy issues and the collection, use and disclosure of personal information.

The relevant provisions are listed according to the relevant NPP in **Schedule 1**.

3.3 Other Legislation dealing with Privacy Issues

There are many legislative provisions to which the Tribunal has regard in the collection, use and disclosure of personal information. This legislation is referred to less frequently than the previously discussed legislation and is briefly listed in **Schedule 2**.

4.0 Policies on the Management of Personal Information

4.1 Queensland Government Policies

While IS42A is the prominent government policy in respect of the management of personal information, several other government standards and Mental Health Review Tribunal policies operate in conjunction with IS42A to protect the privacy of individual's personal information.

The Tribunal's management of personal information is subject to information standards issued by the Chief Information Office. These standards are binding on the Tribunal and are set out in **Schedule 3** according to the relevant NPP.



4.2 Mental Health Review Tribunal Policies

The Mental Health Review Tribunal has developed a number of operational policies and procedures relating to the management of personal information held by the Tribunal.

Policies and procedures developed prior to the commencement of the National Privacy Principles have been reviewed and, where necessary, amended to ensure compliance with those principles. The Tribunal is included in the Queensland Health Guidelines for IS42A and the Mental Health Review Tribunal utilized the guidelines in implementing the information standard.

The Tribunal policies are included in **Schedule 3** according to the relevant NPP.

5.0 Personal Information

The Mental Health Review Tribunal's privacy plan must address the following matters:

- The nature of the records of personal information kept by or on behalf of the Tribunal
- The purpose for which each type of record is kept
- The classes or types of individuals about whom records are kept
- The period for which each type of record is kept
- The persons who are entitled to have access to personal information contained in the records and the conditions under which they are entitled to have access

The personal information held by the Mental Health Review Tribunal relates predominantly to patients/clients of the Tribunal. However, the Tribunal also holds, collects, stores and uses personal information pertaining to staff, including Tribunal members, suppliers and other business partners.

The Personal Information collected, stored and used by the Mental Health Review Tribunal is detailed in **Schedule 4**.

6.0 Access to Personal Information

Documents kept on patients' files relate to Mental Health Review Tribunal reviews and hearings. These documents include:

- notices to patients and parties required by the Mental Health Act 2000 (sections 172, 174, 189, 192, 196, 198, 202, 205, 211, 213, 232, 234, 377, 380)
- clinical reports about the patient, written by psychiatrists from the Authorised Mental Health Service where the patient is treated;
- correspondence between the patient and the Tribunal;
- decisions of the Tribunal made at reviews and hearing – notice to parties required by sections 174, 192, 198, 205, 213, 234, 380.

Patients are sent notices and decisions of hearing as required by the Mental Health Act 2000.

Section 459(4) of the Mental Health Act 2000 provides that parties to a proceeding, including patients, have a right to inspect documents to which the Tribunal proposes to have regard in reaching a decision. This right can only be displaced by a confidentiality order. Access to clinical



reports and other documents to which the Tribunal proposes to have regard is available on the day of the proceedings. Patients may also make arrangements with the Authorised Mental Health Service to inspect clinical reports prior to the proceedings.

6.1 Freedom of Information Act 1992

The *Freedom of Information Act 1992* does not apply to the Tribunal in relation to the tribunal's judicial or quasi-judicial functions – section 11 *Freedom of Information Act 1992*. Thus access to personal information, held by the Tribunal in relation to proceedings is no longer accessible via the Freedom of Information process. This applies to information held on patient files.

The right of access to personal information held by the Mental Health Review Tribunal regarding the Tribunal's administrative function remains by way of the provisions of the Freedom of Information Act 1992. This applies to members and staff of the Mental Health Review Tribunal.

Any person wishing to make an application to access personal information under the Freedom of Information Act 1992 should contact the Legal Officer at the Tribunal Office on (07) 3235 9059 who will be able to provide information as to whether the document sought relates to the Tribunal's quasi-judicial functions or administrative functions. The procedure to be followed in making an application will also be outlined.

Lodging Freedom of Information Applications

Persons wishing to make an FOI application should make the application to the delegated decision-maker.

Applications for access to documents of the Mental Health Review Tribunal must satisfy the following requirements:

- the application must be in writing
- the application must contain sufficient information concerning the documents as is reasonably necessary to enable the documents to be identified
- the application should specify an address to which a decision in relation to the application may be sent to the applicant.

Applications for amendment of documents of the Mental Health Review Tribunal which relate to the applicant's personal affairs (or the personal affairs of a deceased person to whom the applicant is next of kin) must satisfy the following requirements:

- the application must be in writing and addressed to Tribunal FOI Officer
- the application must specify an address to which a decision in relation to the application may be sent to the applicant;
- the application must provide information to support the applicant's belief that the information contained in the documents of the Mental Health Review Tribunal is *inaccurate, incomplete, out-of-date or misleading*;
- the application must specify the amendments that the applicant wishes to be made.



Fees and Charges Applying to FOI Applications

Applications for access to documents concerning the applicant's personal affairs, or for amendment of documents, are free of charge - no application fee or other charges are payable.

Applications for access to documents that do not concern the applicant's personal affairs attract a mandatory \$38 application fee. A non-personal application will not be processed until the application fee has been received.

Non-personal applications also attract the following access charges:

- (a) \$5.80 per 15 minutes or part of 15 minutes, for time spent in:
 - searching for or retrieving documents;
 - making, or doing things related to making, a decision on an application for access; and
 - making an officer available to supervise inspection of documents;if the total amount of time spent by an officer or officers of the agency performing these tasks is more than 2 hours. (The FOI Act provides a mechanism under which an access applicant must be notified of the preliminary assessment of these charges, and given an opportunity to seek a reduction of the charges on the grounds that they have been wrongly assessed, or seek a waiver of the charges on grounds of financial hardship.)
- (b) 20 cents per page for providing black and white photocopies in A4 size
- (c) an amount that is not more than the actual cost incurred by the agency in giving access, where access is provided in a form other than by inspection or by providing an A4 size black and white photocopy (eg. copies of X-rays, photographs, audio tapes).

NOTE: FOI fees and charges are not subject to the Goods and Services Tax (GST).

Decisions on the applicability and amount of fees and charges are subject to the rights of internal and external review (see below).

Internal Review

Both the applicant and any third parties (formally consulted about the release of documents to the applicant) have 28 days after receipt of the decision of the delegated decision maker to lodge an application for internal review if they are dissatisfied with the decision.

Written applications for internal review should be directed to the FOI Officer.

There is no charge for internal review applications.

The Internal Review Officer must process the application and notify the applicant of the decision within 28 days.

External Review

If the applicant or a third party is dissatisfied with the internal review decision, they may apply to the Information Commissioner for external review. The application must be in writing and directed to:

Office of the Information Commissioner
Level 4 OR GPO Box 10143
300 Adelaide Street Adelaide Street
BRISBANE QLD 4000 BRISBANE QLD 4001
Telephone: (07) 3005 7155
Facsimile: (07) 3005 7150

An applicant seeking external review must apply within 28 days of receipt of the internal review decision. A third party who was consulted or was entitled to be consulted, and objects to a decision to disclose documents, must apply for external review within 28 days of receipt of the internal review decision.

7.0 Complaints about Breach of Privacy

Complaints about a breach of privacy are processed in the context of the Tribunal's broader Compliments and Complaints Operational Procedure.

A verbal complaint of a breach of privacy will be recorded in the appropriate Patient Tracking System Inquiry Screen by the staff member receiving the complaint. If the complaint is unable to be resolved at the initial point of service, a further written complaint regarding a breach of privacy will be referred to the Legal Officer. The Legal Officer will outline the initial review and further internal review processes, as set out below.

Where a person is of the view that their personal information held by the Mental Health Review Tribunal has not been dealt with in accordance with a National Privacy Principles or Information Standard 42A, they may make a request for an initial review by the Legal Officer.

A request for initial review must be made in writing and must be made within six months from the date when the suspected breach occurred. Requests should be forwarded to:

The Legal Officer
Mental Health Review Tribunal
PO Box 15818
Albert Street BC
City East QLD 4002

Requests for initial review will be acknowledged by the Tribunal, in writing, within 7 days from the date on which the request is received. Requests for review will be processed within 28 days from the date upon which they were received and applicants will be advised in writing of the decision.

If the applicant does not agree with the decision they may request a further internal review. The President of the Tribunal will arrange for the further internal review to be carried out by an officer who has not previously been involved in the matter. This will be done within 21 days. The President will then provide a response in writing to the applicant.

8.0 Approval of Privacy Plan

The revised Mental Health Review Tribunal Privacy Plan 2006 and attached Schedules are approved as at today's date, .

(Signed)

Barry Thomas
President
Mental Health Review Tribunal



Schedule 1

Legislative requirements that supercede the NPPs

Specific provisions of the *Mental Health Act 2000* administered by the Mental Health Review Tribunal provide for the use and disclosure of personal information. These provisions are briefly discussed below in accordance with the relevant private principle.

Collection (NPPs 1 & 10)

The *Mental Health Act 2000* provides for the collection of various documents by the Tribunal, including:

- Applications for review (sections 187, 194, 200, 210)
- Treatment applications (sections 229, 230)
- Application for a Forensic Patient Information Order (section 318O)
- Applications to move out of Queensland (section 171)
- Details of arrangements regarding an application to move out of Queensland (section 173)
- Appeal against the decision of an administrator to exclude a visitor (section 375)
- Notice of forensic order made by the Mental Health Court (section 291)
- Notice of discontinuation of proceedings (section 216)
- Written report of examination ordered by the Tribunal under section 457
- Treatment Plans (section 124)

Anonymity (NPP 8)

The Tribunal administers one provision under the *Mental Health Act 2000* that expressly addresses the issue of anonymity of an individual.

- Information that identifies or is likely to lead to the identification of a young person or a patient who has been a party to a proceeding in the Tribunal, Mental Health Court (on appeal) or Court of Appeal is prohibited.

Use and Disclosure (NPP 2)

Section 8(i) *Mental Health Act 2000* specifies that one of the general principles for administration of the Act is that a person's right to confidentiality of information must be recognised and taken into account.

The principal duty of confidentiality for the Mental Health Review Tribunal is Section 528 *Mental Health Act 2000*. Section 528 requires that information must not be disclosed, or access to a document given, to anyone else except -

- where it is necessary in order to perform your functions under or in relation to the Act; or
- if the disclosure or giving of access is otherwise required or permitted by law; or
- if the person to whom the information relates agrees to the disclosure or giving of access and the person is an adult when the agreement is given.

Section 530 of the *Mental Health Act 2000* allows the Director of Mental Health, any other officer, employee or agent of the Department of Health or a designated person under the *Health Services Act*, to disclose to a person information that is normally subject to confidentiality if Part 7 of the



Health Services Act 1991 is satisfied or Section 147 of the *Private Health Facilities Act 1999* applies. For example Section 530 allows for the disclosure of:

1. Information that identifies a person who is receiving or has received a public sector health service.

This type of information may be disclosed if:

- a. expressly authorised or permitted under any Act or required by operation of law;
 - b. the prior consent of the person [or if they have died that of their senior available next of kin] has been given;
 - c. the information concerns the condition of the person; and is communicated in general terms by a health professional, under recognised standards of the relevant health profession, to a person who has sufficient personal interest;
 - d. the chief executive reasonably believes the disclosure is necessary to assist in averting a serious risk to the life, health or safety of a person or to public safety;
 - e. a designated person provides the information to the Health Quality and Complaints Commission for the purpose of making a complaint about a provider of health services, answering questions as part of an investigation or giving aggregated data, including data that identifies the quality of health services
 - f. the information is given to the Australian Red Cross Society for the purpose of tracing blood or the donor or recipient of blood;
 - g. a designated person provides the information to a person who requires the information to perform a function under the *Coroners Act 2003*.
2. Information about confidential affairs and concerns of the Tribunal and its business matters including personnel files, financial transactions and business records.

This type of information can be disclosed:

- a. if that is required in the performance of an employees duties;
- b. to another staff member or the Court for the purpose of complying with a subpoena or other court ordered access, managing legal action or a compulsory request for information under any other Act (eg. FOI Act);
- c. if directed or authorised by the Director-General/President.

Sections 524 – 527 prohibit or limit publication of reports and decisions pertaining to the Mental Health Review Tribunal, the Mental Health Court and the Court of Appeal. Section 526 prohibits publication of information that identifies, or is likely to identify, persons who are a party to any proceeding under the *Mental Health Act 2000*. The disclosure of information contained in a notice given under a Forensic Patient Information Order is also prohibited.

A party to a proceeding must be provided with an opportunity to inspect documents the Tribunal proposes to have regard to in making a decision (Section 459(4)).

The natural justice requirement of section 459(4) can be displaced where the Tribunal makes a confidentiality order (section 458). In making an order the Tribunal may prohibit or restrict information provided to patients who are the subject of a proceeding. In particular, disclosure of information provided to the tribunal, matters contained in documents received by the Tribunal and the Tribunal's reasons for its decision in a proceeding, including reasons for taking or not taking a victim or concerned person's submission into account.



Various provisions of the Act require the Tribunal to give notices to certain persons, for example, the Director of Mental Health or the administrator of the patient's treating health service, the patient, allied person and, in some cases, the Attorney General. These notices generally contain personal information pertaining to patients. Examples of the notices/documents given include:

- notice of hearing of application for patient to move out of Queensland (section 172) and notice of decision in respect of this issue (section 174)
- notice of hearing of application for review (section 189) and notice of decision in respect of this issue (section 192)
- notice of hearing of application for review of young patients detained in high security units (section 196) and notice of decision in respect of this issue (section 198)
- notice of hearing of application for review of forensic patients (section 202) and notice of decision in respect of this issue (section 205)
- notice of hearing of application for review of a person's fitness for trial (section 211) and notice of decision in respect of this issue (section 213)
- written report to the Attorney General where the patient is found to be unfit for trial on the fourth review of fitness for trial (section 212(3))
- notice of a Forensic Patient Information Order (section 318U) and written statement of reasons for refusing to grant the Order to the Director of Mental Health; the patient; the patient's allied person, guardian or personal attorney; the administrator of the patient's treating health service; the Attorney General and the chief executive for justice (section 318U(3)) and notice of decision (318U(5))
- notice of hearing of application for certain treatments (section 232) and notice of decision in respect of this issue (section 234).
- statement of reasons, where requested (sections 192,199,203,213,226,234)
- disclosure of information the subject of a confidentiality order to the lawyer or agent of the patient and written reasons to the lawyer or agent for the decision (section 458(3) & (4))
- reasons for decision about material submitted by victim or concerned person provided to the applicant in all cases and parties upon receipt of a written request (section 465)
- non contact order and statement of reasons in respect of the decision (s.228D, s.228E).

Data Quality (NPP 3)

Section 522 establishes an offence to state anything in any document, required or permitted to be made under the Act, that the person knows is false or misleading.

Access and Correction (NPP 6)

The *Freedom of Information Act 1992* is the principal legislative instrument for access to and correction of records relating the Tribunal's administrative function (employee and business records).

Schedule 2

Other legislation dealing with privacy issues

Collection (NPPs 1 and 10) & Anonymity (NPP 8)

Anti-Discrimination Act 1991
Crime and Misconduct Act 2001
Guardianship and Administration Act 2000
Judicial Review Act 1991
Ombudsman Act 2001
Powers of Attorney Act 1998
Whistleblowers Protection Act 1994

Use and Disclosure (NPP 2) & Transborder Data Flows (NPP 9)

Commissions of Inquiry Act 1950
Crime and Misconduct Act 2001
Guardianship and Administration Act 2000
Industrial Relations Act 1999
Ombudsman Act 2001
Public Sector Ethics Act 1994
Public Service Act 2008
Powers of Attorney Act 1998
Whistleblowers Protection Act 1994
Workplace Health and Safety Act 1995
Workplace Relations Act 1996 (Cth)

Data Quality (NPP 3)

Industrial Relations Act 1999

Data Security (NPP 4)

Libraries Act 1988

Openness (NPP 5)

Freedom of Information Act 1992

Access and Correction (NPP 6)

Freedom of Information Act 1992
Public Service Regulation 2008

Commonwealth Identifiers (NPP 7)

Privacy Act 1988 (Cth) – with respect to Tax File Numbers only



Schedule 3 Policies on the Management of Personal Information

Queensland Government Policies

The Queensland Government Chief Information Office is responsible for Queensland Government Information Standards. The purpose of these standards is to assist Government agencies by defining and promoting best practice in the acquisition, development, management, support and use of the information systems and technology infrastructure. The standards are issued pursuant to the *Financial Management Standard 1997*.

Many of the Information Standards deal with aspects of a number of National Privacy Principles as opposed to focusing on one NPP. In conjunction with the Information Standards, the State Archivist may make policy, standards and guidelines about the making, keeping, preserving, managing and disposing of public records (*Public Records Act 2002* Section 25).

By virtue of the *Public Records Act 2002* the Mental Health Review Tribunal is a public authority. The Act requires that the Executive Officer of a public authority ensure that the authority complies with policies, standards or guidelines made by the archivist.

Collection (NPPs 1 and 10)

- Information Standard 40, *Recordkeeping* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Use and Disclosure (NPP 2) & Transborder Data Flows (NPP 9)

- Information Standard 26, *Internet*
- Information Standard 31, *Retention and Disposal of Government Information* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Data Quality (NPP 3)

- Information Standard 26, *Internet*
- Information Standard 31, *Retention and Disposal of Government Information* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)
- Information Standard 41, *Managing Technology Dependent Records* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Data Security (NPP 4)

- Information Standard 18, *Information Security*
- Information Standard 26, *Internet*



- Information Standard 31, *Retention and Disposal of Government Information* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)
- Information Standard 40, *Recordkeeping* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)
- Information Standard 41, *Managing Technology Dependent Records* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Openness (NPP 5)

- Information Standard 33, *Information Access and Pricing*
- Information Standard 40, *Recordkeeping* (The Information Standard has been endorsed by the Queensland State Archives and consequently is extended to all agencies which are deemed as public authorities under the *Public Records Act 2002*)

Mental Health Review Tribunal Policies

Collection (NPPs 1 and 10)

- Records Management Guideline v 1.1
- Records Management Operational Procedure v.1.1
- File Structure Operational Procedure v 4.00
- Patient Tracking System Changes Operational Procedure v 1.1
- Material for Hearings Operational Procedure v 1.00
- Compliments and Complaints Operational Procedure v 1.1
- Creating New Files Operational Procedure v 1.0
- Returned Kitbags Operational Procedure v 1.0
- FPIO Operational Procedure v 1.0

Use and Disclosure (NPP 2)

- Records Management Guideline v 1.1
- Records Management Operational Procedure v.1.1
- Document Control Operational Procedure v.1.1
- Record Retention Disposal Schedule (QDAN 603)
- Sentencing Patient Records Operational Procedure v 1.1
- Sentencing Administrative Records Operational Procedure v 1.00
- Interim Record Sentencing (For Patient Records not on Patient Tracking System) Operational Procedure v 1.00
- Compliments and Complaints Operation Procedure v 1.1
- PTS Changes Operational Procedure v 1.0
- Attorney General Request for Material Operational Procedure v 1.0
- Development & Update of Forensic Dossier Operational Procedure v 2.0
- Distribution of Decisions Operational Procedure v 1.0
- Hearing Notices Operational Procedure v 1.1
- ITO Revoked Prior to Hearing PTS Update Operational Procedure v 1.0



Data Quality (NPP 3)

- Records Management Operational Procedure v.1.1
- Saving Electronic Records Operational Procedure v.1.1
- Management of Deceased Patient Files Operational Procedure v 2.00
- Patient Tracking System Changes Operational Procedure v 1.1
- PTS Changes Operational Procedure v 1.0
- PTS Information Accuracy and File Structure Audit Operational Procedure v 1.1

Data Security (NPP 4)

- Records Management Operational Procedure v.1.1
- Document Control Operational Procedure v.1.1
- Saving Electronic Records Operational Procedure v.1.1
- Management of Deceased Patient Files Operational Procedure v 2.0
- Record Retention Disposal Schedule (QDAN 603)
- Sentencing Patient Records Operational Procedure v 1.1
- Sentencing Administrative Records Operational Procedure v 1.00
- Hearing Kit Distribution Operational Procedure v 1.00
- Returned Kitbags Operational Procedure v 1.0
- FPIO Operational Procedure v 1.0

Openness (NPP 5)

Privacy Plan v 5

SCHEDULE 4

Personal Information held by the Mental Health Review Tribunal

Employee Personal Information

The purpose of collating employee records is to maintain recruitment, employment history and payroll information relating to all permanent, contract and temporary staff members and employees of the Mental Health Review Tribunal, including part time Tribunal members.

Records

The types of employee records held by the Tribunal may include:

- personnel records,
- delegations,
- recruitment and selection,
- leave approved,
- performance management,
- staff development/training,
- workplace health and safety,
- EEO, discrimination and grievances.

Contents

The contents of these records may include: name, address, date of birth, next of kin, position details, leave records, EEO data, salary details, outcomes of performance, probationary and increment reviews, recruitment materials including position applications and resumes, outcomes from security clearances, employee confidentiality agreement.

Disclosure

Employee records may be accessed by the Mental Health Review Tribunal President, Executive Officer and Business Manager, supervisors, members of selection panels and the individual to whom the record relates.

Information contained in employee records may also be disclosed, by law, to:

- Australian Taxation Office
- Government Agencies
- Qsuper
- Third parties such as financial institutions (name and account numbers, verification of employment etc.)
- Legal representatives
- Courts

Security

These records are stored in paper and electronic forms at the Office of the Mental Health Review Tribunal. Access to these files is limited by a security “access levels” system. For the main part access is restricted to the Tribunal staff outlined above.



Employee records are currently kept for variable periods according to the Whole of Government (WOG) General Retention and Disposal Schedule for Administrative Records issued by Queensland State Archives.

The Mental Health Review Tribunal and the State Archivist developed a Disposal and Retention policy/schedule for the Tribunal in June 2003 to implement Information Standards 40 & 41 on the management of patient records.

Patient Personal Information

Patient records are utilised by the Mental Health Review Tribunal in the discharge of the Tribunal's functions under the *Mental Health Act 2000*. Patient records are necessary for the Tribunal to conduct reviews of a patient's order and to hear applications for review as provided for under the *Mental Health Act 2000*. Section 486 *Mental Health Act 2000* requires that a register of applications for reviews, treatment applications, reviews heard by the Tribunal, decisions on review and reasons for them.

Content

The content of Mental Health Review Tribunal patient files may include: name, address, date of birth, contact persons (next of kin, guardian, lawyer, agent, attorney), names of treating medical practitioners, hospital admission details, treatment plans and orders, clinical reports, psychiatric history, discharge notices, change of category notices, details of criminal charges, criminal history, brief of evidence relating to charges (including witness statements, records of interview), record of court proceedings, findings of judge or jury, finding of Mental Health Court (previously Mental Health Tribunal), decisions of the Mental Health Review Tribunal (previously the Patient Review Tribunal), information pertaining to or forwarded by victims/victims families, friends or relatives of a patient and other third parties.

Disclosure

These files are accessed by; Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Principal Hearings Coordinator, Senior Hearings Coordinators, Hearings Coordinator, Legal Officer, support staff, Tribunal members and the patient to whom the file relates.

Limited personal information is provided to hospital administrators, medical practitioners, the Attorney General, the Director of Mental Health and the patient's lawyer (if applicable), allied person and guardian.

The disclosure of information contained in the patient records is in accordance with the legislative provisions outlined in the Mental Health Review Tribunal Privacy Plan **Schedule 1** and Tribunal protocols.



Security

These records are stored on paper and in electronic form at the Mental Health Review Tribunal Office that comply with Queensland State Archives standards for environmental storage conditions.

The Patient Tracking System (PTS) is the information system used by the Mental Health Review Tribunal. The PTS is capable of supporting various levels of access. The system controls which functions each user can access. For example, a certain user may not have access to modify or delete functions. Only employees of the MHRT's office have access to the system.

The PTS has a login security feature to prevent unauthorised users from entering the system. When a user attempts to enter PTS they must first they must first enter their User ID and Password in the login screen.

Patient records are kept for variable periods according to the Tribunal's Disposal and Retention policy/schedule and WOG General Retention and Disposal Schedule for Administrative Records for staff issued by Queensland State Archives.

Electronic records on PTS and computers are copied onto a back up file/tape every week day and stored off site. Back up tapes/files saved on Mondays are kept for a year.

Business Management Information

Business records are maintained by the Mental Health Review Tribunal for the purposes of processing and monitoring expenditure and revenue and managing the Tribunal's budget.

Records

The types of business records maintained by the Tribunal may include: contract and agreements, quotes, applications for tender, invoices and receipts.

Content

The content of business records may include: vendor/supplier, name, address, service or goods category, contract details, financial institution details and transaction history including debts.

Disclosure

These records are accessed by: Mental Health Review Tribunal President, Business Manager, Executive Officer and administration staff.

Security

Business records are maintained according to the General Retention and Disposal Schedule for Administrative Records issued by Queensland State Archives. These records are stored at the Office of the Mental Health Review Tribunal in both paper and electronic forms.



Electronic records are copied onto a back up file/tape every week day and stored off site. Back up tapes/files saved on Mondays are kept for a year.

Personal Information of other parties

The Mental Health Review Tribunal maintains personal information in relation to various parties for the purposes of carrying out the business of the Tribunal.

Content

Information held may include personal information pertaining to:

- contact persons and practitioners at the Mental Health Services/hospitals,
- members of consumer groups,
- victims of crime and their families,
- employees of other government departments and agencies,
- persons making enquires.

The personal information held in regards to the above parties is, in most cases limited. The information held may include: name, contact details, position title, employer, nature of the inquiry, offenders name, details of offences, victims response to offences.

Disclosure

Personal information relating to other parties may be accessed by; Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Business Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff, Tribunal members.

Security

Such information is stored in paper and electronic form at the Mental Health Review Tribunal Office.

Electronic records are copied onto a back up file/tape every week day and stored off site. Back up tapes/files saved on Mondays are kept for a year.

These records are kept for variable periods according to the Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

Tribunal Documentation

The Mental Health Review Tribunal collates numerous documents in the completion of its functions under the *Mental Health Act 2000*.



Records

Documents prepared or received, and subsequently collated on file, by the Tribunal include:

- Applications for reviews, treatment applications, for approval to move out of Queensland, Forensic Patient Information Order
- Notices of hearing
- Attendance notices
- Psychiatric reports
- Patient information reports
- Report to the Attorney General
- Decisions of the Tribunal
- Non contact, confidentiality and examination orders
- Record of proceedings
- Statement of reasons

The above documentation is completed in accordance with statutory requirements and for the purposes of determining the matters to be heard by the Tribunal and the coordination of Tribunal hearings. The above documentation forms part of the register of all matters heard by the Tribunal required under the *Mental Health Act 2000*.

Contents

The documentation may include: the names of Tribunal members, treating practitioners, patients, applicant and parties to proceeding legal representatives and other persons such as allied persons, patient address, allied persons address, treatment details, hospital admission details, psychiatric history, medication details, criminal history and details of alleged offences, grounds on which an application is made or a review sought, summary of evidence given by the parties at the hearing, order of the Tribunal.

Disclosure

Tribunal documentation may be accessed by; Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff, Tribunal members, the Mental Health Court (where there is an appeal against a decision of the Tribunal) and the patient to whom the file relates.

The disclosure of information contained in Tribunal documents is in accordance with the legislative provisions outlined in the Mental Health Review Tribunal Privacy Plan **Schedule 1**.

Security

Tribunal documents are filed on the patient file and therefore are stored in paper and electronic form in the Mental Health Review Tribunal Office in secure on site storage facilities that comply with Queensland State Archives standards for environmental storage conditions.

Tribunal documents are kept for variable periods according to the:



- Queensland Health Disposal and Retention Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives
- Tribunal's Retention and Disposal Policy/Schedule

Corporate Business Information

An array of documents are drafted in the day to day operation of the Mental Health Review Tribunal.

Records

The types of documents produced include: general correspondence, minutes of meetings, Tribunal policies, protocols and procedures, ministerials, responses to requests for information and complaints.

Contents

Corporate Business records may contain: the names of Tribunal members, staff names, treating practitioners, patients, applicant and parties to proceeding, legal representatives and other persons such as allied persons, decisions and orders of the Tribunal, treatment details, hospital admission details, psychiatric history, medication details, criminal history and details of alleged offences, vendor/supplier name, address, service or goods category, contract details, transaction history including debts, third party name, contact details, position title, employer, nature of the inquiry, offenders name, details of offences, victims response to offences.

Disclosure

Tribunal documentation may be accessed by: Mental Health Review Tribunal President, Executive Officer, Client Services Manager, Business Manager, Senior Hearings Coordinator, Hearings Coordinator, Legal Officer, support staff and Tribunal members.

Security

Corporate documentation is stored in paper and electronic form in the Mental Health Review Tribunal Office.

Corporate documents are kept for variable periods according to the WOG General Retention and Disposal Schedule for Administration Records/ Standard Retention and Disposal schedule for staff and establishments records issued by Queensland State Archives.

