



# Practice Direction Number 1 of 2020

## IMPACT OF COVID-19

1. The purpose of this practice direction is to provide clarity on the conduct of Mental Health Review Tribunal (**Tribunal**) hearings during the period of time the Tribunal is impacted by the spread of COVID-19.
2. For the purposes of this practice direction, 'legal representatives' is intended to include the representatives of the Attorney-General, legal representatives representing the Office of the Chief Psychiatrist, legal representatives for other parties attending a Tribunal hearing (such as the Director of Forensic Disability or Office of the Public Advocate) and legal representatives for the patient (whether appointed by the Tribunal or otherwise).

### Attendance at hearings – Tribunal members

3. From Thursday 19 March 2020 until further notice, Tribunal members will not attend hearing venues in person. Instead, Tribunal members will conduct hearings via the use of the Collaboration Meeting Rooms (CMR) platform or via the use of other remote conferencing means. Members are most likely to each attend from a separate location.

### Attendance by legal representatives

4. Practice Direction 1 of 2019 is suspended until further notice.
5. The Tribunal accepts the attendance of all legal representatives via remote conferencing facilities without prior consent. The Tribunal will provide appropriate contact details for the use of remote conferencing by legal representatives.
6. The Tribunal expects that legal representatives will use audio **and** video facilities. If video is not possible due to technological difficulties, audio only will be accepted.
7. If a legal representative is not able to use the remote conferencing, it is expected that they will inform the relevant Hearings Coordinator as soon as possible so alternate arrangements can be made.
8. Legal representatives are not to provide Tribunal remote conferencing dial-in details to any other person, including the person the subject of the hearing.



#### Attendance by treating team members

9. Treating team members are requested to continue to attend hearings making use of the dial-in details provided. Attendance can be at the nominated hearing venue or another location.
10. If a clinician is not in a position to attend a hearing or produce a clinical report due to reasons related to COVID-19, they are to contact the Administrator Delegate for their health service as soon as possible so that this information can be provided to the Tribunal.

#### Attendance by patients

11. Where it is safe to do so, the Tribunal continues to encourage the attendance of patients at their hearings. Options for this include to attend via remote conferencing facilities at a hearing venue or another location with a member of their treating team or with their legal representative.
12. Where a patient cannot be in the same location as their treating team or legal representative, a clinician or legal representative may dial the patient on a separate telephone and utilise loud speaker to allow the patient to continue to participate in their hearing.
13. Treating teams and/or legal representatives should enquire prior to the hearing whether a patient wishes to attend their hearing. If not, they should enquire as to whether the patient is agreeable for the hearing to continue in their absence. If so, this should be communicated to the Tribunal members at the commencement of the hearing.
14. Where a patient does not wish to attend their hearing, the Tribunal encourages the completion of a self-report to allow the Tribunal to still receive the patient's views, wishes and preferences.

#### Written submissions

15. The Tribunal acknowledges that due to challenges with technology, some hearings by remote conferencing may take longer than usual. In an attempt to reduce hearing times, legal representatives may wish to consider the use of written submissions to the Tribunal. Written submissions should be given to each other party to the proceeding at least 3 days before the hearing in accordance with section 738 of the *Mental Health Act 2016*.
16. Acceptance of submissions outside that timeframe will be at the discretion of the Tribunal.

*Annette McMullan*

Ms Annette McMullan  
President  
27 March 2020