



Policy - Electronic Audio Recording of Hearings Trial

1.0 Background

1. The Mental Health Review Tribunal (**Tribunal**) intends to make Audio Recordings of all hearings. Before the Tribunal implements a policy and procedure that applies to all Tribunal hearings, a Trial Period will occur. During this Trial Period hearings will be recorded with the permission of all parties to hearings however, written member notes and records of proceedings will still be the records created for the purposes of the *Recording of Evidence Act (RoE Act)*. The objectives of the Trial Period will be to ensure that all systems in place work effectively and efficiently use the resources available. Transcriptions or transcription services will not form a part of this Trial Period.

2.0 Scope

1. This policy will apply to all Tribunal hearings to which permission has been given to record during the Trial Period.
2. This policy will apply to recordings created during the Trial Period until this policy has been superseded or repealed.

3.0 Legislation

Mental Health Act 2016 (Qld) (MH Act)
Information Privacy Act 2009 (Qld)
Right to Information Act 2009 (Qld)
Human Rights Act 2019 (Qld)
Public Records Act 2002 (Qld)
Recording of Evidence Act 1962 (Qld)

4.0 Associated Documents

1. Electronic Audio Recording of Hearings – Procedure

5.0 Principles

This Trial Policy is based on the following principles:

- The Tribunal is committed to conducting hearings in a fair and transparent manner and creating records of hearings to uphold those values.
- The Tribunal intends to begin electronic audio recording of hearings with the permission of the persons in attendance at hearings. The Tribunal recognises its obligations under the RoE Act to create a record of all relevant matter in a proceeding and this will be maintained with the completion of handwritten or typed member notes and record of proceedings.



- The Audio Recordings will be stored in accordance with the Tribunal's retention and disposal schedule under the *Public Records Act*.

The Trial

1. The purpose of the Trial Period is to give the Tribunal an opportunity to test the functionality and procedural requirements of creating Audio Recordings. The recordings themselves will be stored and maintained according to the relevant data retention and disposal schedule.

The Audio Recordings themselves

2. Audio Recordings will only be created with the consent of the persons in attendance at the hearing.
3. The Tribunal may make use of these recordings to improve the recordings capability of the Tribunal, to assess quality of recordings, to remove material recorded in error or any other matter the Tribunal considers appropriate related to a function under the MH Act including providing Audio Recordings to members for the purposes of preparing statements of reasons.
4. Creating Audio Recordings will be managed by the Tribunal panel hearing a matter according to the Electronic Audio Recordings of Hearings Procedure document. Audio Recording files created will be returned to the Tribunal office in line with Tribunal procedures.
5. The recordings will be stored within Resolve, the Tribunal's case management system, in line with relevant Tribunal procedures.
6. The Audio Recordings are proposed to replicate the relevant matter currently recorded by Tribunal panels through the use of handwritten or typed notes. Deliberations are not intended to be captured by Audio Recordings. The Tribunal may, where necessary, edit recordings in the event that content unintended to be recorded is captured such as deliberations or content from before or after a hearing.

Records arising out of hearings

7. For hearings during the Trial Period, the handwritten or typed member notes will record all relevant matter at a hearing for the purposes of the RoE Act. This relevant matter will include any evidence before the Tribunal as well as any decision, direction or summing up in the hearing.
8. Where permission has been provided to create Audio Recordings for the purposes of the recordings Trial Period, the Tribunal panel will also create a handwritten or typed record proceedings. Where permission is not given and no Audio Recording is made, the Tribunal will use only handwritten or typed records of proceedings for that hearing.
9. The Audio Recording will be considered a record for the purposes of the *Public Records Act* and will be stored using the Tribunal's QDAN under the relevant retention and disposal schedule.



10. The records of proceedings will capture specific details of the hearing in the same manner as currently done at the Tribunal such as attendees, documents before the Tribunal and timings of hearings.

Transcripts

11. For the duration of the Trial Period, transcripts of hearings will not be provided by the Tribunal. Statements of Reasons will continue to be available for parties entitled to request them.

6.0 Definitions

Audio Recording: electronic audio recording of hearings.

Trial Period: period of time during which the Recording Trial is active. From September 7 2020 to September 20 2020.

7.0 Custodian of Procedure

Executive Officer, Mental Health Review Tribunal

8.0 Review Date

Date of Procedure: August 24 2020

Review Date: September 21 2020