Queensland Government

Preparing for an MHRT Hearing
Clinical Reports

What is a clinical report?

A clinical report is a standardised report format developed by the Mental Health Review Tribunal (**MHRT**) that the treating practitioner must complete for each patient reviewed by the Tribunal.

There are different report templates for each review type:

- treatment authority
- forensic order
- treatment support order
- person's fitness for trial
- the detention of a minor in a high security unit.

Clinicians will find the templates in CIMHA and a copy is available on the MHRT's website.

TIP: Make sure you choose the correct report template.

TIP: If a person has multiple review types to be heard on the one day (e.g. a fitness for trial review and a forensic order review), two clinical reports should be completed.

TIP: Make sure you are using the most up to date template. Simply adding to an existing report may mean the document you are using is out of date.

Who is responsible for the clinical report?

While other members of the treating team can add to the clinical report, the report should be signed by the treating practitioner and, ultimately, the treating practitioner is responsible for completion of the clinical report.

Who is the treating practitioner?

- The psychiatrist treating the person.
- For Forensic Disability Service – a senior practitioner under the Forensic Disability Act 2011 responsible for performing the relevant obligations for the person under that Act.

When do I need to prepare a clinical report?

The Act requires the treating practitioner to give a copy of the clinical report to the MHRT and the person the subject of the review **at least 7 days before the hearing**.

There is a specific way to calculate 'at least 7 days' in Queensland legislation.

To assist in determining when the material needs to be provided by before the hearing date, follow these steps:

1. excluding the hearing date, count 8 days backwards
2. include Saturday, Sunday and public holidays
3. if the eighth day falls on a business day, the material needs to be provided to the Tribunal on that day at the latest
4. however, if the eighth day falls on a Saturday, Sunday and/or a public holiday, keep working backwards until you reach a business day. That business day is when the material should be provided to the Tribunal at the latest.

> **TIP**: The MHRT will want to know when the person received the clinical report so ensure you make a note of how and when the report was given to the person.

What if the clinical report is late?

If the clinical report is not provided to the MHRT or the person within the required timeframe, it will be up to the MHRT panel to decide how to proceed. The MHRT will decide whether to continue with the hearing or whether to adjourn it to a later date. It will take into account all the relevant circumstances, in order to ensure the proceeding is conducted fairly and efficiently.

For more information on provision of material prior to hearings, see the MHRT's Practice Direction number 1 of 2017 available at the MHRT's website – www.mhrt.qld.gov.au.

Completing the clinical report

Each clinical report template is slightly different to take account of the different factors the MHRT considers at each different review type. All sections of the clinical report should be completed with up to date and relevant information.

> **TIP**: Before completing the clinical report, check the criteria the MHRT will consider at the review and be sure to address each point in your report.

Clinical reports should contain sufficient detail and information to allow the MHRT to make an informed decision. Relevant information should not be left solely to be discussed at the hearing as the person should have the opportunity to consider the information and prepare their response ahead of time.

Completing the clinical report requires a balance between providing all relevant information and not having a report that is so long and detailed that key information is lost/missed. Where appropriate, information can be summarised or synthesised – but make sure the message is not lost.

When preparing a clinical report, consider what content from the previous report remains relevant and should be retained, what information can be removed as it is no longer relevant and what information should be retained but summarised or updated.

The below information relates to specific topics to be canvassed in clinical reports.

Revoking a forensic order and making a treatment support order

There is no set formula or checklist that a treating team can look to satisfy when recommending that a person's forensic order be revoked and a treatment support order made.

The MHRT is required to decide whether a treatment support order, rather than a forensic order, is necessary because of the person's mental condition, to protect the safety of the community, including from the risk of serious harm to other persons or property.

In reaching that decision, the MHRT will consider a range of factors, including those outlined in the Mental Health Court case *In the matter of MGL* [2017] QMHC 7 which is available at the Mental Health Court website: www.sclqld.org.au/caselaw/QMHC. Treating teams can find additional guidance in the Chief Psychiatrist Information Sheet titled 'Tips for making application to Mental Health Review Tribunal for step down'.

> **TIP**: For further guidance, have a look at the statements of reasons published by the MHRT on its website.

Mental Health Court Recommendations

The Act provides that the Mental Health Court may, in a forensic order, make recommendations it considers appropriate about particular intervention programs that a treating team should provide for the person. Examples of intervention programs include drug and alcohol programs, anger management counselling programs and sexual offender programs.

> **TIP**: Recommendations by the Mental Health Court appear in the Court's transcript, its written reasons or its decision. The MHRT understands these documents are provided to the relevant AMHS and a copy appears in the Forensic Dossier.

When making its decision, the MHRT must have regard to any recommendations the Mental Health Court made about intervention programs for the person and the person's willingness to participate in the recommended program if offered.

Therefore, the MHRT may ask the treating team questions about any action taken in respect of the recommendations, including what programs have been offered and if not, why not. The MHRT recommends that treating teams refer to any recommendations about intervention programs made by the Mental Health Court in the clinical report. If a treating team is unable to access suitable programs or interventions recommended by the Mental Health Court, this should be referenced, with reasons.

Personal guardian - section 420

At the third periodic review of a person's treatment authority (i.e. the second six-monthly review) if the person does not have a personal guardian the AMHS administrator must give the MHRT a report

about whether the appointment of a guardian for the person may result in there being a less restrictive way for the person to receive treatment and care for the person's mental illness.

For these purposes, the term 'personal guardian' means a guardian for a health matter appointed by the Queensland Civil and Administrative Tribunal (known as **QCAT**).

> **TIP**: When completing the part of the clinical report about appointment of a personal guardian, do not simply write "yes" or "no", include details of what has been considered, your conclusion and give some reasons.

In considering whether appointment of a personal guardian may result in a less restrictive way, consideration may be given to:

- the types of healthcare decisions that would need to be made for the person
- having regard to the person's mental health treatment and care needs, whether appropriate and safe clinical care can be provided through the consent of a guardian
- whether the treating team is aware of a person who may be able to be appointed as a personal guardian or whether it would need to be the Public Guardian
- whether the possible guardian would be prepared to make the required decisions
- whether any information is known about the views of a possible guardian and whether those views are in the best interests of the patient and in accordance with best medical practice.

In completing the clinical report component relevant to the appointment of a personal guardian, the clinician should record:

- whether the person has a personal guardian appointed by QCAT
- if the appointment of a personal guardian is possible but would not result in a less restrictive way for the patient to receive treatment and care - the reasons it would not result in a less restrictive way
- if the appointment of a personal guardian is possible and would result in a less restrictive way for the patient to receive treatment and care - the reasons and actions being taken to progress an appointment.

Cultural section

The Tribunal finds it useful when the 'Cultural Information' section of the clinical report has been completed. We have had feedback that it is also very meaningful for patients.

> **TIP**: See the MHRT's Information Sheet – Cultural information section of clinical reports.

Attachments

The MHRT does not have access to the person's medical file or CIMHA records. At a hearing, the panel members does not have access to the MHRT's whole file for the person. Therefore, if a treating team seeks to rely on a document at the hearing that is not the clinical report or in the Forensic Dossier, a member of the treating team should contact the Hearings Coordinator before the hearing.

> **TIP**: Any documents referred to in the clinical report should be attached to the clinical report rather than included as a link.

Where minutes of the Assessment and Risk Management Committee (**ARMC**) or a Community Forensic Outreach Service (**CFOS**) report are available for a person, the MHRT's preference is for a copy to be provided to the MHRT.

This is because ARMC minutes and CFOS reports may represent clinical evidence relevant to risk – a factor considered by the MHRT. If ARMC minutes or a CFOS report exist and the MHRT considers them relevant, the panel may adjourn the matter to require production of the minutes or report.

What do I do with a clinical report once it has been prepared?

As noted above, the treating practitioner is responsible for the contents of the clinical report and will need to sign the clinical report once it has been completed.

The clinical report will need to be delivered to both the MRHT and the person at least 7 days prior to the hearing.

It may be appropriate for a member of the treating team to not only deliver the clinical report to the person but also take time to review the content of the report with the person and discuss any queries or concerns they may have. As noted above, remember to make a note of when the clinical report was provided to the person.

Do I need to attend a hearing if I have prepared a comprehensive clinical report?

Despite a comprehensive clinical report, the treating team will still need to attend the MHRT hearing to be available to answer any questions the MHRT members may have. The MHRT may have specific questions or may wish to clarify that the information in the clinical report remains current.

The MHRT wants to hear from the person best placed to provide the information required to make a decision at the hearing. Ideally, the treating psychiatrist who is responsible for the person would attend the hearing to be available to give evidence. However, the MHRT recognises that this is not always possible. If the treating psychiatrist cannot attend the hearing in person, please provide a contact telephone number so that the panel can reach them during the hearing for a short time if necessary.

In the Mental Health Court case *Attorney-General for the State of Queensland v THL*, the Judge stated that ultimately it is for the MHRT to determine what evidence is required and will depend on the circumstances being considered. The example was given that it would generally be essential for the treating psychiatrist to attend and be heard if the Tribunal was being asked to approve different LCT or conditions. Therefore, for decisions involving an increased level of risk, the MHRT will likely want to hear from the treating psychiatrist.

When considering which member(s) of the treating team they want to hear from, the MHRT will consider the seniority of the practitioner and how long the clinician has known the person and the rapport they have.

During a hearing, why does the Tribunal ask about matters already addressed in the clinical report?

The Tribunal has some obligations about how it conducts its proceedings:

- must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the matter before it
- may inform itself on a matter in a way it considers appropriate
- must ensure, to the extent practicable, all relevant material is disclosed to it to enable it to decide the proceeding with all relevant facts.

If the MHRT determines that it wishes to hear from the treating team about a particular matter, even if it is covered in the clinical report, that may be because:

- they wish to clarify that the information remains current as at the date and time of the hearing
- to ask if the view is consistently shared by all members of the treating team, and if not, why not
- to allow the person the opportunity to hear the information from the treating team, perhaps if they were unwilling to read the clinical report
- to clarify aspects of the information in the clinical report, to ensure a complete understanding.

TIP: Asking questions of the treating team does not mean the MHRT members doubt the treating team's evidence.

When do I need to update the clinical report?

The clinical report made available to the person and the Tribunal for a hearing should contain the most current and up to date information available.

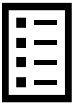
The reason that persons are provided with the clinical report ahead of the hearing is to allow them sufficient time to consider the information that the treating team will present and prepare their response. For that reason, the amount of new information orally put before the MHRT during a hearing should be limited.

TIP: It is anticipated that a clinical report for a person should be reviewed and updated ahead of each hearing for a person.

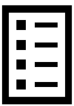
If a hearing is adjourned and rescheduled within 28 days, the clinical report should be reviewed and:

- if the report is still current and contains all required information, there is no need for a current report – the treating team should provide a copy of the existing report to the Hearings Coordinator to ensure that the correct clinical report is provided to members.
- if circumstances have changed in some way, a new/updated clinical report should be prepared and delivered in accordance with the Act.

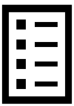
TIPS FOR COMPLETING A CLINICAL REPORT



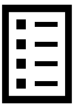
Template – Make sure you are using the correct clinical report template.



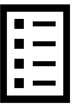
Update – If you are using the prior report, ensure you edit to make it current (e.g. make it clear what information is current and what is from a previous review period).



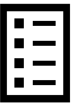
Complete – Ensure that all relevant tick boxes have been marked and all sections of the report have been completed.



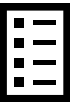
Recommendation – Make sure you have included your recommendation by completing the summary on page 1 and your reasons at the end of the report.



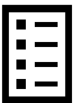
Copy / paste – Take care if copying from other documents; check your formatting and that all the required text has appeared in the clinical report.



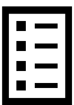
Clinical information – Provide clinical information using terminology and explanations that the person and the MHRT will understand.



Previous content – Before removing information from the clinical report, consider whether it is still relevant to the MHRT's decision making. If so, consider how best to present the information.



Detail – Review your report and consider the level of detail provided. Can some sections be presented in a clearer way? Should information be summarised?



Attachments – Provide copies of other documents referenced in the clinical report, not links. The MHRT cannot access CIMHA.