



Preparing for an MHRT hearing

Cultural information section of a clinical report

BACKGROUND – CLINICAL REPORTS

The *Mental Health Act 2016* requires that the treating practitioner complete a clinical report for each patient reviewed by the MHRT. That clinical report must be prepared using the template provided by the MHRT.

Cultural information in the clinical report

Each clinical report template contains a cultural information section. It provides space for the following information to be included:

- Cultural background
- Communication / language barriers:
- Cultural support required
- General information relevant to the person's cultural background and identity relevant to their care, treatment and the MHRT's decision making.

The cultural information section of the clinical report is an opportunity for the MHRT to consider cultural factors when conducting a review.

What type of information can be included in the cultural information section?

The information included in the clinical report will depend on the person's individual circumstances and how much the person has shared with the treating team about their cultural identity.

Relevant information may include:

- the person's nationality, ethnicity and cultural background
- whether the person recognises their cultural background as part of their identity
- whether the person participates in social networks and community activities associated with their cultural background and if so, how these contribute to the person's rehabilitation and recovery
- the person's cultural supports, including family connections and kinship ties
- aspects of the person's culture that may impact on their health and wellbeing
- aspects of the person's cultural identity that are important to them
- aspects of the person's cultural beliefs that may impact the way the person views their illness, symptoms and treatment
- whether the person accessed cultural support either internal or external to the treating team
- any matters that may assist the MHRT to conduct a culturally safe hearing.



How does the MHRT consider cultural information?

The principles set out in the *Mental Health Act 2016* include principles relating to Aboriginal and Torres Strait Islander people and persons from culturally and linguistically diverse backgrounds.

In addition, according to the *Human Rights Act 2019*, when making decisions, the MHRT must:

- make decisions that are compatible with human rights; and
- give proper consideration to human rights.

Human rights that may be relevant to a decision may include:

Section 27: Cultural rights – generally

All persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy their culture, to declare and practice their religion and use their language.

Section 28: Cultural rights – Aboriginal peoples and Torres Strait Islander peoples

1. Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights.
2. Aboriginal peoples and Torres Strait Islander peoples must not be denied the right, with other members of their community:
 - a. to enjoy, maintain, control, protect and develop their identity and cultural heritage, including their traditional knowledge, distinctive spiritual practices, observances, beliefs and teachings
 - b. to enjoy, maintain, control, protect, develop and use their language, including traditional cultural expressions
 - c. to enjoy, maintain, control, protect and develop their kinship ties
 - d. to maintain and strengthen their distinctive spiritual, material and economic relationship with the land, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition or Island custom
 - e. to conserve and protect the environment and productive capacity of their land, territories, waters, coastal seas and other resources.
3. Aboriginal peoples and Torres Strait Islander peoples have the right not to be subjected to forced assimilation or destruction of their culture.

When making decisions, the MHRT may consider:

- Does the person's authority/order/conditions impact on the ability of the person to practice their cultural beliefs, traditions and customs?
- Does the person's authority/order/conditions keep them separated from members of their cultural group?
- Does the person's authority/order/conditions keep them separated from an area of Australia with which they hold a connection?
- Has input been sought from a clinician, health practitioner or support worker who shares or understands the person's cultural beliefs, traditions and customs?
- Is there a compromise that can be reached in terms of allowing the management of risk with the rights of the person to practice their cultural beliefs, traditions and customs?
- Is it possible to permit limited community treatment for the purposes of:
 - taking part in cultural practices or accessing places of spiritual significance?
 - attend funerals or other sorry business?
 - facilitating visits with family?