

Practice Direction



Mental Health
Review Tribunal

General No.3

Constitution of Hearing Panels where no Psychiatrist Member is Available

The purpose of this Practice Direction is to avoid cancellation of hearings where there is no psychiatrist member available.

1. Introduction

- 1.1. This Practice Direction has been issued in recognition of the challenges faced by the Mental Health Review Tribunal (MHRT) given the shortage of Psychiatrists in the NSW Public Health System. This shortage has impacted all of NSW Health and the MHRT has also experienced significant impact. Despite continuing intensive efforts to recruit psychiatrist members, the MHRT continues to face difficulties in constituting three member panels for hearings due to no psychiatrist being available.
- 1.2. The MHRT is committed to constituting three member panels with a psychiatrist. However, if all attempts to do so have been unsuccessful, this Practice Direction will apply to avoid cancellation of Tribunal hearings.
- 1.3. This Practice Direction intends to ensure that the MHRT can provide all detained persons with review hearings. Such hearings are a statutory obligation – upon health facilities to present patients at the hearing, and for the MHRT to review them.

2. Where there is a scheduled hearing and there is no psychiatrist available or there is a cancellation by a psychiatrist who was rostered to a panel:

- 2.1. Registry staff are to contact psychiatrist members to see if another psychiatrist is available to complete the Panel.
- 2.2. If there continues to be no psychiatrist member available then the Registrar is to consult the Tribunal President or delegate.
- 2.3. The Tribunal President will constitute the Tribunal panel with a lawyer and two members who are Other Suitably Qualified Members.
- 2.4. If the Tribunal panel hearing the matter considers that there are medical complexities, or if for any other reason the three-member panel considers it is in the best interests of the patient to adjourn the hearing to a date where a psychiatrist member is available, the Tribunal may make such an adjournment order.
- 2.5. Applications for Electro-Convulsive Therapy are to be heard by a Tribunal constituted with a psychiatrist member wherever possible.

3. **Legislative background**

- 3.1. The *Mental Health Act 2007* and the *Mental Health Regulation 2025* provides that the Tribunal must be constituted one or more members nominated by the President. Three members are required for certain review/application categories, and the three members must include a lawyer or Deputy President.
- 3.2. In the Forensic Division the panel must be constituted by a Deputy President and a member who is a psychiatrist, psychologist or other suitable expert in relation to a mental condition, and another suitably qualified member.

Magistrate Carolyn Huntsman

President

Dated March 2025; amended November 2025

Version:	President:	Date:
1. Practice Direction: General No.3 Constitution of Hearing Panels where no Psychiatrist Member is Available	Magistrate Huntsman	March 2025
2. Reviewed and amended November 2025: commencement of Mental Health Regulation 2025	Magistrate Huntsman	November 2025
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