

Mental Health Review Tribunal

Policy No.1 - Complaints



Mental Health
Review Tribunal

Important Note: A complaint cannot be used to change a decision of the Tribunal or to change the Tribunal Member hearing a matter. See also “Scope of the Policy” and “What is not a complaint” at paragraphs 3 and 4 of this Policy.

A person who wants to have a decision changed should not make a complaint but should seek advice about any rights of appeal they may have in relation to the decision.

A person who wants a different Member to hear their matter may ask the Member to disqualify themselves. This can be done in person at the hearing or by writing to the Registrar and other parties before the next hearing. There must be a proper basis according to law for a member to disqualify themselves from hearing a matter, it cannot just be for choice or preference. For further information refer to the MHRT Fact Sheet: *Complaints about MHRT* on the [Feedback and Complaints](#) section of the MHRT website.

1. Purpose

- 1.1 This policy sets out the approach and procedures which will be applied by the Mental Health Review Tribunal of New South Wales (MHRT) in receiving and dealing with complaints concerning its Members, staff, contractors or any aspect of its functioning.
- 1.2 This policy should be read in conjunction with the fact sheet *Complaints about MHRT* which is published on the [Feedback and Complaints](#) section of the MHRT website, to assist anyone who is considering whether or not to make a complaint concerning MHRT.
- 1.3 This policy relates to complaints only (see also definition of “complaint” below).
- 1.4 For the purpose of this policy, a complaint is a record of a person’s dissatisfaction with the functioning of the Tribunal or with the conduct of MHRT staff, a Registrar or a Member, where the complainant seeks a response and remedial action other than changing the Tribunal’s decision or changing the Member hearing a matter.
- 1.5 A complaint will only be dealt with as a complaint under this Policy if it fits within the Scope of the Policy (see Paragraph 3).

NOTE – terms used in this Policy are defined below (See “Definitions”)

2. Definitions

- 2.1 Words used in the Policy are defined:
 - 2.1.1 “Complaint” is defined as:
 - 2.1.1.1 For the purpose of this policy, a complaint is a record of a person’s dissatisfaction with the functioning of the Tribunal or with the conduct of MHRT staff, or a Member, where the complainant seeks a response and remedial action other than changing the Tribunal’s decision or changing the

Member hearing a matter.

2.1.1.2 A complaint will only be dealt with as a complaint under this Policy if it fits within the Scope of the Policy (see Paragraph 3).

2.1.1.3 Feedback, whether positive or negative, is welcome and can be made by completing the feedback form available on the [Feedback and Complaints](#) section of the MHRT website. Comments and criticism where no response or action is sought will be treated as feedback. They will not be dealt with as complaints under this policy.

2.1.2 “Employee” includes a person employed by Ministry of Health to work for the Tribunal as a member of our staff.

2.1.3 “Feedback” means information or suggestions or comments provided to the Tribunal which is not seeing any response or action.

2.1.4 “Matter” means an application, statutory review hearing or a review initiated in the Tribunal which has been allocated a case file reference number and which may be finalised or pending.

2.1.5 “Member” means:

2.1.5.1 a Deputy President (excluding a Deputy President who is a current judicial officer); and

2.1.5.2 a Member (including a lawyer member, a psychiatrist member and a member with other suitable qualification who is appointed as a current member).

NOTE – A complaint may only be made about a current member and not a former member – the Tribunal has no jurisdiction over former members.

2.1.6 “Registrar” means the Principal Register and any Deputy Registrar including any person acting in such a role.

2.1.7 “Resolution” see “resolve”.

2.1.8 “Resolve” in relation to a complaint, means to provide the complainant with a fair and reasonable outcome in the circumstances.

2.1.9 “Staff” see “Employee”.

3. Scope of the Policy

3.1 This policy applies to the handling of complaints received by the Tribunal from persons external to the Tribunal about the operations or services of the Tribunal, the actions or conduct of a staff of the Registry, or a Tribunal employee, or the conduct of a Member.

3.2 A complaint may be made by:

3.2.1 any person interacting with the Tribunal because of an application/review or hearing, including parties to a matter, their representatives, a carer of a person with a matter, the treating team involved with the matter, the service providers of a person with a

matter, or

3.2.2 any person affected by the operations, services, conduct or action the person is complaining about, or the authorised representative of such a person.

3.3 Feedback, whether positive or negative, is welcome and can be made by completing the feedback form available on the [Feedback and Complaints](#) section of the MHRT website. Comments and criticism where no response or action is sought will be treated as feedback. They will not be dealt with as complaints under this policy.

4. What is not a complaint

4.1 The following matters are not complaints within the scope of this policy:

4.1.1 Complaints about a decision or order of the Tribunal or a complaint seeking a change to a Tribunal decision or order – (for the current purposes a decision or order includes any ruling, finding or direction on which a decision or order is based). Note - a person who wants a decision changed should seek legal advice about their right to appeal the decision.

4.1.2 Complaints seeking a change of a Member allocated to hear and/or decide a matter. Note - a party who believes that the Member should not hear the matter can make that application to the Member at the hearing, or prior to the hearing in correspondence to the Registrar. A person's preferences will not lead to a change of member - legal considerations apply to an application that a member not hear a matter.

4.1.3 Complaints about members of the Tribunal who are current judicial officers (current judges or magistrates) are received and handled by the Judicial Commission of NSW -Judicial Commission of NSW, GPO Box 3634, Sydney NSW 2001).

4.1.4 Staff grievances or complaints by an employee about another employee, a registrar or a Member, or a work related problem or a breach of code of conduct. Note - internal complaints regarding staff conduct will be handled in accordance with applicable public sector employment laws, agreements and processes; a staff complaint about Member conduct will be dealt with by the full time Deputy President.

4.1.5 Complaints about persons who are not employees or Members of the Tribunal (eg, legal practitioners, lay representatives, insurers or expert witnesses). These complaints should be directed to the appropriate regulator.

4.1.6 Complaints alleging that conduct on the part of an employee, registrar or Member is 'corrupt conduct' should be referred to the Independent Commission Against Corruption (ICAC).

4.1.7 Complaints about delay in the handing down of a reserved decision will be referred to the full time Deputy President.

4.1.8 Complaints where the complaint/investigation function is given to another agency and/or which are outside the Tribunal's responsibilities and functions – for example, complaints about health care providers (for which the Health Care Complaints Commission has responsibility); complaints made under the Charter of Victims Rights

for which the Commissioner of Victims Rights/Victims of Crime Commissioner has responsibility; complaints about lawyers who may represent a party in proceedings for which the Legal Services Commissioner has responsibility – For more Information refer to the MHRT Complaints Facts Sheet on MHRT website: [MHRT Complaints Fact Sheet](#)

5. Making a Complaint

- 5.1 If you wish to provide feedback rather than making a formal complaint then you may do so using the feedback form: [Feedback and Complaints](#).
- 5.2 MHRT will treat all complainants with courtesy and respect.
- 5.3 All complaints must be in writing using the MHRT Complaint Form available on the MHRT website [Feedback and Complaints](#), and submitted by email to MHRT-MHRT@health.nsw.gov.au or by post to Principal Registry, Mental Health Review Tribunal of NSW, PO Box 247, Gladesville NSW 2111.
- 5.4 The MHRT Complaint Form requires the following information:
- 5.4.1 Full name and address of the person making the complaint. The Tribunal is unable to respond to anonymous complaints or complaints where no contact details are provided.
- 5.4.2 If the complaint is related to particular proceedings, the name of the parties and the MHRT file number for those proceedings.
- 5.4.3 A short statement of the factual basis for the complaint.
- 5.4.4 What action the complainant wants taken as a result of the complaint.

6. Where complaints are usually referred

- 6.1 Complaint forms will usually be referred to the following persons to be dealt with:

Type of complaint	Referred to
Registry staff	Principal Registrar/Deputy Registrar
MHRT registry, processes, procedures, services and facilities	Principal Registrar/Deputy Registrar
Conduct of an MHRT Member, conduct of a part time Deputy President	Full time Deputy President
Conduct of a Full time Deputy President	The President

- 6.2 Complaints about MHRT's President or other current judicial officers who are Deputy Presidents are dealt with by the Judicial Commission of NSW. These complaints can be sent to Judicial Commission of NSW, GPO Box 3634, Sydney NSW 2001.

7. Complaint Outcomes

- 7.1 MHRT will consider and investigate the issues raised in a complaint and may respond by:
- 7.1.1 providing an explanation, where appropriate;

- 7.1.2 giving information about procedures and processes;
- 7.1.3 providing an apology, where appropriate;
- 7.1.4 providing information on external organisations who may assist; or
- 7.1.5 review and if appropriate change MHRT processes or procedures.

7.2 Where possible, MHRT will acknowledge written complaints within three (3) working days and respond within 28-35 days of receipt. If the complaint will take longer than 35 days the Tribunal will so advise.

8. Managing Unreasonable Complaint Conduct

8.1 MHRT aims to consider the substance of complaints. However, unreasonable conduct by a complainant is not conducive to the effective handling and resolution of legitimate complaints and can significantly affect MHRT's efficiency. As a result, MHRT will not continue to investigate or deal with a complaint where a complainant's conduct is unreasonable.

8.2 Unreasonable complainant conduct may include:

- 8.2.1 excessive or persistent repetition of an issue;
- 8.2.2 inappropriate demands or expectations;
- 8.2.3 abusive, trivial or vexatious behaviour; and
- 8.2.4 persistent contacting of the Tribunal or staff while a complaint is being investigated or after an outcome has been provided.

Magistrate Carolyn Huntsman
President

Dated: November 2025

Version:	President:	Date:
1. MHRT Policy No.1 – Complaint	Magistrate Huntsman	July 2025
2. Amended to include jurisdiction of Commissioner of Victims Rights/Victims of Crimes Commission for Charter Complaints	Magistrate Huntsman	November 2025
3. Next scheduled review		June 2026