Complaints Fact Sheet

Making a Complaint to the Mental Health Review Tribunal

This fact sheet explains what a complaint is, how a complaint is managed and what kind of response you will receive. It should be read in conjunction with the Tribunal Complaints Policy .

> IMPORTANT NOTE: A complaint cannot be used to review or change a decision made by the Tribunal; and some complaints are investigated by other agencies, see below.

What is a complaint?

A complaint is when a person, who is not satisfied with Tribunal processes, the conduct of Registry staff or the conduct of a Tribunal Member, requests active investigation and/or action by the Tribunal.

Dissatisfaction with the Tribunal may also be provided as feedback. All feedback is considered by the Tribunal and informs internal review and improvement. You can provide feedback by completing the Feedback Form.

What cannot be included in a complaint?

1. **Request or complaint to change to a Tribunal decision** – in common with other courts and tribunals, a decision can only be changed by the appeal process. The appeal is to the Supreme Court of NSW however a financial management order can be appealed to the NSW Civil and Administrative Tribunal (NCAT). If considering an appeal it is advisable to seek independent legal advice.

2. **Change to the Member allocated** – a complaint cannot change a member hearing a case. A request can be made to the Member at the hearing or in writing to the Registrar via MHRT-MHRT@health.nsw.gov.au and such a request will be determined according to legal criteria, which does not include change for reason of personal preference.

3. **Complaints about health care facilities**, other government agencies, hospitals, community clinics or community mental health teams. The Tribunal has no power to investigate these agencies and any complaint should be made directly to the Facility Director or the Health Care Complaints Commission.

   The Official Visitor Program may also investigate some matters.

4. **Complaints about the lawyer** who represented you at a hearing cannot be investigated by the Tribunal but can be investigated by the Legal Services Commissioner, and/or the Legal Aid Commission of NSW if the lawyer was provided by Legal Aid https://www.legalaid.nsw.gov.au/contact-us/feedback-and-complaints.

5. **Breaches of the Charter of Victims' Rights** are a matter for the Commissioner of Victims Rights/Victims of Crime Commissioner.

6. **Changes to law/legislation.** The legislation is made by Parliament and not the Tribunal. If you are seeking reform of mental health legislation you may wish to raise your concerns with your Member of Parliament or with advocacy groups.

7. **Anonymous Complaints** cannot be responded to and will be treated as feedback.

What can I make a complaint about?

- The conduct of a Tribunal Member or Registry staff.
- The Tribunal's services or processes.

- For more information as to what constitutes a complaint, see the Complaints Policy Complaints Policy.

Is my complaint confidential?

All complaints made to the Tribunal are treated in a confidential manner. If the complaint is about a Tribunal employee or Member, the person may be provided with a copy of the complaint.

Can I complain on someone else's behalf?

Yes - you may do this if the person making the complaint has given you permission in writing. That permission should be submitted with the complaint.

How quickly will I receive a response?

The Tribunal will acknowledge written complaints within three (3) working days and respond within 28 - 35 working days of receipt.

The Tribunal aims to deal with all complaints as efficiently and expeditiously as possible. The length of time taken to resolve a complaint will depend on the seriousness and complexity of the complaint.

There may be a delay in the processing of a complaint for a number of reasons, including reviewing an audio recording of the hearing, and/or seeking information from Tribunal staff or a Tribunal Member.

If a response cannot be completed within the nominated timeframe, the Tribunal will write to let you know that more time is needed.

For more information about complaints processes you can read the Complaints Policy.

What outcome can I expect?

When a complaint is received, the Tribunal will review the case file, and, where relevant, audio recordings of the hearing.

The complaint response may include the following:

- Where appropriate, an explanation of the issue.
- If it is a Registry process complaint, review the process and identify/rectify any error.
- Provide relevant information about Tribunal policies and procedures.
- Provide an apology, where appropriate.
- Provide information about other agencies who may be able to assist.
- Review, and where appropriate, modify processes and procedures.

What outcomes are not available?

A complaint outcome will not:

- Change the decision of the Tribunal.
- Change the Member who is hearing the case.
- Provide an opinion on the merits of your case.
- Provide legal advice.
- Relay evidence to a Tribunal Member outside of a hearing.
- Investigate complaints about health care providers (including hospitals or community mental health teams).
- Investigate complaints about the conduct of lawyers who appear in Tribunal hearings for any party, including your own lawyer.
- Investigate complaints about other government agencies.

If your concerns do not fall within the definition of a complaint, you may wish to provide general feedback, express a view or offer a comment about the Tribunal via the Feedback Form.

Complaint Assessment

Subsequent complaints may be dismissed if a previous complaint by the same person has raised the same issues and has been responded to. A complaint may be dismissed which is found to be frivolous, vexatious or not in good faith, and/or the subject matter of the complaint is trivial.

How do I make a complaint?

Complete the Complaints Form and email it to the Tribunal Registrar at MHRT-MHRT@health.nsw.gov.au

Your complaint should identify what you are complaining about and describe the factual basis for the complaint:

- If about conduct of registry staff conduct, set out the dates and particulars of the conduct.
- If about a process or procedure please describe.
- If about the conduct of a Tribunal Member/Tribunal panel please describe the conduct and provide details about the date and time and location of the hearing where the conduct you complain of occurred.
- describe the outcome you are seeking.

CONTACTS

Mental Health Review Tribunal

https://www.mhrt.nsw.gov.au/the-tribunal/feedback-and-complaints.html

1800 815 511 or MHRT-MHRT@health.nsw.gov.au

Health Care Complaints Commission

https://ecomplaints.hccc.nsw.gov.au/

1800 043 159

Official Visitor Program:

http://www.officialvisitorsmh.nsw.gov.au/

1800 208 218 or OfficialVisitorsProgram@health.nsw.gov.au

The Legal Services Commission

https://olsc.nsw.gov.au/contact-us.html

The Commissioner of Victims Rights

https://victimsservices.justice.nsw.gov.au/contact-us/feedback-and-complaints.html

Legal Aid Commission of NSW

https://www.legalaid.nsw.gov.au/contact-us

https://www.legalaid.nsw.gov.au/my-problem-is-about/mental-health/involuntary-hospitalisation/mental-health-advocacy-service

https://www.legalaid.nsw.gov.au/contact-us/feedback-and-complaints.

Way Ahead – NSW Mental Health Association

https://directory.wayahead.org.au/service/1123/

NSW Police

https://www.police.nsw.gov.au/online_services/providing_feedback/feedback_compliments_complaints_and_suggestions/feedback/how_to_lodge_a_complaint

https://www.lecc.nsw.gov.au/complaints/make-a-complaint

Mental Health Review Tribunal

NSW Parliament

http://www.parliament.nsw.gov.au/

https://www.nsw.gov.au/your.