



Access to Audio Recordings

This Practice Direction is issued under s160(3) of the *Mental Health Act 2007* (MHA).

1. Purpose

- 1.1. The Tribunal is required under s159 of the *Mental Health Act 2007* (MHA) to record all of its proceedings. This Practice Direction sets out the process for requesting a copy of an audio recording of Tribunal proceedings.
- 1.2. The issues discussed in Tribunal proceedings are often intensely personal. The Tribunal therefore limits access to audio recordings. The basis on which access is likely to be provided is set out in paragraph 3 of this Practice Direction.
- 1.3. The Tribunal provides access to audio recordings on the basis of undertakings given to the Tribunal as to their use (refer Paragraph 4 of this Practice Direction).
- 1.4. At the current time Tribunal resources require that proceedings are recorded using a handheld Dictaphone operated by a Tribunal member or a Tribunal staff member.

2. Restrictions on use of audio recordings after access provided

- 2.1. If the Registrar approves the request for access and provides an audio recording of Tribunal proceedings, any further distribution of the audio recording should be approached with caution. Such further distribution may breach the undertaking given at the time of access in addition to possibly constituting an offence under the MHA.
- 2.2. The publication or broadcast of the name of a patient or the name of a witness or any person who is mentioned or involved in any proceedings, is an offence under s162 of the MHA.
- 2.3. There are non-disclosure provisions in relation to information obtained in the administration or execution of the MHA or the *Mental Health & Cognitive Impairment Forensic Provisions Act 2020* (MHCIFPA) and it can be an offence under s189 of the MHA to make disclosures unless one of the exceptions to that provision is met.
- 2.4. Independent legal advice should be sought before any disclosure of information or broadcast or publication of the names of any person involved in Tribunal proceedings.

3. Access to audio recordings

- 3.1. Access to a copy of an audio recording will be made available where the person requesting the recording can demonstrate a legitimate reason for requiring the recording. The manner of access will be determined by the Registrar on a case-by-case basis.
- 3.2. The Tribunal is likely to consider it appropriate to provide access to an audio recording:
 - 3.2.1. Where a person with a right of appeal against a Tribunal's decision is considering an appeal.
 - 3.2.2. Where the patient has retained a new legal representative who wishes to understand what was said at a previous Tribunal hearing.
 - 3.2.3. Where a patient has a new treating team, who wish to understand what was said at a previous Tribunal hearing.
 - 3.2.4. Where the Minister for Health or Attorney General wish to exercise a right to appear at a Tribunal review under the MHCIFPA and wish to understand what was said at a previous Tribunal hearing.
- 3.3. In any other circumstances, the Registrar will consider a person's reasons for seeking access to a recording on a case-by-case basis.
- 3.4. The Tribunal may decide that it is not appropriate to provide a copy of the recording to a person seeking to access it. Instead, arrangements may be made for the person to listen to the recording either at the Tribunal's premises or elsewhere.

4. Undertaking provided at time of access

- 4.1. Where a copy of the audio recording is provided it will be on the basis that the person making the request and/or receiving the recording undertakes not to copy or distribute the duplicate audio recording or to use it for any purpose other than the purpose for which it was provided, without first seeking the Tribunal's permission.

5. Transcripts

- 5.1. The Tribunal does not provide transcripts of its hearings. It will make the audio recording of proceedings available in the limited circumstances outlined above.
- 5.2. Where a transcript is required for appeal proceedings, the Tribunal may provide the legal representative of either party to that appeal with a copy of the audio recording and the legal representative should arrange for the preparation of a transcript.
- 5.3. Where an appellant is not legally represented, the Tribunal may make alternative arrangements, including providing a copy of the audio recording directly to an authorised transcription service determined by the Tribunal, with the appellant to be responsible for payment of the transcription service.

- 5.4. Such arrangements will be decided by the Registrar of the Tribunal at her/his discretion.
- 5.5. The Tribunal will arrange for a transcript of its proceedings to be prepared if it is lawfully required to do so.

6. Applying for a copy of an audio recording or a transcript

- 6.1. Applications for a copy of an audio recording should be made in writing to the Registrar using the Application Form (attached below).
- 6.2. The completed form should be sent by email to the Registrar at MHRT-MHRT@health.nsw.gov.au.

7. Retention of audio recordings

- 7.1. Under the conditions of the Tribunal's Functional Retention and Disposal Authority (FA232) the recordings of proceedings are to be retained for a minimum of 10 years before being destroyed.

Judge Carolyn Huntsman
President

Dated June 2026

Version	President	Date
1. Practice Direction Access to Transcripts and Audio Recordings of Proceedings	Judge Howard	June 2013
2. Practice Direction: General No.6 Access to Audio Recordings Reviewed, renamed and reformatted	Judge Huntsman	March 2025
3. Corrected audio recording retention period to 10 years	Judge Huntsman	November 2025
4. Reviewed and updated to reflect change of title	Judge Huntsman	June 2026
5. Next scheduled review		June 2027