

Practice Direction



Mental Health
Review Tribunal

Listing arrangements for reviews of Community Treatment Orders under s. 61(3) of the *Mental Health (Forensic Provisions) Act 1990*

Purpose

Section 61(3) of the *Mental Health (Forensic Provisions) Act 1990* requires the Tribunal to review every three months the case of each person detained in a correctional centre (not being a forensic patient) who is subject to a community treatment order. The Tribunal is to conduct its reviews with as little formality and technicality and with as much expedition as the proper consideration of the matters before the Tribunal permit. The Tribunal is not informed by the rules of evidence but may inform itself in such manner as it thinks appropriate: s. 151(1) and (2) of the *Mental Health Act 2007*.

The Tribunal has come to the view that reviews under s. 61(3) of the *Mental Health (Forensic Provisions) Act 1990* can ordinarily be conducted on the papers, without the need for the inmate, their legal representative or staff from Corrective Services NSW or the Justice Health and Forensic Mental Health Network to attend.

Hearing arrangements

1. Three weeks prior to the statutory three month review period, the Tribunal's registry staff will ask the treating team to provide their reports and copies of their clinical notes.
2. The treating team must also advise the person who is the subject of the CTO that the CTO will be the subject of a review, and ask the person if:
 - a. the person wishes to obtain legal advice prior to the review hearing;
 - b. the person wishes to participate in the review hearing; and
 - c. the person wishes to be legally represented at the hearing.

If the person concerned wishes to obtain legal advice or representation, the treating team should arrange for that advice and representation by contacting the Mental Health Advocacy Service of Legal Aid NSW.

3. The treating team must advise the Tribunal in writing if either
 - a. the person wishes to participate in a hearing for the review of the CTO; or
 - b. the treating team wishes to participate in a hearing for the review of the CTO.

4. If neither the treating team nor the person concerned wishes to participate in the review hearing, the Tribunal will ordinarily arrange for the s.61(3) review to be conducted on the papers. The Tribunal may still decide to conduct a hearing under s. 61(3), if it considers that a hearing is appropriate.
5. Following the review a copy of the Tribunal's determination will be provided to the person the subject of the CTO, their legal representative and the treating team.

His Honour Judge Richard Cogswell SC
President
3rd November 2016