

Practice Direction



Mental Health
Review Tribunal

Independent Risk Assessments for Forensic Patients who do not have a mental illness

Purpose

Section 74(d) of the *Mental Health (Forensic Provisions) Act 1990* requires the Mental Health Review Tribunal to consider an independent risk assessment when release is proposed for a forensic patient. The Community Forensic Mental Health Service undertakes these assessments for forensic patients with a mental illness. This may leave forensic patients who do not have a mental illness without the ability to access a publicly funded independent risk assessment. Limited funding has been provided to the Tribunal to commission reports for this group. Primarily, this will be for forensic patients with an intellectual disability who have been accepted into the Community Justice Program.

Given the limited funding available to the Tribunal, ordinarily one independent risk assessment report will be approved in respect of a forensic patient who does not have a mental illness. This will only be obtained where it is clear that an application for release will be made in the near future, that is within the next 6-12 months. Appropriately qualified individuals who satisfy the legislative and Tribunal's criteria will be commissioned to undertake an assessment.

Obtaining funding from the Tribunal to obtain an independent risk assessment report

1. A written request for funding of an independent risk assessment should be submitted to the President of the Tribunal in respect of a forensic patient who does not have a mental illness by his/her representative or treating team. All relevant material detailing the release plans, including the views of the patient and the treating team must be provided.
2. The President or the President's delegate will determine if the plans for release of the patient are sufficiently advanced to justify an independent report being commissioned.
3. Where commissioning of a report is approved, the Tribunal will nominate a preferred assessor to conduct the assessment and prepare the report.

4. The President's decision will be communicated in writing to the patient's representative and/or treating team.
5. The Tribunal's Registry staff will undertake administrative arrangements and contact the preferred assessor to confirm availability, negotiate a fee, the time within which a report is to be provided and confirm invoice/payment arrangements.
6. Staff of the Tribunal will confirm brief arrangements in writing and will provide to the assessor, all necessary documentation, contact details and related information. The Tribunal's letter of instruction will make clear that the brief fee covers:
 - Interview with the patient and any other appropriate person
 - Provision of a written report to the Tribunal within the agreed timeframe
 - Participation at the forensic patient's hearing either in person or via the telephone.
 - The carrying out of any necessary work to adequately assess the suitability of the proposed management plan
7. On acceptance of the brief, the approved assessor will make appropriate arrangements to interview the patient, treating team and any other person.
8. Following receipt of the approved assessor's report, the Tribunal will provide a copy to other persons involved in the care, treatment and management of the forensic patient. A copy of the report will also be provided to the legal representative of the patient.
9. The Tribunal will list the forensic patient's application as soon as practicable following receipt and dissemination of the approved assessor's report to relevant parties.
10. Having regard to the contents of that report, and no less than three weeks prior to the scheduled review, the entity or person who requested the report must advise the Tribunal if the application for release will be pursued at the scheduled review.
11. The Registrar of the Tribunal will maintain a list of suitably qualified persons for appointment as an approved assessor.

Appendix A sets out the Tribunal's criteria for independent risk assessors.

Professor Dan Howard SC
President
19 June 2013

Appendix A: Criteria for Independent Risk Assessors

To be eligible to carry out an assessment under this Practice Direction the Tribunal requires that the person must:

- 1) Be a forensic psychiatrist or a registered psychologist.
- 2) If a registered psychologist, the person must be a member of the Forensic College of Psychology and must have appropriate experience and training in psychology or neuro-psychology.
- 3) Not be currently involved on the treatment of the person.
- 4) Not have treated the person within the last two (2) years.
- 5) Where a member of the Mental Health Review Tribunal, had no prior involvement in reviews of the forensic patient or any substantial likelihood of involvement in any future review.