President's Update

Acknowledgement of Country – Policy

The Tribunal's leadership has approved a new policy in respect of Acknowledgement of Country. A copy is available on the Tribunal's website here. The contents of this policy were developed by the Tribunal's Reconciliation Working Group. It addresses:

- The Tribunal's position in respect of the use of an Acknowledgement of Country as a way to show respect for Aboriginal and Torres Strait Islander people
- The difference between an Acknowledgement of Country and a Welcome to Country
- When an Acknowledgement of Country should be undertaken
- Some suggested wording that can be used when undertaking an Acknowledgement of Country.

National Apology to Aboriginal and Torres Strait Islander Peoples Anniversary

13 February 2025 is the 17 year anniversary of the National Apology to Aboriginal and Torres Strait Islander Peoples. There will be a free community event at QPAC on this date for anyone who is interested in attending. More information can be found at Anniversary of the National Apology (2025) - Link-Up (Qld) (link-upqld.org.au)."

Change in Chief Psychiatrist

Following Associate Professor John Allan's retirement, Dr John Reilly has accepted the role of the Executive Director, Mental Health Alcohol and Other Drugs Branch, Queensland Health. Dr Reilly's former position as the Chief Psychiatrist under the *Mental Health Act 2016* is now vacant with a recruitment process underway to identify his replacement.

Audio recording reminder – fault in recording

When reporting a fault in the electronic audio recording for a hearing, please ensure that you provide sufficient details about the nature of the fault. Simply noting "audio did not work" does not allow Tribunal staff to identify if there are broader issues with the recording process that require improvement nor assist us in providing the member involved with assistance to rectify the fault going forward. If you are not sure why the recording did not work, please contact MHRT.Recordings@mhrt.qld.gov.au so that Amy can engage in some troubleshooting with you.

Drafting statements of reasons – medical and community members

It is the Tribunal's policy that the legal member usually drafts a requested statement of reasons. However, if there are any medical or community members who would like experience in writing reasons, please contact MHRT.SOR@mhrt.qld.gov.au so that we can make a note of this for future allocations.

Updated resources

Please note that there are a number of updated resources on the members' only website. These include:

- Updated Information sheet – Diagnoses
- Updated Information sheet – Treatment
- New Information sheet – Fitness for trial
- Updated human rights resources including information sheets
- Updated Policy – Code of Conduct
- Information sheet – Working remotely.

We have also recently reviewed and updated the Tribunal's Policy – Human Rights which is available on the public-facing website.

PPO ratings – Change in process

As outlined in a recent email communication to all members, in order to streamline some of our processes around the scheduling of matters involving persons charged with a prescribed offence (PPO matters), we will be moving forward with changes to the PPO rating system that we currently use.

Currently

We currently ask the panel at *every* review of a PPO matter to indicate a rating of PPOM3 or PPOM4 on the TD document. Each month, these recommendations are checked, recorded and used to assist in determining an appropriate panel for the next hearing. If a panel has not indicated a rating on a TD, the presiding member is contacted by email and asked for a recommended rating.

From now on

Instead of providing a recommended rating for every review of a PPO matter, it is only necessary to indicate if the panel recommend a PPOM4 rating for the next hearing. If the panel is satisfied with a PPOM3 rating, it can either indicate a PPOM3 rating or leave that section of the TD blank.

In the office, we will continue to review the TDs to check for a recommended rating for the next hearing. If no recommended rating is provided on the TD, we will **not** be following up with the presiding member to request a rating. Instead, we will assume that the panel are comfortable with a PPOM3 rating for the next hearing.

PPO matters will continue to be rated and scheduled in accordance with the following rating types as determined at the Tribunal's monthly PPO scheduling meeting:

- DP4: President or Deputy President and a 4 member panel
- PPOM4: PPO member on a 4 member panel
- PPOM3: PPO member on a 3 member panel.

Please note that various factors are into account when constituting a panel for a particular matter and so the fact that a matter was heard with a 4 member panel, does not necessarily mean a member panel was allocated on the basis of a PPO recommended rating. We ask that panels continue to turn their minds to an appropriate panel constitution for the next hearing of each PPO matter and note on the TD when a PPOM4 panel is recommended.

Articles of interest

Members may be interested in the following articles:

- ABC News: People with schizophrenia struggling to find medication amid nationwide quetiapine shortage - ABC News (thank you to community member Jess Harris for bringing our attention to this article).
- Reasons behind the rise in involuntary psychiatric treatment under mental health act 2016, Queensland, Australia – Clinician perspectives. Authors: Kimbali Wild, Jappan Sawhney, Marianne Wyder, Bernadette Sebar, Neeraj Gill.

Members may be interested to read about a new antipsychotic medication for the treatment of schizophrenia with the brand name Cobenfy:

- A New Antipsychotic for Schizophrenia: Xanomeline and Trospium (Cobenfy) – Jeremy Mills, Issues in Mental Health Nursing
- Cobenfy: A new ray of hope in schizophrenia treatment – Rizwana Noor and Muhammad Saeed Qazi, Asian Journal of Psychiatry.

See the links below for NDIS Legislation Changes for Health and click here for the PDF version of the presentation and here for the accessible word version. Thank you, community member, Cristelle Mulvogue for showing this to us.

For more information, you can read their:

- summary of legislation changes
- frequently asked questions
- NDIS supports lists.
- What Does NDIS Fund Our Guidelines website.

- Our Guidelines website – disability related health supports
- Our Guidelines – Leaving the NDIS

You can also:

- subscribe to the NDIS Newsletter
- visit the Department of Social Services website.
- Participant First Engagement NDIS website

Other links related to questions in the chat:

Delivering capacity building employment assistance | NDIS

What if my child has just been diagnosed with a hearing loss? | NDIS

Medium term accommodation | NDIS

Eligibility and early intervention FAQ | NDIS

How much time will you have to give us more evidence? | NDIS

APTOS NDIA working with state and territory governments | NDIS

Report suspicious behaviour | NDIS

Market monitoring and intervention | NDIS

NDIS After Hours Crisis Referral Service (AHCRS) | NDIS

NDIS Code of Conduct | NDIS Quality and Safeguards Commission

Monthly Stats

Please note that this data is approximate only.

November 2024	
MHC Orders	9 total new orders (4 PPO matters) New FO(MH): 8 Amended orders: 1
Appeals to MHC lodged	5
MHRT Hearings where a decision was made	1,179
MHRT Hearings where an adjournment occurred	324
SORs requested	34
Audio recordings requested	1
Adjournment rate	21.6%

December 2024	
MHC Orders	10 total new orders (2 PPO matters) New FO(MH): 2 New FO(D): 4 TSO: 2 Amended TSO to make FO: 2
Appeals to MHC lodged	5
MHRT Hearings where a decision was made	823
MHRT Hearings where an adjournment occurred	217
SORs requested	28
Audio recordings requested	7
Adjournment rate	20.9%

Executive Officer's Update

Staffing

Our Hearings Coordinator, Jodie Evans, who has been responsible for looking after Wide Bay and

The Prince Charles Hospital will shortly be leaving us. We wish Jodie all the best and welcome James Crutchley to the role.

Consumer Engagement

Our Consumer Engagement Officer, Arone Lenihan, has been busy networking and liaising with various people and agencies since commencing in the role. This has paid dividends with Arone being asked to be on the steering committee for the Qld Council of Social Service's review of documentation in relation to the Access & Equity Project. This project will be looking at representation and advocacy for all consumers appearing before the Tribunal and the Mental Health Court.

Arone has also been asked to contribute to the Mental Health Peer Work Skill Set Working Group. The Mental Health Peer Work Skill Set is a recognised course designed for lived experience/peer workers entering the mental health workforce, providing training and support to develop skills essential for the role of a peer worker. As part of this group, Arone will be contributing to a unit of competency in relation to working legally and ethically.

Corporate Services

Website – If members have not yet accessed the new website, in particular the members section, please contact Lenny at Lenitson.Muthiah@mhrt.qld.gov.au to organise access.

Windows 11 upgrade – Unfortunately there have been a number of issues with the Windows 11 upgrade. The predominant issue seems to be that the upgrade is not available when it should be. If you require any assistance, please don't hesitate to contact any of the Corporate Services Team (Alana O'Neil, Lenny Muthiah, Alice Koinov, Heath Eddison) who will do their best to assist.

Q&A

New MHC Appeal - AppealtoMHC61 – Appeal dismissed, TA confirmed – Treatment criteria considered, compatibility of decision to confirm TA with *Human Rights Act*

This was an appeal of the Tribunal decision to confirm the patient's treatment authority (TA), community category. The patient had a number of grounds for her appeal including that she did not think the TA was necessary and not wanting to receive depot medication. The Court had before it the clinical report of the patient's previous treating psychiatrist and an updated report by the current treating psychiatrist. The patient had attended an appointment with a registrar but failed to attend an appointment with the current treating psychiatrist, instead prioritising work. The patient indicated that she did not want to see the doctors from the mental health service and was on the waiting list to see a Christian psychiatrist. It was suggested at the review with the registrar that the patient reported being healed by religion and not having mental health concerns requiring treatment. The patient declined to explore this topic further and presented, according to the report, as preoccupied with the revocation of the TA and ceasing her depot medication, and the registrar noted that the patient was presenting with symptoms similar to those demonstrated when becoming unwell in the past.

The patient provided the Court with a letter from a member of her faith community who indicated that the patient was a well-respected and liked member of their community and also that there was a notable difference in the patient depending on how recently she had received medication. The patient also raised a number of issues that she had with a clinical report by the current treating psychiatrist including disputing that she had said she had been healed by religion and suggesting that she was only contacted once regarding a review by a psychiatrist. She indicated that she was expressing her frustration over the ongoing unnecessary injections and felt that there had been no accountability of the mental health team to acknowledge her concerns. The patient concluded her submissions to the Court by indicating that she believed non-medicated Christian counselling was the appropriate way forward for her circumstances.

The Judge considered the treatment criteria and found that the criteria applied:

- The report before the Tribunal of the previous treating psychiatrist indicated a primary diagnosis for the patient of schizoaffective disorder, mixed type and provided a brief history of the patient's illness including the circumstances that lead to the making of the TA, noting a number of inpatient admissions for relapses that have resulted primarily from non-adherence to medications and psychosocial stressors. The Judge also considered

the update report that confirmed the diagnosis, and the advice of the assisting clinicians and was satisfied that the patient did suffer from a mental illness.
- Her Honour noted that the earlier report (before the Tribunal) indicated that the patient did not appear to understand that she had a mental illness and was defensive to attempts to explore her views on the reason for her past hospital admissions or discuss documented symptoms. The previous treating psychiatrist considered that the patient did not appear to recognise any benefit to ongoing anti-psychotic medication and her strong preference to not have depot medication and as a result was not able to weigh up the potential risks and benefits of treatment. The Judge noted the patient's views and wishes that she did not want to be on medication and to manage her illness and wellness through exploring alternative medicine and through consultation with her GP on an at-needs basis. The Judge was satisfied that the patient lacked capacity to consent to be treated.
- The Judge noted evidence from the reports of the treating psychiatrists that documented a history of non-compliance, a preference to not engage with mental health services or to receive depot medication. The reports also indicated a likelihood of the patient disengaging from mental health services and cease anti-psychotic medication and that if that were to happen there was a clear and foreseeable risk of mental state deterioration and also risks to relationships and reputation. The Judge was satisfied from the evidence that in the absence of a TA the patient would suffer serious mental and physical harm.

The Judge also noted when considering the patient's human rights that the issue for a court and a TA appeal was whether the continuation of the TA is required to protect the person's safety and welfare or the safety of others as demonstrated through the application of the relevant provisions of the *Mental Health Act* and if a TA is required, the limits on rights affected by the TA will be least restrictive as is necessary to address the risk to safety and welfare outlined in the *Mental Health Act*. The Judge noted that this approach was congruent with the *Human Rights Act* requirement that a right be limited only to an extent that is reasonable and demonstrably justifiable. The Judge noted submissions by the patient and considered that the limits imposed by the decision were reasonable and justified and the confirmation of the TA was lawful and within the jurisdiction of the *Mental Health Act* and rights that had been engaged and limited had been balanced against the risk to the patient's safety and wellbeing. The Court dismissed the appeal and confirmed the decision of the Tribunal.

Deciding whether a person is fit for trial

As you know, the criteria to apply when considering whether a person is fit for trial are the Presser Criteria:

- does the person understand the charges against then and are they able to enter a plea at their trial?
- does the person have the capacity to understand, if informed, their right to challenge a prospective juror and can do so?
- does the person understand that the proceedings are an inquiry into the offences allegedly committed by them and to determine guilt or otherwise?
- does the person have a general understanding of what will/is to occur in the proceedings?
- does the person have the capacity to understand the effect of the Crown allegations against him/her including the evidence given by the Crown witnesses?
- can the person make a decision as to whether to give evidence and be able to relate his/her own version of the facts of the alleged offences to both the Court and to legal representatives?
- does the person have sufficient capacity to be able to decide as to the defence that will be relied upon?
- can the person instruct counsel and legal representatives?

In situations where the person pleads guilty in relation to the criminal charges, some of these criteria may not apply, or may apply to a lesser extent than if there was to be a trial. However, to be found fit for trial, the panel must be satisfied that the person can meet each one of the criteria as if a trial were to occur. Therefore, the panel should seek evidence from the attendees as to each of the criteria rather than dismissing some as irrelevant on the basis that the person will plead guilty and, for example, challenging a juror, will not be required.

Adjournment under s730 – when a person is absent without authority (AWA)

Section 730 of the *Mental Health Act 2016* permits the Tribunal to adjourn a scheduled periodic review of a treatment authority, forensic order or treatment support order in circumstances where the person is a patient required to return and the relevant service cannot locate the person. To be a patient required to return an authorisation (known as an ATAP) must have been issued and the person has not been transported under the authorisation, or come or returned voluntarily to the service (Schedule 3).

When a panel is satisfying itself that the criteria for an adjournment under section 730 are met, it may be worthwhile confirming that the ATAP paperwork relates to the person's current absence. There have been circumstances where:

- a person is AWA, an ATAP has been issued and the subsequently person returns to the service
- despite returning to the service, the person again leaves without permission and is again AWA
- while AWA for the second time, the Tribunal holds a periodic review of the person's authority/order.

At the hearing, the person would not be a patient required to return as there was not an ATAP in place under which the person had not been transported or voluntarily returned to the service. Another ATAP would be required for the second absence, and the service would need to be unable to locate the person.

Hearing attendees giving their full name in hearings

Members may encounter situations in which persons attending a hearing may not wish to provide their full name in the hearing. The Tribunal requests the names of all persons in attendance at hearings for a number of reasons, including:

- to ensure there is a complete record of the proceeding (which includes the persons present) for the purpose of the *Recording of Evidence Act 1962*
- to ensure that Tribunal proceedings are as open and transparent as the *Mental Health Act 2016* permits to accord with the principles of natural justice / procedural fairness
- a list of the attendees appears on any statement of reasons prepared for the hearing available on request to entitled persons, which includes the person the subject of the hearing.

That said, there may well be situations in which it is reasonable for an attendee's full name to be kept confidential. If that is the case, a confidentiality order may be considered. In the absence of such circumstances, it is reasonable for a panel to request attendees provide their full name in the hearing.

PL&D update

Masterclass

Please join us for our February masterclass:

- Date: Wednesday the 26th of February
- Time: From 5pm, via Teams
- Topic: The Importance of an Intersectional Lens
- Speaker: Sheetal Deo

Lived experience training

The Queensland Mental Health Commission has funded free access to best practice workforce organisation training about lived/living experience to foster organisational readiness in Queensland. The training is intended for anyone in non-lived experience roles to increase understanding of lived experience concepts and practice. To access the training, please register using the "Testing on behalf of an organisation" option at this link: https://livedexperiencetraining.org/qld-funded-landing-page/. If you have any questions about this training, please contact Arone Lenihan at MHRT.ConsumerEngagement@mhrt.qld.gov.au.