

Mental Health Tribunal Governance Statement

Introduction

The Mental Health Tribunal (Tribunal) is a WA Government statutory body established by section 380 of the *Mental Health Act 2014* (WA) (the Act). The function of the Tribunal is to exercise the jurisdiction conferred on it by Part 21 of the Act.

Five types of statutory officers may be appointed pursuant to the Act:

- one President appointed by the Governor on the recommendation of the Minister (s475);
- an unlimited number of Legal Members appointed by the Governor on the recommendation of the Minister (s476(2)(a));
- an unlimited number of Psychiatrist Members appointed by the Governor on the recommendation of the Minister (s476(2)(b));
- an unlimited number of Community Members appointed by the Governor on the recommendation of the Minister (s476(2)(c)); and
- one Registrar appointed pursuant to Part 3 of the *Public Sector Management Act 1994* (s483);

The statutory functions provided for in Part 21 of the Act include:

- statutory functions exercised only by the President (sections 382, 438, 472, 488, 492, 470, and 485);
- statutory functions exercised only by the Registrar (sections 483, 492(6), and 467), although the President may direct the Registrar with respect to the performance of the Registrar's functions and the Registrar must comply with such direction (section 485);
- statutory functions exercised only by three individual members specified by the President in accordance with section 383;
- statutory functions exercised only by five individual members specified by the President in accordance with section 385;

Decision-making by Tribunal Members in the exercise of the Tribunal's jurisdiction occurs in accordance with the statutory powers in the Act. The exercise of the Tribunal's jurisdiction is reviewable by the State Administrative Tribunal.

This Governance Statement pertains solely to decision-making in the context of administrative decisions arising in the operation of the Tribunal (including its Registry). The President is responsible for managing the business of the Tribunal. This responsibility derives from the President's individual statutory powers as well as the President's statutory power to direct the Registrar in the performance of the Registrar's functions. Managing the business of the Tribunal includes responsibility for the day-to-day operational functions of the Tribunal (including its Registry). This Governance Statement outlines how the President meets these responsibilities.

Achieving the Tribunal's mission

The President's primary role is to ensure that the Tribunal's activities are directed towards achieving its mission of safeguarding rights and promoting compliance and accountability under the *Mental Health Act 2014* by:

- ensuring involuntary treatment authorised under the Act strictly complies with the provisions and objects of the Act;
- determining applications for treatment by electroconvulsive therapy and psychosurgery;
- addressing non-compliance with prescribed requirements under the Act; and
- providing independent review of the validity of involuntary treatment orders, the admission of long-term voluntary patients, the validity and appropriateness of nominated persons, and the reasonableness of certain decisions under the Act restricting freedoms and affecting rights.

The President ensures that the Tribunal's mission is achieved efficiently and effectively. All operational decision-making is directed towards achieving four strategic objectives:

- achieving high quality patient-centred outcomes in every matter;
- supporting stakeholder participation in the hearing process;
- improving how we work and maximise our use of technology;
- building our capacity and make best use of our resources.

Consultation and Advice

The President is accountable to the Minister for the governance of the Tribunal and all operational decisions and outcomes. Nevertheless, the President's decision-making is generally exercised in the context of *ad hoc* consultation with, and advice from:

- Members;
- an Operational Advisory Team;
- an External Advisors Network; and
- a Cultural Safety Leadership Group.

Operational Advisory Team

The Operational Advisory Team is comprised of the Registrar, the Deputy Registrar, the Registry Operations Coordinator. Members of the Operational Advisory Team meet with the President as needed to address workflow and staffing issues in the Registry, as well as to discuss any new operational issues arising and new initiatives. The Operational Advisory Team also advises the President on the operational implications of proposed initiatives or changes to Member workflows or activities. The Operational Advisory Team provides data to the President for monitoring key performance indicators and assists the President in the preparation of the annual report to the Minister. Members of the Operational Advisory Team are responsible for consultation with all Registry staff, canvassing their ideas and feedback, and advising the President on staff feedback, views, wellbeing and job satisfaction.

The External Advisors Network

The President regularly consults widely with a range of stakeholders, which are collectively referred to as the External Advisors Network. These include:

- the Chief Psychiatrist;
- the Chief Mental Health Advocate;
- the CEO of the Mental Health Law Centre;

- the CEO (or a delegate) of each of the WA statutory health services (Child and Adolescent Health Service, East Metropolitan Health Service, North Metropolitan Health Service, South Metropolitan Health Service and WA Country Health Service); and
- the Mental Health Tribunal's Consumer Advisory Network (comprised of Chairs/Convenors of Consumer Advisory Groups across Western Australia).

The President meets individually on a quarterly basis with the Chief Psychiatrist, the Chief Mental Health Advocate, and the CEO of the Mental Health Law Centre to discuss issues arising of interest to the respective bodies. The President also consults with the Chief Psychiatrist, the Chief Mental Health Advocate, and the CEO of the Mental Health Law Centre on significant new initiatives and changes which potentially impact upon the organisations and their stakeholders. The Chief Psychiatrist, the Chief Mental Health Advocate, and the CEO of the Mental Health Law Centre advise the President of feedback from clinicians, advocates, lawyers, and patients, contributing to Tribunal continuous improvement.

The President also consults and liaises with the representatives of the WA statutory health services on an *ad hoc* basis as required concerning significant new initiatives, changes which potentially impact upon the health services and clinicians, and any specific clinical issues arising during the Tribunal's activities. Representatives of the WA statutory health services advise the President on clinical feedback, contributing to Tribunal continuous improvement.

The President seeks feedback from consumers of WA mental health services and their carers through the Mental Health Tribunal's Consumer Advisory Network. The purpose of the Tribunal's Consumer Advisory Network is to create a forum for consumer consultation and feedback about Tribunal initiatives and actions. The forum involves *ad hoc* email liaison between the President or a Tribunal Member and the Network to gain feedback about specific issues arising in the Tribunal's operations from time to time, and significant new initiatives and changes which potentially impact upon the consumer/carer experience. A Tribunal Member is also available to meet with individual Consumer Advisory Groups annually to discuss the Tribunal's operations and liaise with CAG members. This feedback contributes further to Tribunal continuous improvement.

The Cultural Safety Leadership Group

The Cultural Safety Leadership Group is comprised of self-nominated Tribunal Members and the Registrar. The Chair is psychiatrist member Dr Helen Milroy. The Cultural Safety Leadership Group advises the President on cultural safety.

The Cultural Safety Leadership Group meets on an *ad hoc* basis with the goal of preparing an action plan by which the Tribunal will contribute towards developing 'a culturally respectful and non-discriminatory health system' as set out in the Department of Health's *WA Aboriginal Health and Wellbeing Framework 2015–2030*. In our context, this means creating a culturally respectful and non-discriminatory environment for all Tribunal processes by ensuring that all Tribunal practices are culturally safe.