

Application

Mental Health Act 2014 (WA)

Application to Adjourn by Consent

Please note this application is not required if the reason for adjournment is due to the unavailability of a consumer or their representative (including an interpreter or support person). In this case, please contact the Registry on (08) 6553 0060.

Tribunal File Number or UMRN

The applicant

Name

Postal address

Email address

Contact phone

Relationship to patient

Hearing Date

Reason for adjournment

Availability for re-listing

The Registry will try to accommodate your preference.

Evidence of consent

Evidence of consent **must** be attached to this application, otherwise it will not be processed, and the hearing will proceed.

This may include correspondence from the consumer or their representative stating their consent to the adjournment, or a statutory declaration detailing the events of a conversation with the consumer, or their representative.

Signature _____

Date _____

Please send your application to: registry@mht.wa.gov.au

If you have any queries, please telephone the Registry staff on (08) 6553 0060



PRACTICE NOTE 1/2024

APPLICATION TO ADJOURN HEARING BY CONSENT

Summary

If a hearing participant applies for an adjournment of a patient's review proceeding and the Mental Health Tribunal (**the Tribunal**) is satisfied that the applicant has demonstrated that the patient unequivocally consents to the adjournment, the Tribunal will consider the application on the papers.

Commencement date

1. This Practice Note takes effect on 31 May 2024.

Purpose

2. To inform hearing participants of the requirements concerning the filing of an application to adjourn a hearing by consent.

Background and Scope

3. This application is limited to review proceedings, which are Tribunal hearings relating to the reviews of an involuntary treatment orders.
4. Review proceedings are initial reviews¹, periodic reviews², and applications for review³, and an involuntary treatment order is an inpatient treatment order and a community treatment order⁴.
5. A statutory power for the Tribunal to adjourn hearings is implied by sections 386(3), 387(3) and 457 of the Act.
6. The Registrar does not have the power to adjourn a hearing.

Application Requirements

7. The applicant must complete and file with the Tribunal's Registry an [Application to Adjourn Hearing by Consent](#) as soon as possible and no later than 72 hours before the scheduled review hearing.
 - a. If the application is filed too close to the hearing date, there may not be an opportunity to convene a preliminary hearing for this purpose, and the scheduled

¹ Section 386 of the Act.

² Section 387 of the Act.

³ Section 390 of the Act.

⁴ Section 21(2) of the Act.

hearing may go ahead.

- b. In this circumstance, the applicant will have the opportunity present oral submissions for an adjournment at the commencement of the hearing.
8. Proof of patient consent must be clear and unequivocal to the Tribunal for procedural fairness reasons.
9. Wherever possible, this patient consent should be in writing by the patient or patient's representative. Where this is not possible, a duly executed statutory declaration is acceptable.

Purpose

10. To general, the Tribunal will hear these applications on the papers on a morning list. A decision will be made and sent to the applicant, the patient, and any other hearing participants on the same day as the hearing on the papers.

General

11. The filing of this application does not automatically mean that the hearing will be listed nor that the adjournment will be granted. It will depend on the facts and circumstances of the matter before the Tribunal.
12. The Registry will keep the applicant, the patient and any hearing participants informed of the status of the outcome of the application as soon as practicable.

Relevant Legislation

Mental Health Act 2014 (WA)

Dr A. B. Lu AM

PRESIDENT

MENTAL HEALTH TRIBUNAL