

MENTAL HEALTH REVIEW TRIBUNAL

Practice and Policy Guideline #9

Practice and Policy Guidelines provide general direction and assistance to the members and secretariat of the Review Tribunal. They may be departed from or supplemented by the Review Tribunal as circumstances require. They do not constitute legal opinions.

PRE-HEARING TELEPHONE CONFERENCES

Introduction

1. The purpose of pre-hearing telephone conferences is to enhance the efficiency, integrity and effectiveness of the hearing process.
2. Pre-hearing telephone conferences are to occur 7-10 days in advance of scheduled hearing dates.

Attendees

3. Those in attendance should be the legal member of the Review Tribunal who will be presiding at the hearing, the responsible clinician, and the lawyer for the applicant.
4. In cases where the applicant is someone other than the patient, for example a guardian or family member, then that applicant or their lawyer should also attend the conference.
5. In cases where the applicant is a patient who is not represented by a lawyer, the applicant is to be invited to attend the conference, but is not compelled to do so.

Matters covered

6. Pre-hearing telephone conferences should cover the following topics:
 - i. Whether the applicant wishes to proceed with the hearing; if not, whether the application is to be withdrawn or another date sought;
 - ii. The time, date and venue for the hearing;
 - iii. When the responsible clinician's report will be available¹, and the best means of providing a copy to the lawyer for the applicant;
 - iv. Whether the applicant's lawyer and responsible clinician are aware of previous Review Tribunal reviews, should there have been any, and seen the written decisions;
 - v. Whether case managers and key workers will also be in attendance²;

¹ The Review Tribunal requires reports to be in the hands of the Secretariat by no later than 3 working days prior to the date of hearing.

- vi. Who else will be in attendance;
- vii. What in broad outline are likely to be the factual and legal issues in contention;
- viii. Whether there are safety concerns;
- ix. Whether a co-opted member is required;
- x. Whether an interpreter is required;
- xi. Whether a cultural adviser should be present;
- xii. Whether the hearing should be conducted by video conference or telephone conference;
- xiii. Whether there are any other matters to raise.

Outcomes

7. Immediately following the telephone conference the legal member conducting it should immediately briefly report back to the secretariat as to what transpired during it.
8. In cases of particular complexity or difficulty, it may be prudent for the legal member to issue a minute recording the outcome of the conference.
9. Where an application is withdrawn, the applicant or lawyer should be asked to confirm that in writing to the secretariat.

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Convener

² In order that it bases its determinations on the best evidence available, the Review Tribunal expects that all clinicians and other mental health professionals, who know the patient best, will be present at the hearing.

Last updated on

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