FORENSIC ORDER (DISABILITY) REVIEW

A Forensic Order will be reviewed by the Mental Health Review Tribunal:

- Within 6 months of the Forensic Order being made and then every 6 months (Periodic review);
- By application to the MHRT at any time (Applicant review)
 - On the MHRT's initiative (Tribunal review)
- Because there has been a material change in the patient's mental state requiring a change of category from community to inpatient (under notice) 5 433

Before the hearing

- Notice of hearing to be given to parties, at least 14 days before hearing; 5 439
- **Clinical report** to be given to MHRT and patient at least 7 days before the hearing; ^{5 723}
- Other documents to be submitted to MHRT and other parties at least 3 days before the hearing; ^{5 738}

Timeframes can be shortened if parties agree. MHRT Practice Direction 1/2017.

MHRT hearing to review a Forensic Order

The MHRT must decide whether to confirm or revoke the Forensic Order. The Forensic Order must be confirmed if:

 The MHRT considers that the order is necessary, because of the person's mental condition, to protect the safety of the community, including from risk of serious harm to other persons or property 5 442

OF

 non-revocation period set by the Mental Health Court has not passed ^{5 452}

If applicant review, MHRT must decide whether to make the orders requested.

If tribunal review or under notice, must decide matters stated in hearing notice. 5 441

MHRT decides to:

Confirm Forensic Order.

Person will continue to receive care and be monitored under the Forensic Order.

MHRT must also decide:

Category of Forensic Order

 May only be community category if MHRT is satisfied there is not unacceptable risk to the safety of the community. 5 444

If inpatient category, whether the person can have limited community treatment (LCT). ^{5 445} (The doctor/senior practitioner cannot approve more LCT than what the MHRT has decided: ^{5 212})

If community category, whether the doctor/senior practitioner can change community treatment in the future. ⁵ ⁴⁴⁶

Whether to make, change or remove conditions 5 447

Whether to order **transfer** to another mental health service or the Forensic Disability Service ^{5 456}

Whether to make other appropriate orders. 5 448

Revoke Forensic Order

If the person requires involuntary treatment for mental illness, then a psychiatrist can make a Treatment Authority if the person satisfies the relevant legal treatment criteria.

After an MHRT hearing

- Parties receive notice of decision within 7 days,
- Person can request statement of reasons from MHRT, 5 756
- Parties can appeal decision to the Mental Health Court within 60 days of receiving written notice of the MHRT's decision, ^{5 541, 5ch 2}



FORENSIC ORDER (MENTAL ILLNESS) REVIEW

If the Mental Health Court thinks it is necessary, because of the person's mental condition, to protect the safety of the community, a Forensic Order (Disability) may be made, which permits the involuntary care for the person's disability. S 134, S 152

This flow chart focuses on the Tribunal process to review a Forensic Order (disability). There is a separate flowchart #6 which considers reviews of Forensic Orders (mental illness).

A person under a Forensic Order (disability) may be

- the responsibility of a doctor at an authorised mental health service under the Mental Health Act 2016 (Old), or
- the responsibility of the senior practitioner at the Forensic Disability Service under the Forensic Disability Act 2011 (Qld)

Matters the MHRT Must Regard

- The "relevant circumstances" of the person subject to the order (that is, mental state and psychiatric history, any intellectual disability, social circumstances, response to and willingness to receive care, and the person's response to previous care in the community)
- The nature of the relevant unlawful act and the period of time that has passed since the act happened;
- Any victim impact statement; and
- If the Mental Health Court made a recommendation about intervention programs, the person's willingness to participate in the program if offered

5 432, Sch 3 ("relevant circumstances")

Attendance at hearing

the patient is encouraged to, but does not have to attend the hearing.

- If 17 years old or under, the patient will be appointed a free legal representative, unless already represented or patient waives right to representation, s 740.
- If the Attorney-General elects to send a representative, the
 patient will be appointed a free legal representative, unless
 already represented or patient waives right to representation,
- Patient can bring a support person, including service providers 5 739
- One or more members of the patient's treating team must attend the hearing.
- Hearings can be attended in person, by phone or, if available, by videoconferencing.

Evidence Considered by MHRT

- Documents
 - Clinical report
 - If the Forensic Disability Service is responsible for the person—the person's Individual Development Plan
 - Most recent decision from the MHRT
 - Hearing notice
 - Dossier prepared by MHRT (Mental Health Court order, and other relevant documents including the decision or transcript from the Mental Health Court and any reports)
 - If applicant review— application form
 - Any other documents submitted by doctor/senior practitioner, applicant or patient (including patient selfreport)
- Oral information given by people attending the hearing.

Parties to a Review

- · The patient,
- The person who applied for the review (if there is one),
- If an authorised mental health service is responsible—the administrator and Chief Psychiatrist
- If the Forensic Disability Service is responsible—the administrator and the Director of Forensic Disability
- the Attorney-General

S 736, 439

The MHRT <u>must not</u> conduct a review of the Forensic Order if there is a current appeal to the Mental Health Court about the Forensic Order and the MHRT's decision has been stayed **5** 436

Unless otherwise specified, references to sections (s) are in relation to the *Mental Health Act 2016* (Old).