Reporting on Mental Health Court matters

This information guide is designed to assist accredited media entities and others seeking to report on matters before the Mental Health Court of Queensland (MHC).

There are restrictions on reporting about MHC matters. You are strongly encouraged to consult the legislation before reporting. Reporting in breach of the *Mental Health Act 2016* (Qld) is an offence.

Types of court matters

The MHC hears matters in the QEII Courts of Law in Brisbane. It primarily deals with two kinds of matters: references and appeals.

References

The matter of the mental state of a person who has committed a serious criminal offence (as defined in the *Mental Health Act 2016*) may be referred to the MHC.

Generally, if the MHC accepts the reference, then the MHC must decide whether the person was of 'unsound mind' (insane) at the time of the commission of the alleged criminal offence and whether the person is currently 'fit for trial'.

If the MHC finds that the person was of unsound mind at the time of the commission of the alleged offence or is permanently unfit for trial, then criminal proceedings against the person for the offence are discontinued and the MHC may order that the person be subject to a forensic order or a treatment support order. Essentially, each of these orders requires the person to submit to involuntary mental health/disability treatment and/or care and may otherwise restrict their conduct (for example, by prohibiting the consumption of alcohol, or not permitting the person to drive).

If the MHC finds that the person was not of unsound mind at the time of the commission of the alleged offence *and* is fit for trial, then the matter is returned to the criminal justice system to proceed according to law.

Appeals

Appeals lie to the MHC from decisions of the Mental Health Review Tribunal (MHRT) about:

- **Treatment Authorities**, which authorise the involuntary mental health treatment or disability care for persons with mental illness (who have not committed criminal offences); or
- **Forensic Orders/Treatment Support Orders**, which authorise the involuntary mental health treatment or disability care for persons who have been charged with criminal offences but who have been found of unsound mind at the time of the commission of the referred offence or are permanently unfit for trial.

The subject matter of the appeal might be the continuing need for involuntary treatment at all; or the conditions imposed upon the person the subject of the order. In limited cases, the MHC may hear appeals from decisions of the MHRT authorising certain treatments, such as Electroconvulsive Therapy (ECT).

Whether hearings are open to the public

References

Refer to sections 693 – 696 of the *Mental Health Act 2016*.

Generally, the hearing of a reference concerning an adult is open to the public. However, if the MHC is satisfied it is in the interests of justice to do so, the MHC may order that the hearing, or part of it, not be open to the public.

The hearing of a reference concerning a person under the age of 18 (a minor) is not open to the public.

Appeals

Refer to sections 693 – 696 of the *Mental Health Act 2016*.

Generally, an appeal to the MHC concerning an adult is not open to the public other than in the limited circumstances contemplated by section 694(3).

An appeal to the MHC concerning a minor is not open to the public.

Further, under section 696, the MHC may prohibit or restrict disclosure to the person the subject of the proceeding of:

- information given before it,
- matters contained in documents filed with, or received by it, or
- its reasons for decision.

Reporting on court hearings

Refer to sections 788 – 793 of the *Mental Health Act 2016*.

Reporting on hearings, where it is permitted, may not occur without leave unless certain time periods have elapsed. Certain details may not be disclosed.

Generally, there may be no report of a proceeding or part of a proceeding until the 'prescribed day' which is defined in section 789 of the *Mental Health Act*:

- The prescribed day for a matter which is returned to the criminal justice system is the day the trial for the relevant offence ends.
- The prescribed day for a matter which is diverted from the criminal justice system (because the criminal proceedings are discontinued) is after the appeal period has elapsed (28 days); or if there is an appeal to the Court of Appeal filed, 28 days after the appeal is determined.

However, a person may publish a report before the prescribed day with the leave of the MHC, or Court of Appeal, as relevant.

Generally, there cannot be publication of a report of any proceeding before the Mental Health Review Tribunal; or an appeal to the MHC.

However, a person may publish such a report with leave, but leave may not be granted unless the requirements of section 790(3) are satisfied.

There can be no publication of any information that identifies, or may lead to the identification of:

- a minor who is, or has been, a party to a proceeding under the MHC.
- an adult who has been a party to a hearing before the Mental Health Review Tribunal or an appeal to the MHC.

However, there may be publication with leave if the conditions of section 791(4) are satisfied. Publication in breach of the MHC is an offence.

Seeking leave of the court

To seek leave of the MHC, you must make a formal Application directly to the MHC Registrar using CPR Form 1, supported by an Affidavit (UCPR Form 46), referencing sections 788 – 793 of the *Mental Health Act 2016.*

Reference must be made to the appropriateness and justification for publication, and any reporting must comply with the direction of the Registrar and any orders or procedures of the Court.

There are no fees or charges for lodgements before the MHC.

MHC registry

Email

registrarmhc@health.qld.gov.au

Address

GPO Box 48, Brisbane Qld 4001

Phone

(07) 3082 0554

Further information

Read more about the work of the MHC on the Queensland Courts website.

Some decisions of the MHC are published on the Supreme Court Library Queensland website.

The Mindframe national guidelines support safe and accurate media reporting, portrayal and communication about mental health concerns, suicide and alcohol and other drugs to reduce stigma and encourage help-seeking behaviour.

Disclaimer

The information contained in this guide is a general overview of the current Queensland legislation from 1 July 2024 to date and the registry procedures of the MHC. Legal information in the guide is general information and should not be considered legal advice. You should seek your own legal advice about reporting on MHC matters and not rely solely on this guide. It is current at the time of publication.

Version history

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