

Practice Direction

Forensic No.5

Applications for Travel Review of Tribunal orders



This Practice Direction is issued under s160(3) of the *Mental Health Act 2007* (MHA).

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1. Purpose

- 1.1. This Practice Direction is to clarify procedures relating to requests for Tribunal review of a current order in the context of travel by a forensic patient.
- 1.2. A number of Tribunal orders for conditional release require the Tribunal's approval of interstate or overseas travel, and some may require the Tribunal's approval of all travel by a forensic patient.
- 1.3. A number of conditional release orders have referred to the required Tribunal approval being given by the President or Deputy President in writing. This Practice Direction clarifies that a review by a three member panel is required for approval of travel where such travel is not permitted by current Tribunal orders. This arises from a reading of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (MHCIFPA) and the *Mental Health and Cognitive Impairment Forensic Provisions Regulation 2021* (MHCIFP Regulation), and clause 19 of the *Mental Health Regulation 2025* (MH Regulation). Such review can be on the papers or by hearing as set out in this Practice Direction.
- 1.4. This Practice Direction sets the procedures for requesting that the Tribunal schedule a review to consider travel by a forensic patient; the procedures which will apply to the Tribunal's discretion under s79 to list the review; and the material required to be submitted where such request is made.
- 1.5. In issuing this Practice Direction regard has been had to the Principles for Care and Treatment in s68 of the MHA, in addition to the Objects of Part 5 of the MHCIFPA in relation to forensic and correctional patients. See also s70 MHCIFPA.
- 1.6. The requirement for mandatory reviews of forensic patients in s78 of the MHCIFPA and the discretion given to the Tribunal by s79 of the MHCIFPA to review a forensic patient at any time have also been considered in making this Practice Direction.

2. Standard practice

- 2.1. As a determination to approve interstate travel/overseas travel will often constitute a variation to a conditional release order, standard practice is that the usual notice period be followed for filing a notice of intent for a scheduled mandatory review (s78 review).
- 2.2. The notice of intent for the mandatory review should request a review of the current Tribunal order/conditions applying to travel/leave, so that there can be consideration of whether to approve the travel during the mandatory statutory review hearing. It might be that the previous conditions relating to travel should be reconsidered or updated and this is a matter to be

considered at a mandatory review. The mandatory review hearing will also review the care and treatment of the forensic patient. Clear information should be given as to why conditions should be varied, and how risks are to be managed, to allow this to be determined at the mandatory review – the information listed in paragraph 5.1 of this Practice Direction may be of guidance for a mandatory review.

- 2.3. Where a plan to travel arises in a short time frame because of an unexpected event which the forensic patient wishes to attend or unexpected family illness, then the procedure to request a review of the current order, and the limited review process set out in this Practice Direction will be apply. The time frame for making the request for review to consider travel issues is six weeks, refer paragraph 4.2 of this Practice Direction. Where the review is listed it will be a review under s79 MHCIFPA at the discretion of the Tribunal. Whether the review is listed will depend upon the Tribunal's granting leave to list the matter urgently. Leave can be sought to make an application/request a review in shorter time frame than 6 weeks, however this should only be made where unavoidable circumstances – refer paragraphs 4.2 to 4.7 of this Practice Direction.

3. The hearing process for review relating to unexpected travel requirements – limited review

- 3.1. As set out at paragraph 2.1 and 2.2 of this Practice Direction above, ordinarily review of a Tribunal order/conditions for travel should be considered at a mandatory statutory review and detailed in the Notice of Intent for that review. Where an earlier review of travel conditions is sought or required, as mentioned in paragraph 2.3 of this Practice Direction, then the process is as follows:

- 3.1.1. The notice periods and submission of information required for the Tribunal to give leave to urgently list a s79 review to consider travel issues, set out in paragraph 4 of this Practice Direction below, should be followed.
- 3.1.2. Where the review is listed for hearing, the review is listed pursuant to s79 of the MHCIFPA.
- 3.1.3. A non-contentious review of order/travel conditions may be undertaken on the papers by a three member Tribunal in Chambers, without the requirement for a hearing. See paragraph 5 of this Practice Direction for information to include to allow the Tribunal to decide the matter on the papers where possible.
- 3.1.4. Where a review hearing is listed to consider travel issues, the s79 review will be limited to consideration of whether the Tribunal should approve the travel and make any necessary variation to current orders.
- 3.1.5. If other issues arise during the limited review hearing, the Tribunal may if appropriate consider those issues at the review and make appropriate orders or adjourn the review to allow those other issues to be considered appropriately.
- 3.1.6. Without limitation, a determination may be made at the limited review hearing for approval of travel, with or without conditions, or refusal of the travel application, regardless of whether the review is adjourned to further consider other issues which arise.

- 3.1.7. If leave for a review hearing is given by the Tribunal the limited review hearing may be listed at short notice given the need for time to make the travel bookings/arrangements, if approval of the travel application is given.
- 3.1.8. Given that reviews to consider travel may need to be listed at relatively short notice and given the limited hearing and resource availabilities of the Tribunal, all parties will be requested to try to accommodate the allocated hearing date. Given the limited nature of the review hearing of an application for approval of travel, appearances will ordinarily be by AVL.
- 3.1.9. After the review the Tribunal may issue brief written reasons for decision for the limited review which may detail only the findings and decision on the travel application.

4. **Time frames for requests for review/approval of travel**

- 4.1. As stated in paragraphs 2.1 and 2.2 of this Practice Direction the standard practice is that changes to travel conditions in a Tribunal order, including for interstate or international travel, are to be sought in the Notice of Intent for the mandatory statutory review (generally 6 monthly reviews).
- 4.2. Where the circumstances in paragraph 2.3 of this Practice Direction apply, the application for Tribunal review of travel must be received by the Tribunal at least 6 weeks before the intended travel and will serve as a Notice of Intent if leave for a review hearing is granted.
- 4.3. If the request for review is made pursuant to paragraph 4.2 of this Practice Direction, the application must detail reasons for short notice request for review – these reasons will constitute a request for grant of leave by the Tribunal for a review to be listed at short notice, refer application form detailed in paragraph 5 of this Practice Direction.
- 4.4. If the request for review is lodged with the Tribunal in a lesser time period than that specified in 4.2 of this Practice Direction, there must be clear reasons stated as to why the application is made in a short time frame, such reasons will also be treated as a request for leave to have the review listed at short notice.
- 4.5. Depending on the timing of the request for review, and the reasons for requesting a s79 review for purpose of travel before the next scheduled mandatory review, the review may, or may not, be able to be listed and determined within the requested time frame. Whilst the Tribunal will endeavour to do so, there is no guarantee that requested reviews will be able to be heard and determined. Leave to list the review at short notice may therefore be refused. The availability of Tribunal resources to schedule an extra s79 review will also be a necessary but not determinative consideration.
- 4.6. The 6 week notice period is necessary so that procedural fairness requirements can be met, including allowing all parties to prepare for the hearing.
- 4.7. The 6 week notice period in paragraph 4.2 of this Practice Direction allows the Tribunal to meet notification requirements to victims to allow any submissions to be made.
- 4.8. A hearing will not be required where the application can be determined on the papers as detailed in paragraph 3.1.3 of this Practice Direction. A well-constructed and detailed travel

application including the information in paragraph 5 of this Practice Direction below, may assist in having the application determined expeditiously on the papers.

5. Required detail in request for review of order/travel conditions

- 5.1. The [Application Form](#) on the Mental Health Review Tribunal website should be used as it will assist in ensuring sufficient detail is provided – such detail assists in determining the matter expeditiously on the papers without a hearing if possible; and assists with notifying all parties prior to the hearing. Information should be comprehensive and provide detail of the unexpected travel plan, and must include:
 - 5.1.1. A travel plan that incorporates a risk management plan. Child protection and victim issues should be considered in the plan, if indicated.
 - 5.1.2. The travel plan should include a detailed itinerary of destinations, overnight stays and arrangements, contacts and purpose of contacts at the destination as well as emergency contact details relating to health or compliance.
 - 5.1.3. The travel plan should indicate the mode of transport and whether that travel will be in the company of someone.
 - 5.1.4. The travel plan should indicate who will provide support, supervision and health services during the travel.
 - 5.1.5. The travel plan should indicate how the treating team will review the patient during the travel – this is particularly required for any lengthy travel.
 - 5.1.6. The travel plan should set out current medication and how that is to be provided and/or supervised during the travel. If current medication includes a depo (IMI medication) required details include timing of depo doses – both immediately before and during the travel - and how will this be administered.
 - 5.1.7. The Community Forensic Mental Health Service, or if applicable the Western Sydney Local Health District Forensic Community Mental Health Service, should be consulted regarding the risk assessment and management plan, and the report/response to that consultation should be provided with the travel application.
 - 5.1.8. If accompanied by a friend or family, the travel plan should set out the contact numbers and directions in relation to managing untoward incidents.
 - 5.1.9. Correspondence must be provided from friend/family confirming their willingness to accompany and supervise the forensic patient, with a contact number for this person/s in the event the Tribunal needs to contact the person as part of deciding whether to approve the travel application.
 - 5.1.10. If there is a need for urine drug screen testing before or during or after the travel this should be detailed and included in the travel plan.
 - 5.1.11. If the treating team supports the travel application they should provide confirmation of the family member/friends' suitability to supervise.

5.1.12. Where the application is a short notice application (that is, to be considered at a s79 requested review rather than a mandatory scheduled s78 review), reasons for short notice must be provided and will constitute a request for leave for the review to be listed at short notice (see paragraphs 5.1 to 5.8 of this Practice Direction).

Magistrate Carolyn Huntsman
President

Dated November 2025

* Formerly called "Practice Direction 6 of 2024"

Version:	President:	Date:
1. Practice Direction 6 of 2024 Requests for Review of Tribunal order relating to travel by a Forensic Patient (s79 at discretion/with leave of Tribunal)	Magistrate Huntsman	November 2024
2. Forensic No.5 – Application for Travel Review of Tribunal orders Reviewed, renamed and reformatted	Magistrate Huntsman	March 2025
3. Updated Clause 19 Mental Health Regulation 2025	Magistrate Huntsman	November 2025
4. Next scheduled review		June 2026