

# Practice Direction

## General No.8

### Application for Consent of Tribunal to Publication of Names



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

#### 1. Purpose

- 1.1 The purpose of this Practice Direction is to set out the process for applying for the Tribunal's consent to publish the names of those involved in Tribunal proceedings.
- 1.2 Section 162 of the *Mental Health Act 2007* (MHA) prohibits the publication or broadcast of names of those mentioned or involved in Tribunal proceedings, or to whom a matter before the Tribunal relates. The prohibition extends after the hearing is completed.
- 1.3 Section 162 provides that there can be no publication or broadcast of names or identifying material such as any information, picture or material that identifies or may tend to identify the person, unless the Tribunal consents.
- 1.4 Any consent by the Tribunal is an exception to the statutory prohibition (s162) which otherwise applies.

Note: Independent legal advice should be obtained about how s162 MHA relates to a particular proposed publication or broadcast.

#### 2. How to apply for the Tribunal's consent to publish under section 162

- 2.1 To apply for the Tribunal's consent, a person must apply in writing to the Registrar of the Tribunal. The application be lodged to [MHRT-MHRT@health.nsw.gov.au](mailto:MHRT-MHRT@health.nsw.gov.au).
- 2.2 The application should set out:
  - 2.2.1 The name/s of people to be identified in any publication or broadcast.
  - 2.2.2 The way in which the person participated in the Tribunal's proceedings (e.g. as a patient, witness or family member, clinician or victim of a forensic patient).
  - 2.2.3 If the person was a witness or someone otherwise involved in the proceedings, the name of the person that the proceedings related to.
  - 2.2.4 An outline of the proposed publication or broadcast, including the format (TV, radio, print, internet) and general content.
  - 2.2.5 Where the applicant is aware that the person/s to be identified agree to the publication of their identity:
    - 2.2.5.1 an affidavit from the person/s should be provided with the application; and
    - 2.2.5.2 the person should be available to attend a hearing (this can be by AVL) if

required by the Tribunal.

2.2.6 The applicant should provide the contact details for any of person/s to be identified.

2.2.7 If the person to be identified is a patient currently detained under a Tribunal order, then the Tribunal may request from the treating team a recent psychiatric or psychological report:

2.2.7.1 such report should detail the patient's current mental state;

2.2.7.2 their capacity to consent to being identified in a publication or broadcast; and

2.2.7.3 likely impact on mental health and rehabilitation/recovery/community integration or participation of the patient.

2.3 If the person to be identified is a former patient, or consumer not under a current order, then the Tribunal may request the applicant provide:

2.3.1 an updated psychiatric/psychologist's report as to the current mental health conditions of the person;

2.3.2 current treatment;

2.3.3 any issues relating to decision making capacity; and

2.3.4 likely impact of the proposed publication on mental health/recovery/community integration or participation of the person.

### 3. Tribunal determination of application

3.1 The application may be determined by the President or a Deputy President as a single member Tribunal.

3.2 The application may be determined on the papers or a hearing may be held.

3.3 The President may determine that the application will be heard by a three member Tribunal panel.

Magistrate Carolyn Huntsman  
**President**

Dated: April 2025

<b>Version:</b>	<b>President:</b>	<b>Date:</b>
1. Practice Direction Publication of Names	Cogswell J	August 2018
2. Practice Direction: General No.8 Application for Consent of Tribunal Publication of Names Reviewed, renamed and reformatted	Magistrate Huntsman	April 2025
3. Next scheduled review		June 2026