

Restriction on the publishing of names of people involved in Mental Health Review Tribunal hearings



The Mental Health Review Tribunal (MHRT) is a specialist body that has a wide range of powers to conduct mental health inquiries and make and review orders about the treatment and care of people with a mental illness.

The MHRT is formed under the *Mental Health Act*, which sets out the care, treatment and control of persons with a mental illness and other matters relating to mental health.

Protecting the public, patients and victims

The law¹ restricting the publication of names of people involved in Tribunal hearings is designed to allow people involved in Tribunal hearings to freely discuss matters without concern that their identity and sensitive information will be published.

It supports the full participation of patients, carers, victims, and health practitioners and other witnesses in the hearings and protects the privacy of everyone involved.

It does not allow anyone (including the media) to publish or broadcast any names, pictures or any information which would identify a person in a Tribunal hearing. The only exception is if the Tribunal gives consent.

The restriction includes publishing the name of:

- any person who has a matter before the Tribunal (including forensic and civil patients)
- any person who appears as a witness before the Tribunal in any proceedings (for example, a treating psychiatrist)
- any person who is mentioned or otherwise involved in any proceedings under either Act (for example, a victim, or family member of the patient).

Why are there restrictions on publishing information?

If participants could be identified, they may be less likely to appear or freely exchange information at a Tribunal hearing. Tribunal hearings often discuss in detail a person's personal and health information. This may also include victim submissions, and details regarding the harm suffered by victims.

In addition, if information was made public, a person who lives with a mental illness may experience stigma and discrimination in their work or social life. If details about the patient's treatment, leave or release plans were to become public knowledge, it may affect the person's ability to safely re-join the community.

¹ Section 162 of the Mental Health Act

Balancing the need for privacy with the need for transparency

Protecting privacy of victims, patients and others needs to be balanced by the need for transparency of Tribunal decision making. This balance is met by restricting the publication of the names of Tribunal participants, while allowing hearings to be open to the public, unless the Tribunal considers it necessary that a hearing be conducted wholly or partly in private.

This means people can watch Tribunal hearings (unless the Tribunal orders that they be closed), but they cannot afterwards identify the participants in the hearing.

NSW is at the forefront of transparency in relation to forensic hearings. It is the only Australian state to hold public hearings. All other Australian jurisdictions have similar provisions to prohibit the publication of names of people before Tribunal hearings.

Applying for consent to publish names

The Tribunal decides whether or not to allow the publication of the name of a person involved in a Tribunal hearing. A person's attitude towards the proposed publication and their capacity to give consent are important factors the Tribunal will consider. An individual's consent to the publication of their name is not solely determinative.

This protection is only given to people involved in Tribunal hearings and only in relation to the hearing itself.

These provisions do not limit a person from

- identifying themselves as someone who lives with a mental illness
- publishing information that a person is a forensic patient
- publishing details about the court case of a person who has been found not guilty by reason of mental illness, or a person who has been diverted from the court for a mental health assessment
- they do not prevent a victim from publishing their account about the impact of the crime.

A person who wishes to seek the Tribunal's consent to publish information can make the application in writing to the Registrar of the Tribunal. The process is outlined in the Tribunal's Practice Direction '[Publication of Names](#)'.