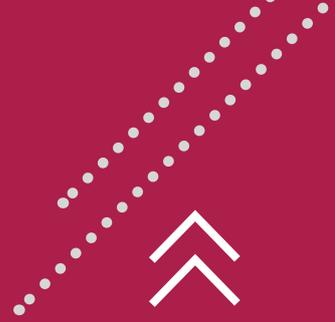


Mental Health Matters



Overview



The Mental Health training module provides a framework and guide for appearing in matters before the civil division of the Mental Health Review Tribunal. That involves understanding Legal Aid's expectations including Guidelines and Practice Standards for appearing in such matters, relevant legislation, regulations and Practice Directions and, leading authorities and decisions. Participants will understand when representation can be afforded in accordance with Legal Aid policy and how representation should be undertaken. On completion of the course, participants will be expected to provide proper and effective representation in accordance with the expectations held by clients, Legal Aid NSW and the Mental Health Review Tribunal.

Learning Outcomes

Participants are expected to effectively represent people in proceedings before the Mental Health Review Tribunal (MHRT) 'civil proceedings'. To achieve this they must understand and be able to apply:

- Legal Aid Guidelines and Practice Standards for appearing in such matters
- relevant Legal Aid policy regarding determining when representation can be afforded
- the relevant instruments including the Mental Health Act and Regulations, NSW Trustee & Guardian Act and Regulations and the Practice Directions and procedural guidelines that apply to the MHRT
- the relevant authorities and decisions

By the end of the training, participants will be able to:

1. provide effective representation in all matters conducted before the MHRT
2. understand how Legal Aid policy applies to representation and how representation is properly undertaken
3. demonstrate the knowledge and ability to provide effective and proper representation
4. apply the use of Guidelines, Practice Standards, legislation, rules and relevant decisions
5. explain the processes and procedures that apply to providing representation
6. contribute to the effective representation of these clients and the development of knowledge and relevant laws
7. use skills to properly and effectively represent Legal Aid clients before the MHRT
8. have more confidence with effectively advocating in accordance with client's instructions with consideration for the unique nature of the jurisdiction and the fundamental practices regarding representation
9. identify when representation may be provided in accordance with Legal Aid policy
10. describe when representation may be afforded and how to properly and effectively represent clients in matters before the civil division of the Mental Health Review Tribunal



Course Content

Video

- *Mental Health Matters*
Presented by Todd Davis (Solicitor, LANSW)

Required Reading

- Guidelines for Panel Lawyers in matters before the Mental Health Review Tribunal
- Mental Health Advocacy Practice Standards
- Decisions of the Mental Health Review Tribunal
 - [2019] NSWMHRT3: Ms Sullivan
 - [2018] NSWMHRT 5: Mr Powers
 - [2016] NSWMHRT 1: Mr Bridges
 - [2015] NSWMHRT 1: Mr Peters
 - [2015] NSWMHRT 5: Mr Stephens
 - [1999] NSWMHRT 1: Ms S
- Decisions of the Supreme Court of NSW and others
 - Sarah White v The Local Health Authority & Anor [2015] NSWSC 417
 - Presland v Hunter Area Health Service & Anor [2003] NSWSC 754 (1)
 - Z v Mental Health Review Tribunal [2015] NSWSC 1943
 - Z v Mental Health Review Tribunal [2015] NSWCA 373
 - SMF v South Western Sydney Local Health District [2018] NSWSC 303
 - S v South Eastern Sydney & Illawarra Area Health Service and Anor [2010] NSWSC 178
 - Harry v Mental Health Review Tribunal [1994] 33 NSWLR 315
 - Re J (No. 2) [2011] NSWSC 1224
 - VU v Miles [2006] NSWADTAP 19
 - PY v RJS (1982) s NSWLR 700

Useful Links

- [Mental Health Review Tribunal](#)
- [Mental Health Review Tribunal Civil Hearing Kit](#)
- [Official Visitors Program](#)

Useful Resources

- *Defining Madness*, Peter Shea (1999) Hawkins Press
- *Rethinking Rights-Based Mental Health Laws*, McSherry and Weller (eds) (2010) Hart Publishing
- *Australian Mental Health Tribunals: Space for Fairness, Freedom, Protection and Treatment*, Carney, T, Tait, D, Perry, J, Beaupert, F. (2011) Australian Mental Health Review Tribunals