



Criminal Law (Mental Impairment) Act 2023 (WA)

PRACTICE NOTE 2 / 2026 – COMMUNICATION PARTNERS

The Mental Impairment Review Tribunal

Section 195 of the *Criminal Law (Mental Impairment) Act 2023 (WA)* (the Act) provides that the President may from time-to-time issue, amend or revoke practice notes for regulating the practice and procedures of the Mental Impairment Review Tribunal (the Tribunal).

1. Purpose

This Practice Note sets out procedures for the appointment and use of communication partners to assist persons appearing before the Tribunal who experience communication needs, including difficulties with understanding proceedings or expressing themselves.

The objective is to ensure that all participants, including persons under supervision orders, are able to effectively participate in hearings, thereby promoting access to justice, fairness, accuracy, and efficiency.

2. Scope

This Practice Note applies to:

- Persons subject to proceedings before the Tribunal under the Act; and
- Parties, legal representatives, and Tribunal members engaged in such proceedings.

3. Role of the Communication Partner

A communication partner is an independent, qualified professional appointed to facilitate understanding between the Tribunal and a person with communication needs. The role is neutral. A communication partner is not an advocate and must not alter the substance of evidence or submissions.

Duties may include:

- Assessing the person's functional communication needs and abilities;
- Providing communication advice and recommending adaptations to:
 - language and questioning, including the use of visual aids;
 - document presentation, including the development of easy read documents; or
 - hearing structure and environmental modifications;
- Assisting the person to understand questions, decisions and orders; and
- Clarifying the person's responses for the Tribunal, without changing their meaning.

4. Communication Partner Requests and Appointment

A communication partner may be appointed under section 21 of the Act. Regulation 4 of the *Criminal Law (Mental Impairment) Regulations 2024* (the Regulations) provides that the appointment may be made:

- On the Tribunal's own initiative; or
- On application by a legal practitioner representing the supervised person; or



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- On application by the supervised person who is the subject of the proceedings, or their representative.

Where a person enters the Tribunal's jurisdiction (i.e. has been made the subject of a Community Supervision Order or Custody Order under the Act), the Tribunal may make an order to request a communication partner assessment.

Requests will be allocated to a communication partner from the Department of Justice's Communication Partner Program. The allocated communication partner will undertake an assessment of the supervised person's communication and participation needs and provide a report summarising the needs, as well as any recommendations concerning how the communication partner may assist the Tribunal and supervised person.

The Tribunal may provide to the Communication Partner Program any materials it considers appropriate for the communication partner to facilitate the requested assessment. The Tribunal may also disseminate the assessment report prepared by the Communication Partner Program to any agencies or support workers it deems would be assisted by it.

5. Standing rules concerning requests for Communication Partner assessments

Where a person enters the Tribunal's jurisdiction who has been diagnosed with a cognitive or intellectual disability as a primary diagnosis, the Tribunal will order a communication partner assessment unless there are reasons accepted or found by the Tribunal to not make such a request.

6. Return Hearings and Ground Rules Hearings

The Communication Partner Program will submit the assessment report to the Tribunal at least 15 days prior to the Return Hearing, unless otherwise arranged.

The communication partner will attend the Return Hearing in person for the purpose of providing the opportunity for:

- The Tribunal to ask questions or discuss considerations associated with the communication partner's assessment and recommendations;
- Discussion of protocols for language and questioning, use of documents, breaks, and other supports;
- Clarification of future hearing attendance for the supervised person and Communication Partner involvement; and
- Clarification of the scope of the communication partner's role.

The Tribunal will then make any decisions regarding the formal appointment and involvement of the communication partner.

Further, Regulation 4 of the Regulations provides that the Tribunal may elect to convene a Ground Rules Hearing for the purposes of making any necessary orders relating to:

- The communication and support needs of the supervised person; and or
- The communication partner.

The Communication Partner must attend the Ground Rules Hearing unless the Tribunal orders otherwise.



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7. Prior Communication Partner Court Appointment

Where a person enters the Tribunal's jurisdiction where they have previously had a communication partner appointed in another jurisdiction:

- The Tribunal will notify the Communication Partner Program of the Hearing date for the first substantive review of the matter;
- The previously appointed communication partner will attend this hearing to provide an oral report to the Tribunal regarding the communication needs of the person;
- The Tribunal will then make further decisions regarding the formal appointment and involvement of the communication partner, including whether a written report is required.

8. Conduct of Hearings

To the extent practicable, Tribunal members and legal representatives must respect and follow the guidance provided through the Communication Partner and/ or the Ground Rules Hearing. Any direct discussion with a supervised person should be carried out in a manner consistent with the recommendations made.

9. Post-Hearing

If the communication partner is directed to produce any materials for the benefit of the supervised person's understanding of the Tribunal's decision or orders, such materials must be provided to the supervised person's legal representative. The legal representative may raise any issues with the proposed materials with the communication partner and resolve those issues without reference to the Tribunal. Should issues not be capable of resolution between the legal representative and the communication partner, either the legal representative or the communication partner may apply to the Tribunal for the President to resolve the matter. The President may make any directions as required to facilitate the resolution of any dispute in this regard.

10. Notification

The Tribunal is responsible for notifying the Communication Partner Program of:

- all Tribunal requests for a communication partner assessment;
- documentation relating to the formal appointment of a communication partner; and
- any changes to future Hearing dates.

The Communication Partner Program is responsible for returning to the Tribunal:

- communication partner assessment reports; and
- signed declarations of the appointed communication partner.

11. Supporting Attachments

Please refer to the [Communication Partner Tribunal Appointments](#) process map depicting communication partner appointment and involvement with Tribunal proceedings.

12. Flexibility

The Tribunal retains discretion to depart from this Practice Note where the interests of justice so require.



**Mental Impairment Review Tribunal
Western Australia**

Terms of the Practice Note

This practice notes takes effect on and from the date of signing and shall remain in full force and effect until such time as it is revoked by further instrument in writing signed by the President.

Signed



The Honourable Jeremy Curthoys
PRESIDENT
MENTAL IMPAIRMENT REVIEW TRIBUNAL

31 March 2026