



Criminal Law (Mental Impairment) Act 2023 (WA)

PRACTICE NOTE 1 / 2026 – AUTHORITIES TO ACT

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 the requirements of the Tribunal regarding the recognition of representatives appearing on behalf of a supervised person. It clarifies the requirement for Mental Health Advocacy Service advocates and legal counsel to provide a properly executed authority to act prior to being recognised as a representative before the Tribunal.

2. Requirement for Signed Authority to Act

Any legal practitioner or Mental Health Advocacy Service advocate seeking to appear before the Tribunal on behalf of a supervised person must provide a signed authority to act.

The authority must clearly identify:

- The supervised person;
- The representative;
- The scope of the authority granted; and
- The date of execution.

The authority may be signed by the supervised person themselves where they possess the capacity to provide such instructions. Where the supervised person lacks capacity, the authority may be signed by a duly appointed guardian with lawful authority to make decisions on their behalf.

Should a supervised person not have capacity or an appointed guardian, the Tribunal will approach requests to appear on behalf of a supervised person on a case-by-case basis. The Tribunal may request reasons why a representative (legal or otherwise) considers they are authorised to appear for the supervised person in such circumstances.

3. Recognition Under Section 58 of the Act

Upon receipt of a properly executed signed authority to act from a Mental Health Advocacy Service advocate, the Tribunal will formally recognise that advocate as a representative pursuant to section 58 of the Act.

Recognition as a representative under section 58 will entitle the advocate access to notifications under section 71 of the Act, including the provision of information under consideration by the Tribunal.

4. Filing and Timing

Signed authorities should be filed with the Tribunal as soon as practicable upon execution of the authority. The Tribunal may decline to recognise a representative in the absence of a valid authority.



**Mental Impairment Review Tribunal
Western Australia**

5. Application

This Practice Note applies to all proceedings before the Mental Impairment Review Tribunal under the Act.

6. Flexibility

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

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

12 March 2026