

Information Statement

Public Authority: Mental Health Review Tribunal

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Introduction

This document is the Information statement for the Mental Health Review Tribunal. In accordance with the Public Access To Information (PATI) Act 2010, every public authority has a legal duty to maintain an Information Statement.

The purpose of the PATI Act and this document is to make information readily available to the public without the need for specific written requests, to encourage authorities to proactively publish information and to develop a culture of openness. Every person who is a Bermudian, or resident of Bermuda, has a right to access any record held by a public authority, and a right to amend their personal information held by a public authority if it is incorrect or misleading. However, several classes of information are exempt, including: Personal information (unless it relates to the requestor); Sensitive commercial, information received in confidence; Operations and deliberations of Public Authorities; Cabinet, Ministerial and Governors documents; and Legal documents. All exemptions are subject to the public interest test, except those that would be in contempt of Court, infringe Parliamentary privilege or are prohibited by other legislation [for more information see sections 21 to 40, PATI Act].

How to make a request

Requests for information, or to amend your personal information, must be made using the application form, and submitted in person to the Ministry Information Officer. See Section G for how to make a request including the documents needed, record specificity, contact information and process timelines.

Key, including definitions

- The Tribunal means the Mental Health Review Tribunal
- The Act means Mental Health Act 1968
- [] Square brackets, refer to sections of the PATI Act, unless another Act is indicated

Section A: Structure, Organization and Governing Legislation [s5(1)a]

Insert structure of Authority (a chart – if helpful, and some explanatory text):

- 1 The members of the Review Tribunal are appointed by the Minister and consist of—
- (a) a number of persons (hereinafter referred to as "the legal members") and having such legal experience as the Minister considers suitable;
 - (b) a number of persons (hereinafter referred to as "the medical members") being registered medical practitioners; and
 - (c) a number of persons having such experience in administration, such knowledge of social services or such other qualifications as the Minister considers suitable.

[s.1, First Schedule, Mental Health Act].

Accordingly, there are two lawyers, two medical members, and several lay-members who are interested in mental health issues. The Tribunal sits with 3 members, one from each category.

Please see the Government website for the list of current members at <https://www.gov.bm/government-boards-and-committees>; then select current Boards and Committees and then search for the Mental Health Review Tribunal.

Insert Governing Legislation:

Mental Health Act, 1968

Section B1: Legislated Functions, Powers and Duties of the Authority [s5(1)b]

Insert power, duties and functions of the Authority (cite Act or Policy):

Functions of Authority under the Mental Health Act [ss. 5 and 62]

The Mental Health Review Tribunal is established for the purpose of exercising the rights and discharging the duties and functions conferred or imposed upon them under the Act.

Where application is made to the Tribunal in respect of a patient who is detained under the Act, the Tribunal may direct that the patient be discharged and shall so direct if they are satisfied—

- (a) that he is not then suffering from mental illness, psychopathic disorder, subnormality or severe subnormality; or
- (b) that it is not necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained; or
- (c) in the case of an application under section 23(3) or section 27(3), that the patient, if released, would not be likely to act in a manner dangerous to other persons or to himself.

Effect: Whenever a person is forcibly detained under one of the sections of the Mental Health Act (normally because it is in the interest of their health or the protection of themselves or the public), the patient or his nearest relative, have a right to challenge that detention. The Tribunal hears evidence and decides whether or not the patient has a mental illness, and if so, whether it is necessary to detain him, in the interest of his health, his safety or the protection of the public. The Tribunal can over-rule the Hospital and order a patient's release.

Section B2: Obligations under PATI Act [s5(1)b]

(same for all public authorities)

Obligations of the Authority under the PATI Act

1. To provide an **information statement** for the public and promulgate it [s5],
2. To provide **other information** to the public so that the public needs only to have minimum resort to the use of the Act to obtain information [s6]. This includes:
 - a. General information, e.g. activities of the Authority
 - b. Log of all information requests and their outcome
 - c. Quarterly expenditure (upon request) [s6(5)]
 - d. Contracts valued at \$50,000 or more.
3. To **respond to information requests** in a timely manner [s12-16]
4. To **track information requests**, and provide this data to the Info Commissioner [s5(8)3]
5. To respond to requests from the Information Commissioner [s9]
6. To **amend personal information** held by the Authority that it is wrong or misleading following a written request by the person to whom the information relates [s19]
7. To conduct an **internal review** if formally requested [part 5]
8. To give evidence for **review by the Information Commissioner** [part 6, 47(4)], or for **judicial review** [s49], if required
9. To provide an **annual written report** to the Information Commissioner of the status of information requests [s58(3)].
10. **To do anything else as prescribed** under the PATI Act and Regulations [s59, 60], including:
 - a. **Managing Fees** for Requests for information
 - b. Management and maintenance of **records**
 - c. **Following procedures** for administering the Act
11. To **train staff and make arrangements** so as to facilitate compliance with the Act [s61]
12. To **designate an officer** to be the person to whom requests are directed [s62]

Section C: Services and Programmes provided [s5(1)c]

Insert a summary of services and programmes provided by the authority:

Services

To assess challenges to persons detained under the Act. That is, the Tribunal hears evidence and decides whether or not the patient has a mental illness, and if so, whether it is necessary to detain him, in the interest of his health, his safety or the protection of the public

Programmes.

The Tribunal has no programmes

Section D: Records held [s5(1)d]

List and describe the classes of records held by the authority:

The following records in respect of the Tribunal are held:

Regarding Applications

Note: all records are for the last 7 years, and are exempt under section 4 – quasi judicial, in addition many are subject to exemption under section 23 – personal information, unless otherwise indicated.

1. Medical Records of the Patient. (last 7 years). [Exemption section23 – personal information].
2. Application Form (last 7 years). [Public access]. The form used to apply for discharge/ detention/ release.
3. Medical Reports prepared by the Hospital (last 7 years). [Exemption section23 – personal information].
4. Medical Reports prepared by the MHRT Medical Member (last 7 years). (Exempt under section 4 – quasi judicial)
5. Submissions by the Applicant or counsel and related correspondence (last 7 years). (Exempt under section 4 – quasi judicial)
6. Correspondence relating to hearings (last 7 years). (Exempt under section 4 – quasi judicial)
7. Minutes of formal hearings. (last 7 years). (Exempt under section 4 – quasi judicial). Minutes are taken and kept by the secretary provided by the Ministry of Health.
8. Decisions (last 7 years). (Exempt under section 4 – quasi judicial).
9. Reasons for decisions (last 7 years). (Exempt under section 4 – quasi judicial)

Administrative

10. Correspondence with Ministry of Health and Mid-Atlantic Wellness Institute (last 7 years).
11. *The Tribunal Annual Report*. (last 7 years). [Public access]. Copy sent to the Minister of Health.

Section E: Administration manuals [s5(1)e]

Insert list and description of all administrative manuals/ guidelines used by employees for administering or carrying-out activities:

The Tribunal follows the procedures of the Mental Health Review Tribunals in England and Wales, as set out in the *Tribunal Rules* (see section F).

Section F: Decision-making documents [s5(1)f]

Insert list and description of all policies and guidelines for decision making in respect to any person. Note “person” includes any company or association or body of persons, whether corporate or unincorporate; [Interpretation Act, 1951]

1. *Mental Health Act [s5 and s62]*. [Public access] See Section B1 above.
2. *The Mental Health Review Tribunal Rules, 1968*. (Made by the Chief Justice under the Mental Health Act 1968 and published by the Government of Bermuda). [Public access]. The Tribunal is a quasi-judicial body and so is bound by all the rules that govern court proceedings, in terms of fairness, hearing all parties, & etc. It meets only to hear applications made to it and keeps minutes of its proceedings.

Section G: How to Contact the Information officer and Make a Request [s5(1)g and (h)]

Insert name and contact information:

How to make a request for information, or to amend your personal information

Requests must be made using the application form and submitted in person to the Information Officer. You must also provide Government-issued identification to prove that you are a Bermudian or a resident of Bermuda, such as a passport or Bermuda driver's license. The process and application form are located at: <https://www.gov.bm/online-services/make-pati-request>

A request must identify the record, the subject and time period. Requests should specify the manner in which access is preferred, for example by inspection or by copy. There is a fee charged for reproducing materials (see list of fees on the PATI website at: <https://www.gov.bm/pati-service-fees>).

Your request will be acknowledged within 5 days. The Public Authority has 6 weeks to make a decision regarding the request. Access to the record may be provided in full, in part or denied. If you are not satisfied with the outcome you may appeal the decision via several mechanisms: an Internal Review by the head of the Authority, an External Review by the Information Commissioner, and a Judicial Review in the Supreme Court. These processes are described on the PATI website (<https://www.gov.bm/public-access-information-pati>).

Contact	PATI Information Officer, Ms. Shauna Sylvester c/o Ms. Paulette Richardson Ministry of Health and Seniors <i>Re: Mental Health Review Tribunal</i>
Hand deliver to	Continental Building, 25 Church Street, Hamilton HM 12
Mail*	P.O. Box HM 380, Hamilton HM BX, Hamilton
Email*	Prichardson@gov.bm Add subject line: PATI request re MHRT
Tel	278-4906

* Note requests for information will only be accepted for submissions made in-person so as to verify the requestor's identity.

Section H: Other Information [s5(1)h]

Insert any other information that you think might be useful for the public to know, so as to decrease requests for information [s6]:

1. **Fees and Remuneration:** The fees for services and the remuneration of board members for service is governed by the following legislation, respectively:
 - Government Fees Act, 1965; and the Government Fees Regulations, 1976. The Act governs the charging of fees to applicants for services. The Regulations lists the fees for the services.
 - Government Authorities (Fees) Act, 1971. The Act governs the remuneration of body members for services. In brief: the Chair receives \$100, and other members receive \$50, per meeting. Public Officers receive no monies.

2. The **legislation** listed in this document may be found at Bermuda Laws Online www.bermudalaws.bm.

Section I: Further Information As Prescribed [s5(1)i)?

At Aug 2016 the Regulations do not specify additional requirements for the Information Statement. But note, that the following shall be provided in accordance with s6 of the PATI Act:

1. **Log of PATI** information access requests: To be provided upon request and with personal identifiers deleted.
2. **Contracts:** Any contracts entered into, with a value greater than or equal to \$50,000 [s6(6)]. Note for this authority, there is no power to enter into any contracts.
3. **Expenditure:** Quarterly expenditure will be provided upon request. Other than remuneration to members for attending meetings, as described in section H above, the Authority has no expenses
4. **Salaries:** The Minister responsible for PATI shall publish a list of title and salary range of every post of public officers [s6(6)].

Section J: Information Statement: Copies and Updates [s5(2,3,4,5)]

Every public authority shall update its information statement at least once a year, and make it available for inspection by the public at reasonable times at [s5(2-5), PATI Act]:

Locations of Information Statement (*Confirm copies of Information Statement are available at*):

- Office: Ministry Headquarters, Continental Bldg, 25 Church St., Hamilton Y
- The Bermuda National Library Y
- The Bermuda Archives Y
- Available electronically at:
 - PATI website <https://www.gov.bm/public-access-information-pati> Y
 - Authority's website – there is no website for the authority n/a
- With the Information Commissioner. Y

Have you published a notice in the Gazette indicating the places where the information statement is available for the public? Y

Date Information Statement was updated:

Date: 1st November 2016

Sign:



Name: Rod Attride-Stirling
Post: Chair, Mental Health Review Tribunal

(Subject matter expert: Mr. Christian Luthi, Lawyer)

Ends