

Mental Health Court Hearing – Role of Organisations

Queensland Mental Health Court

The Mental Health Court (MHC) is a special hearing of the Supreme Court that makes decisions about criminal cases where the person charged may have a serious mental illness and or intellectual disability. The Court usually sits for one week each month. The MHC is presided over by a Supreme Court Judge who is assisted by two senior clinicians, either a Psychiatrist or a Psychologist. These clinicians advise the Judge on clinical matters. The court is located in Brisbane but there are options for attendance via phone if you are located outside Brisbane.

The MHC is unlike other courts in the way it operates. The focus is on the reports written by the psychiatrists or psychologists who have assessed the person charged.

Whilst the Court tries to give everyone involved notice of when a hearing will be held, sometimes issues arise that result in the Court adjourning matters or making late changes to dates of MHC hearings. Generally, the Court is an open Court which means anyone can attend unless specified otherwise.

Victim Impact Statements are submitted to the Office of the Director of Public Prosecutions and can be provided to the legal representatives (lawyers) who are in the Court Hearing. They are submitted by the Prosecutor to the Judge and Assisting Psychiatrists for their consideration if an Order is being made. Your Victim Impact Statement is not read out by the Court. It is also confidential and so it is not provided to the person charged, unless you request this, and the Judge will need to decide if this is to occur.

After hearing from all parties, the MHC may find:

- The person was of unsound mind at the time of offence/s
- The person was of sound mind
- The person is temporarily or permanently unfit for trial
- The person is fit for trial
- In cases where there is a murder charge, the Court can determine that the person is of Diminished Responsibility and can return the matter to criminal court to be heard in that court.

Depending on the outcome, a Forensic Order or Treatment Support Order may be made. Some matters may be redirected back to the criminal justice system to proceed in a different court.

Mental Health Court Registry

In the court room there will be staff from the MHC Registry present. Their role is to ensure the court room runs smoothly and assist the Judge with the administrative side of the court.

Parties to the proceedings

Another way that MHC differs from other courts, is in the parties (legal representatives) to the proceedings. These are

- the person charged' legal representatives (defence);
- the Office of the Director of Public Prosecutions (prosecution); and
- the Office of the Chief Psychiatrist;
- the Office of the Director of Forensic Disability.

All parties in the proceedings will refer to various points of law under the *Mental Health Act 2016 (Qld)* (MHA).

Office of the Director of Public Prosecutions

The Office of the Public Prosecutions (ODPP) represents the state's interests in legal proceedings, including those in the MHC. The ODPP is responsible for providing expert legal representation so that the evidence against someone charged of a serious crime can be properly presented at court. As a victim of crime, you may interact with prosecutors who argue for the state's case.

During court, the Prosecutor will cross examine the psychiatrists or psychologists on the content of their reports.

The Prosecution will submit your Victim Impact Statement if you have prepared one. It will be provided to the legal parties, the Judge of the court, and the assisting clinicians. It will not be read out in the court but sometimes the Judge will mention it in their final summary of the evidence that has been provided to the Court. .

Defence Solicitors

The Legal Defence role is to represent the person charged. The Defence may be from Legal Aid Queensland or a private law firm. The defence lawyer will cross examine the psychiatrists or psychologists on the content of their reports and make submissions to the court on behalf of their client.

Office of the Chief Psychiatrist

The Office of the Chief Psychiatrist (OCP) is also a party to the proceedings in MHC. They have a unique role in ensuring that the court is aware of the requirements under the MHA and provide expert advice on Forensic Orders, Treatment Support Orders and key issues related to both matters of law and matters related to the person charged and their management.

Psychiatrists or Psychologists

During the proceedings of MHC, the court may hear from experts that have assessed the person charged. They provide evidence relevant to their report on the person charged and their mental illness or intellectual disability. This is to assist the court to determine whether the person charged was of unsound mind at the time of the offence, or if they are fit for trial (either temporarily or permanently) or to clarify any other issues relevant under the MHA. The psychiatrists or psychologists can be present in person in the court or by video link and are questioned by the legal parties.

Queensland Health Victim Support Service

Attending court can be challenging for some victims and their families. The Queensland Health Victim Support Service can work with you to support you to attend the court if you wish. Staff can also discuss the option with you to attend on your behalf and discuss the decision with you following the MHC hearing. As a victim of crime, it is up to you to determine if you wish to attend the MHC in person, dial in via phone or not attend at all.

Some people choose to have a Victim Support Coordinator from the Queensland Health Victim Support Service attend the court on their behalf and discuss the outcome with them after court. You can also choose to attend with a Victim Support Coordinator if you would find this helpful. Your Victim Support Coordinator can meet with you on the day of MHC and assist by providing support to understand the proceedings and managing any stress that attending the hearing might cause. The support provided will be personalised to what you require and can be discussed with your Victim Support Coordinator prior to the hearing.