

**PRACTICE NOTE: INTELLECTUAL DISABILITY (COMPULSORY
CARE AND REHABILITATION) ACT 2003
(Reviews, applications for orders, and representation)**

Note: All section references in this Practice Note are to the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

1 REVIEWS

- 1.1 For the purposes of reviews under s 74, reports and other documents required by s 72 must be presented to the designated Court closest to where the Care Co-ordinator is based.
- 1.2 The designated Courts are the Family Courts at Auckland, Manukau, Hamilton, Wellington, Christchurch and Dunedin.
- 1.3 When a report is presented to the Court under paragraph 1.1, the Care Co-ordinator must at the same time give or send the report (which must be accompanied by the documents specified in s 72(3)) to those persons specified in s 73(1), and provide the written advice specified in s 73(3). The written advice should call for written submissions to be presented to the Court within 28 days after the copy report has been received, unless further time is allowed by the Court on application. The Care Co-ordinator should tell the Court when the report was given or sent to every person specified in s 73(1).
- 1.4 Reviews will generally be determined on the papers, unless the Court directs otherwise.
- 1.5 When a report is presented, after allowing sufficient time for presentation of any written submissions under s 73(3), the Court will assess whether a hearing is necessary and produce a minute directing how the case is to proceed. If a hearing is not necessary, the review will be conducted on the papers.
- 1.6 If, for the purposes of a review under s 74, the Court calls for reports under s 75(a) or obtains a second opinion under s 75(b), copies must be given to the Care Co-ordinator, who must give or send copies to the persons specified in s 73(1) as set out in paragraph 1.3.
- 1.7 The Court will then assess again whether a hearing is necessary, as set out in paragraph 1.5, and will direct accordingly.
- 1.8 If the Court determines that a hearing is necessary, a hearing will take place at the Court closest to where the care recipient is receiving treatment or is currently residing.

2 APPLICATIONS FOR ORDERS UNDER SECTION 45 OR SECTIONS 84 to 87

- 2.1 Applications for an order under s 45 or ss 84 to 87 must be filed at the designated Court closest to where the Care Co-ordinator is based.
- 2.2 Applications, other than without notice applications, should be served in accordance with s 119. The designated Court where the application was filed will then review the application when the service period has expired.
- 2.3 Hearings for applications under s 45 or ss 84 to 87 are to take place at the Court closest to where the care recipient is receiving treatment or is currently residing.
- 2.4 If the Court is satisfied that no person wishes to be heard, the hearing may be dispensed with and the application determined on the papers at the designated Court closest to where the Care Co-ordinator is based (see s 131).

3 REPRESENTATION: SELECTION AND APPOINTMENT

- 3.1 Where the Court directs that a lawyer for the care recipient is to be appointed (see s 124), the lawyer will be appointed by the Registrar at the designated Court closest to where the Care Co-ordinator is based as soon as possible after the report under s 72 or the application is received.
- 3.2 The Registrar will appoint an appropriate lawyer, having regard to their experience and expertise in the relevant areas of law.
- 3.3 If the care recipient is receiving treatment or is currently residing outside the area of the designated Court at which the application was filed, a lawyer should be appointed from the area in which the care recipient is receiving treatment or is currently residing.

COMMENCEMENT DATE

This revised Practice Note is issued on 24 March 2011 and comes into operation on 24 March 2011.



Judge P F Boshier
PRINCIPAL FAMILY COURT JUDGE