



British Columbia

MENTAL HEALTH REVIEW BOARD

Effective Date: 2020/01/31

Title: Practice Direction – Children in Hearings

This Practice Direction describes the procedures that must be followed by all participants to ensure a child-centred approach to review panel hearings when applications are made by children who under the age of 19 years.

Guiding Principles:

The Mental Health Review Board [Board] is guided by the principles contained in the *United Nations Convention on the Rights of Persons with Disabilities* and the values contained in the *Charter of Rights and Freedoms*. The Board has special obligations in relation to children under the *United Nations Convention on the Rights of the Child*. The Board honours these obligations and is guided by the following principles when conducting hearings involving children:

- **Best Interests of Child**

The hearing process is oriented to the needs and best interests of the child. This approach must account for the child's individual needs, abilities, age, maturity, language, and culture. In particular, it must account for the rights of Indigenous children under the *United Nations Declaration on the Rights of Indigenous Peoples*.

- **Minimize conflict**

The hearing process is designed to minimize and reduce the duration of conflict the child experiences and any negative impact on the child.

- **Preserve Relationships**

Participants must conduct themselves with honesty and integrity, and must not act in a manner that would undermine the Board's processes. Participants must treat all persons in the hearing with courtesy and respect. The hearing process, in and of itself, does not increase family conflict or harm the child's relationship with their healthcare providers or caregivers.

- **Voice, fairness, and safety**

The child has the right to participate in a hearing process that is respectful, fair, and safe. A child capable of forming their own views has the right to express those views and to have those views be given due weight in accordance with their age and maturity. The child must have the opportunity to have their views and preferences heard, either directly or through a representative.

- **Accessible, proportionate, and timely**

The hearing process is understandable and explained to the child in a developmentally appropriate manner. There should be proportionality between the issues to be resolved and the processes used to resolve them. Decisions affecting a child are to be made in a timely way that is appropriate to the child's sense of time and in accordance with the Board's *Rules of Practice and Procedure*.

Direction:

- **Notice**

Participants must notify the Board immediately when an application for a review panel hearing is made by a child. Participants include the child's representative, case presenters, and facility representatives.

- **Guiding Principles**

Participants must apply these Guiding Principles to every hearing involving a child. All participants must ensure the child has the opportunity to be heard and consulted, either directly or through a representative, in all matters of process and substance affecting the child in light of such factors as their age, maturity, culture, language, or any individual need.

- **Flexible Process**

Participants must expect a flexible process for hearings involving a child. The Board and panel will apply a flexible process to ensure that the Guiding Principles infuse every review panel hearing involving a child. For example, this may result in shorter hearings or the participation of guardians in appropriate cases.

- **Process to request that Guardians attend the hearing**

If either party wishes a guardian to be present for all or part of the hearing, the guardian must be available at the beginning of the hearing. The party advocating for the guardian to attend, must, at the beginning of the hearing, provide the reasons to the panel members that the attendance of the guardian is helpful and in the best interests of the child. The panel will then rule on whether the guardian is to be present or not, and will also rule on whether the guardian will be attending in the role of a witness (attendance is limited to providing evidence) or is attending as an observer (cannot give evidence).

**Diana Juricevic
Chair, Mental Health Review Board**