



What Happens at Hearings?

Hearings are informal with some held in person and some by video. The Tribunal members will read the information provided by the treating team and ask questions about the person's wellbeing. They will speak to the person, their legal representative, carers, and the person's doctor.



Legal Representation

A person in hospital who has a hearing can access free legal representation for themselves through the Mental Health Advocacy Service or choose to have a private lawyer. Carers and family don't have a right to free legal representation at the hearing.

Sharing Information

The names of people involved in Tribunal Hearings are not made public.

Use the QR code in this brochure to access the 'Information Sharing' brochure.



Appeals

You can ask the doctor to discharge a person who is detained in a mental health ward. If the doctor refuses the request or does not respond within three working days, you can appeal to the Tribunal. The appeal from a carer to the Tribunal must be on the form which can be downloaded from NSW Health. You can appeal any decision of the Tribunal to the Supreme Court of NSW. However, this be a lengthy and expensive process.

More Information

- **Mental Health Review Tribunal:**
<https://www.mhrt.nsw.gov.au/the-tribunal/>
- **Mental Health Advocacy Service**
<https://www.legalaid.nsw.gov.au/what-we-do/civil-law/mental-health-advice>
- **Application form for an appeal by a person other than the involuntary patient**
<https://www.mhrt.nsw.gov.au/files/mhrt/pdf/appealbypersonotherthanpatient.pdf>

Scan the QR code to access all brochures.



MHCN: May 2023



Mental Health Carers NSW

Proudly funded by



Information for Carers of a person with Mental Health Issues

The Mental Health Review Tribunal

This brochure provides information for carers about the Mental Health Review Tribunal.

If you are a designated carer or principal care provider:

- You must be notified if there is a hearing concerning the person you care for¹
- You may appear before a Tribunal inquiry and
- You may appeal to the Tribunal

¹ Section 78 of the Mental Health Act 2007(NSW)



What is the Tribunal?

The Tribunal is like a court of law. Its purpose is to uphold the rights of people who receive involuntary mental health care (both in hospital and the community), forensic and correctional patients, and some voluntary patients. It holds hearings (inquiries and reviews) to make decisions (orders) about care and treatments that hospitals and health services **must** follow.

The Tribunal consists of one, two or three members who may be a lawyer, a psychiatrist, a person with relevant qualifications (e.g., a social worker or psychologist).

What does the Tribunal do?

The Tribunal reviews the person's detention when a doctor decides to detain a person in a mental health ward (assessable person) or rejects a person's request for discharge and the person appeals.

After a hearing the Tribunal will issue an order. That order will say the person is to be:

- Discharged into the community or into the care of a carer
- Discharged on a community treatment order, or
- Detained in a mental health ward for care and treatment²

Use the QR code in this brochure to access the 'Community Treatment Orders' brochure.

² Section 35 of the Mental Health Act 2007 (NSW)

An order will say how long the person can be detained in hospital or on community treatment. The Tribunal must review treatment orders when they expire or every three months for the first year that a person is in hospital. Then every six or twelve months after that.

You can ask the treating team to tell you the date the order will expire, so you can prepare for the next hearing.

The Tribunal also reviews the care of voluntary patient who has been in a mental health facility for over a year.

Electro-convulsive therapy (ECT)

The hospital doctor must apply to the Tribunal for an order to give ECT to an involuntary patient or a person under 16 years³. Any determination by the Tribunal will specify the maximum number of treatments.

Carers can attend any hearing of the Tribunal.

³ Section 94 of the Mental Health Act 2007 (NSW)

Forensic mental health treatment

The Tribunal also makes orders in relation to forensic and correctional patients.

Use the QR code in this brochure to access the 'Forensic Patients' brochure.



How Carers are Involved?

If you think you should be a designated carer or principal care provider but are not sure, you can speak to one of the treating team.

As a carer you can let the Tribunal know your views in writing, or verbally, - in person, over the phone, or by video. Although informal hearings can be stressful events for carers, and it is normal if you feel anxious. Family members and friends can come to a hearing to provide support, if the person wants them to be there.

If you want to speak at a hearing over the phone or by video, you should contact the Tribunal before the hearing so they can connect you. The staff in the mental health ward can also help you.

If you aren't sure who can attend the hearing, you can ask the Tribunal before the hearing.

