

Mental Health Review Tribunal

The Mental Health Review Tribunal is responsible for deciding what should happen to a forensic patient. The Tribunal holds hearings about individual forensic patients about every 6 months.

Carers have the right to be involved in the hearings by the Tribunal and to request an extension of the period of reviews by the Tribunal⁶.

Use the QR code in this brochure to access the 'The Mental Health Review Tribunal' brochure.

The Tribunal can decide:

- Where a forensic patient should be detained and when they can be transferred to a new place of detention
- If a forensic patient can have leave from the place of detention
- When a forensic patient can be released to live in the community, with conditions under a forensic community treatment order
- When to release a forensic patient without conditions

⁶ Section 77 of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)



For More Information

- **Mental Health Review Tribunal**
www.mhrt.nsw.gov.au/the-tribunal/
- **Justice Health and Forensic Mental Health Network, NSW Government**
www.nsw.gov.au/health/justicehealth
- **Mental Health Coordinating Council**
mhrm.mhcc.org.au/chapters/chapter-6-mental-illness-and-the-criminal-justice-system/6a-section-mental-illness-and-the-criminal-justice-system/
- **Mental Health Advocacy Service**
www.legalaid.nsw.gov.au/my-problem-is-about/mental-health/duty-service-in-hospitals/mental-health-advocacy-service

Scan the QR code to access all brochures.



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Information for Carers of a person with Mental Health Issues

Carers of Forensic Patients

This brochure provides information for families and carers of forensic patients¹ in the NSW criminal justice system. It contains important general information for carers.



Who is a Forensic Patient?

A forensic patient is a person:

- Who is detained after they committed a crime, and
- The court determined they had a mental health impairment or a cognitive impairment at the time of the crime and

¹ The word 'patient' is used in this brochure because this is the wording of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW).

- The court decided that they were not criminally responsible (Act Proven but Not Criminally Responsible (APNCR)²), or
- A person on a limiting term

A person might also become a forensic patient if they are unfit to stand trial and ordered to be detained (rather than released on bail).

Only the District Court and the Supreme Court can decide who should be a forensic patient. These courts can:

- Detain the forensic patient in a mental health facility, in prison, or in another place of detention; or
- Decide that the forensic patient should be released to live in the community.

A **correctional patient**³ is different to a forensic patient. A correctional patient is a prisoner who has been transferred from prison or a detention centre to a mental health facility because they need mental health treatment. A correctional patient is not a forensic patient.

² Section 30 of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)

³ Forensic Patients and Correctional Patients have different rights under the Act

Carers of Forensic Patients

Carers do not have the same rights to be consulted about the care and treatment of a forensic patient as they have for persons who are not forensic patients.

Forensic patients may nominate up to two designated carers. In addition, the treating team⁴ can identify the person they believe is the forensic patient's⁵ principal care provider.

Use the QR code in this brochure to access the 'Carer Rights' brochure.

A 'principal care provider' is a carer providing support to the person and is nominated by the treating team. This occurs when a forensic patient is unable or unwilling to nominate an appropriate designated carer.

If you are a designated carer or principal care provider you can let the treating team, in the place of detention, know about any concerns you have about their treatment and care.

You can ask the treating team in the prison or forensic mental health facility to inform you about key events in relation to the care and treatment of forensic patients, but they are not obliged to do so.

⁴ The 'treating team' is the mental health team that provides care and treatment to forensic patients.

⁵ Section 71 (b) of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)



However, the treating team should make every effort to consult you if they are planning to release a forensic patient from a mental health facility.

The court can decide the length of time a forensic patient is to be in detention – a limiting term. For some forensic patients there is no limiting term determined.

A person can be conditionally released from Court or conditionally released by the Tribunal after they assess the risk to the public. If a forensic patient is released to live in the community, the court or the Tribunal may set conditions about how they must behave and where they can travel.

A person stops being a forensic patient:

- When the Tribunal orders for them to be unconditionally released
- At the end of a limiting term
- When an Extension Order expires