

Mental Health Review Tribunal

Fact sheet 6

The Mental Health Review Tribunal (the Tribunal) provides an important safeguard in protecting the rights of involuntary patients under the *Mental Health Act 2000* (the Act).

Chapter 12 of the Act establishes the Tribunal, provides for its administration and outlines procedural requirements. The matters reviewed by the Tribunal, including powers on a review, are provided in Chapter 6 of the Act.

What is the Tribunal?

The Tribunal is an independent body established to review patients receiving involuntary treatment under the Act. It is a single statewide body headed by a full-time President. Members are appointed throughout Queensland to enable panels to be convened at the local level.

Panels typically consist of three members:

- a lawyer
- a psychiatrist (or another doctor if a psychiatrist is unavailable) and
- another person with relevant experience or qualifications.

The President can convene a panel of up to five members. Larger panels may be used for matters that are of a contentious or complex nature. In special circumstances, one-member panels may also be convened (for example, to hear urgent matters).

What does the Tribunal review?

The Tribunal reviews:

- patients under an involuntary treatment order
- patients under a forensic order
- the detention of young patients in high security units
- fitness for trial of certain forensic patients.

The Tribunal also decides:

- treatment applications
- applications for forensic patient information orders
- applications for approval for patients to move out of Queensland
- appeals against a decision of the administrator of an authorised mental health service to not allow a person to visit an involuntary patient.

How are hearings conducted?

The Tribunal is required to observe the principles of natural justice and to conduct hearings in an informal manner. The Tribunal is not bound by the rules of evidence and may inform itself on a matter in a way it considers appropriate.

Hearings are not open to the public unless the Tribunal directs otherwise.

When is an involuntary treatment order or forensic order review conducted?

For a patient under an involuntary treatment order, Tribunal reviews are conducted within six weeks of the order being made and at six monthly intervals (see *Fact sheet 3 – Involuntary treatment*).

For a forensic patient, reviews are conducted every six months from the date the forensic order is made (see *Fact sheet 5 – Forensic provisions*).

Patients are entitled to apply for a review at any time. However, the Tribunal may dismiss the application if it is satisfied it is frivolous or vexatious.

What are the Tribunal's powers on a review of an involuntary treatment order or forensic order?

On a review of an involuntary treatment order, the Tribunal considers whether the treatment criteria apply to the patient. The Tribunal must confirm or revoke the involuntary treatment order. The Tribunal may also:

- order a change to the category of the order
- order or revoke limited community treatment (ie. if the category of the order is inpatient)
- order that the patient be transferred to another authorised mental health service.

On a review of a forensic order, the Tribunal must confirm or revoke the order. The Tribunal may also approve limited community treatment for the patient. However, the Tribunal cannot revoke an order or approve limited community treatment unless it is satisfied that 'the patient does not represent an unacceptable risk to the safety of the patient or others, having regard to the patient's mental illness or intellectual disability'.

What are treatment applications?

Particular types of treatment are regulated under the Act, including electroconvulsive therapy. A person must give informed consent for these forms of treatment. However, a person who has not given informed consent can be given electroconvulsive therapy with the approval of the Tribunal, on an application made to it by a psychiatrist.

In an emergency, electroconvulsive therapy can be given for up to five days without Tribunal approval. In this circumstance, the urgency must be certified by a psychiatrist and the medical superintendent of the patient's treating health service. An application must be immediately made to the Tribunal and the Tribunal must hear the matter within five days.

Further information

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