

# Provisions assisting victims of crime

## Fact sheet 8

The *Mental Health Act 2000* (the Act) contains provisions for assisting victims of offences by people who have a mental illness. It also contains provisions which aim to ensure the safety of victims and the community.

### How does the Act provide for assistance to victims?

The Act enables victims to receive certain information about a mental health patient that is relevant to their safety and wellbeing. The Act also has provisions that enable victims to put their views in relation to these matters and have these views considered in the forensic mental health system.

### What are patient information orders?

The 2006 Review of the *Mental Health Act 2000* recommended the establishment of a register system to manage the provision of information to victims of offences by people who are diverted from the criminal justice system to the mental health system.

Classified patient information orders and forensic patient information orders enable registered victims and other persons to receive information as provided under the Act. This information includes any changes to the patient's Mental Health Act status and the patient's level of community treatment. The victim of a patient on a forensic order is able to receive information about an upcoming review by the Mental Health Review Tribunal (the Tribunal) so that they may provide a submission to the Tribunal if they choose.

The information order registers are managed by the Office of the Director of Mental Health, with information provided to victims by the Queensland Health Victim Support Service (see *Fact sheet 9 – Classified patient and forensic patient information orders for further information*).

### How are victim interests balanced with patient interests?

The information register system aims to protect the health and safety of victims and patients. An information order is not able to be made where disclosure of information is likely to result in serious harm to the patient's health or place the safety of any person at risk. Further, while the legislative provisions require that patients are informed of an information order, provision also exists to not inform the patient when this is likely to have an adverse effect on the health of the applicant or the patient, or place the safety of any person at risk. The Act also provides safeguards to protect against public disclosure of patient information provided under an order.

### How can victims put their views forward?

A victim can provide information to the Mental Health Court that is relevant to the Court's decisions. This includes information about the mental condition of the alleged offender at the time of the offence and the victim's views on the level of risk of the alleged offender to the victim or the victim's family.

A victim is also able to submit material to the Tribunal for consideration at a review.

The victim must be provided with reasons for the Court or Tribunal decision to allow or not allow this material to be taken into account.

### What is the Queensland Health Victim Support Service?

The Queensland Health Victim Support Service is a statewide service that provides information and support to victims of mentally ill offenders. The Service provides assistance to the direct victims of an offence, the parents or guardians of a young victim or a victim who has legal incapacity, family members of a victim, and other people who have been directly harmed by the offence.

The Queensland Health Victim Support Service can help victims by:

- providing information and support in understanding the forensic mental health system and its processes
- assisting with access to entitlements, including applications for patient information orders and making statements and submissions
- providing counselling, court support and referrals
- providing information to registered victims in relation to classified and forensic patient information orders
- raising awareness of the needs of victims with staff of mental health and related services.

### What are the provisions for community safety?

Only the Mental Health Court or the Tribunal can approve limited community treatment or revoke a forensic order. The Court or Tribunal cannot make decisions about a person's release unless the Court or Tribunal is satisfied that the patient does not represent an unacceptable risk to his or her safety, or the safety of any other person.

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The Court and the Tribunal are also obliged to consider whether to require, as a condition of any approval for limited community treatment, that a patient must not have contact with a victim or another specific person. If any condition is breached, limited community treatment can be revoked to ensure the person is immediately returned to the mental health facility.

### What are non-contact orders?

If the Tribunal revokes a forensic order, it may make a non-contact order. The non-contact order may prohibit the person from making contact with a victim, or from going to at a particular place or being within a certain proximity to the place. The Court has similar powers in cases where it decides not to make a forensic order for a person found of unsound mind or permanently unfit for trial.

### What about other provisions assisting victims?

The provisions of the Criminal Offence Victims Act 1995 apply to matters before the Mental Health Court. Criminal justice agencies are required to provide information to victims about their rights, decision-making process and Court hearing dates. A victim of crime also has access to ex gratia payments for damages where a mentally ill offender is found of unsound mind or permanently unfit for trial.

#### Further information

##### Queensland Health Victim Support Service

Phone: 1800 208 005

##### Mental Health Act Liaison Officer

Mental Health Branch

Queensland Health

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Email: [mha2000@health.qld.gov.au](mailto:mha2000@health.qld.gov.au)

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