

Treatment Support Orders

Treatment support orders are made by the Mental Health Court and the Mental Health Review Tribunal for persons charged with a serious offence. Treatment support orders involve less oversight than forensic orders. They may form an important component of a patient's recovery by enabling the Mental Health Review Tribunal to 'step-down' a patient from a forensic order to a treatment support order when a forensic order is reviewed.

What is a treatment support order?

A treatment support order may be made by the Mental Health Court if the Court decides a person was of unsound mind at the time of an alleged offence or is unfit for trial. Treatment support orders are made by the Court to protect the safety of the community in circumstances where a forensic order is not warranted.

When the Mental Health Review Tribunal reviews a forensic order, the Tribunal may revoke the forensic order and make a treatment support order. The making of a treatment support order by the Tribunal acts as a 'step down' from a forensic order as part of a person's recovery.

A treatment support order authorises involuntary treatment and, if necessary, detention in an authorised mental health service.

When a treatment support order cannot be made?

A treatment support order cannot be made if the person has an intellectual disability and the person does not need any treatment and care for a mental illness.

What are the differences between forensic orders and treatment support orders?

There are two differences between a forensic order and a treatment support order, namely:

- the way in which treatment in the community (i.e. a community category or limited community treatment) is authorised, and
- the nature of clinical oversight of the person on the order.

As with treatment authorities, the category for treatment support orders must be a community category, unless it is necessary for the person to be an inpatient, having regard to the person's treatment and care needs, the safety and welfare of the person and the safety of others.

The Court and the Tribunal are not authorised to set maximum limits of community treatment for a treatment support order, for example, the Court cannot order that the person must be an inpatient.

If the Court or Tribunal decides the category of a treatment support order is community, or approves limited community treatment for the person, the Court or Tribunal must also decide whether an authorised doctor may, at a future time, reduce the extent of treatment in the community received by the person.

What are the responsibilities of an authorised doctor?

An authorised doctor may amend the patient's treatment support order to:

- change the category of the order
- authorise, revoke or change limited community treatment, or
- impose or change a condition of the order.

An authorised doctor cannot amend a condition set by the Court or Tribunal and cannot reduce the amount of treatment in the community contrary to a decision of the Court or Tribunal. There are otherwise no restrictions placed on the extent of community treatment that can be authorised by an authorised doctor.

However, an authorised doctor can change the category of the order to inpatient, contrary to a decision of the Court or Tribunal, where there has been

a material change in the patient's mental state and the patient requires urgent treatment and care as an inpatient.

If this occurs, the administrator must give the Tribunal written notice of the amendment. The Tribunal must review the order within 14 days after receiving the notice.

When are treatment support orders reviewed by the Tribunal?

The Tribunal must review a treatment support order every six months. In addition, the relevant person, someone on the person's behalf, or the chief Psychiatrist can apply for a review at any time.

The Tribunal, in making a decision on a review of a treatment support order, must have regard to:

- the relevant circumstances of the person, such as the person's response to treatment and care
- the nature of the relevant unlawful act and the period of time that has passed since that act happened
- any victim impact statement given to the Tribunal relating to the unlawful act.

On review, the Tribunal may confirm the treatment support order or revoke it. If the order is confirmed, the Tribunal may:

- change the category to community
- approve limited community treatment or an extension of limited community treatment, or
- impose, change or remove a condition of the order.

The Tribunal may also order the person's transfer to another authorised mental health service.

Who can revoke a treatment support order?

Only the Tribunal may revoke a treatment support order.

A treatment support order cannot be revoked if the person has been found temporarily unfit for trial as the Tribunal must review the person's fitness for trial over time.