

Treatment Authorities

A treatment authority authorises the treatment and care of a person for a mental illness without the person's consent.

How is a treatment authority made?

An assessment of a person may be undertaken by an authorised doctor after a recommendation for assessment is made by a doctor or authorised mental health practitioner.

An assessment may result in a treatment authority being made if the authorised doctor is satisfied that:

- the treatment criteria apply to the person, and
- there is no less restrictive way for the person to receive treatment and care for the person's mental illness.

One of the treatment criteria is that the person does not have capacity to consent to treatment. The *Fact Sheet: Examinations and Assessment* and the *Fact Sheet: Advanced Health Directives and less restrictive way of treatment* provide information on the treatment criteria and the less restrictive way of treatment.

Does an authorised psychiatrist need to review the making of a treatment authority?

If a treatment authority is made by an authorised doctor who is not a psychiatrist, an authorised psychiatrist must review the treatment authority to decide whether to confirm the treatment authority, with or without amendment, or revoke the treatment authority.

Generally, this review is to occur within 3 days after the treatment authority is made. However, if the person is a patient of an authorised mental health service (rural and remote) and it is not reasonably practicable to complete the review within 3 days, the review may be completed within 7 days.

What does a treatment authority authorise?

An authorised doctor must decide the category of the treatment authority - inpatient or community.

However, the community category is the default category. An authorised doctor may only decide an inpatient category if the person's treatment and care needs cannot reasonably be met under a community category.

A treatment authority authorises treatment and care of a person for the person's mental illness without the consent of the person or anyone else.

An inpatient category of a treatment authority authorises the person's detention in an authorised mental health service.

How long is a treatment authority in place?

An authorised doctor must revoke the patient's treatment authority if, at any time, the treatment criteria no longer apply to the patient or there is a less restrictive way for the patient to receive treatment and care for the patient's mental illness.

The only exception to this is if a patient regains capacity but the capacity is not stable. To avoid a person with fluctuating capacity cycling on and off treatment authorities, a patient may remain on a treatment authority until their capacity becomes stable. It is intended that this would apply over a relatively short period of time.

Also, if the authorised doctor is not a psychiatrist, the doctor must consult with an authorised psychiatrist before revoking the authority.

To monitor whether the treatment authority should continue, authorised doctors must undertake regular assessments of the patient. These must occur at least three monthly.

In addition, an authorised doctor must assess a patient if, at any time, it appears that the treatment criteria may no longer apply to the patient or there may be a less restrictive way for the patient to receive treatment and care.

What is the role of the Mental Health Review Tribunal?

One of the roles of the Mental Health Review Tribunal is to independently review the making and continuation of treatment authorities.

To achieve this, the Tribunal reviews treatment authorities at set intervals.

A patient, or someone on the patient's behalf, may apply to the Tribunal for a review at any time.

When the Tribunal undertakes a review it can revoke a treatment authority if the treatment criteria do not apply to the patient or there is a less restrictive way for the patient to receive treatment and care.

If the Tribunal decides the treatment authority should continue, it can decide whether the patient should have increased treatment in the community.

The first Tribunal review takes place 28 days after the treatment authority is made. The next two reviews are 6 monthly and thereafter at 12 monthly intervals.

If a patient has been on a treatment authority for 12 months, the Tribunal must consider whether it would be less restrictive for the patient to be treated with the consent of a guardian rather than under a treatment authority.