

[Home](#)

Guidance

Victims of violent or sexual offences: Mental Health Tribunal

What to do if you're a victim (or family member of a victim) of a violent or sexual offence committed by a person detained under the Mental Health Act. (T118)

From: [HM Courts & Tribunals Service](#)
(</government/organisations/hm-courts-and-tribunals-service>)

Published 1 April 2012

Contents

- — [Who this information is for](#)
- — [The First-tier Tribunal \(Mental Health\)](#)
- — [Information a victim can request, and types of representation a victim can make](#)
- — [Attendance at hearings](#)
- — [Disclosure of information](#)
- — [Help and support](#)

Who this information is for

Related content

[Guidance for the observation of tribunal hearings \(T120\)](#)
(</government/publications/guidance-for-the-observation-of-tribunal-hearings-t120>)

[Case management request: Form T113](#)
(</government/publications/>)

This guide is for victims (which can sometimes include close family members of victims) of violent or sexual offences committed by a person who:

- was later detained under the Mental Health Act 1983
- is having their detention considered by the First-tier Tribunal (Mental Health)

If you are a victim, in most cases where there are special restrictions in place (a 'restricted case'), a victim liaison officer (VLO) will contact you on behalf of the local probation board.

The VLO's role is to tell you about the patient and offer you a chance to ask the tribunal to impose conditions on the patient if they're discharged.

If a VLO does not contact you and you want to take the matter further, you should contact your local probation board, or the tribunal office. Sometimes, where special restrictions are not in place, you can contact the hospital managers.

The First-tier Tribunal (Mental Health)

All patients liable to be detained in hospital are subject to the Mental Health Act 1983 (as amended).

These patients are entitled to periodic reviews of their liability to be detained. A specialist tribunal will carry out an independent and judicial review.

The tribunal's function is to check the need for certain patients to be detained in hospital.

The tribunal also considers cases involving patients in the community, such as restricted patients on a conditional discharge from hospital, or non-restricted patients on a Community Treatment Order (CTO).

The tribunal panel is made up of:

- a judge
- a consultant psychiatrist

[form-t113-case-management-request-form\)](#)

[How you can ask a mental health tribunal for a decision \(EasyRead version\) \(/government/publications/how-you-can-ask-a-mental-health-tribunal-for-a-decision-easyread-version\)](#)

[Application to set aside a decision or part of a decision \(Rule 45\): Form P9 \(/government/publications/form-p9-application-to-set-aside-a-decision-or-part-of-a-decision-rule-45\)](#)

- a person with experience in health and social care issues

If the patient was convicted of a serious offence and, at the time of sentence, was regarded as being a danger to the public then the hearing will usually be chaired by a very experienced judge.

To reach its decision, the tribunal has to consider a number of questions, including the risks to the patient or the public if the patient is discharged.

The tribunal will consider whether any risks can be reduced or minimised by imposing or suggesting conditions.

Before the hearing, all the written evidence prepared for the tribunal will be sent to the patient and their representative, unless their access to the documents would be likely to cause serious harm to the patient or to any other person.

It is for the tribunal (and not the author of the document) to decide whether any documents should be withheld.

The hearing usually takes place at a hospital and is held in private. This means that members of the public and victims cannot normally attend.

Restricted cases

In a restricted case, the tribunal's powers include discharge into the community, but usually subject to conditions. These conditions could include:

- a specific place of residence
- arrangements for treatment and supervision
- if appropriate, an exclusion area to protect victims and their families

A restricted patient may apply to have his or her case heard by a tribunal once every year.

If the patient does not apply, the Ministry of Justice will refer the case to the tribunal for a hearing every 3 years.

Non-restricted cases

In a non-restricted case, the tribunal cannot impose any conditions following discharge, but it can make informal suggestions.

Information a victim can request, and types of representation a victim can make

If you're the victim of a serious violent or sexual offence where the offender has later been detained as a restricted patient under the Mental Health Act 1983 you can ask your VLO to tell you the date of any future hearing.

You will then be told the future hearing date when it's fixed.

The Domestic Violence Crime and Victims Act 2004 gives victims a right to make representations to the tribunal about discharge conditions.

If you know that a hearing is coming up, you can make written representations to the tribunal. All the members of the tribunal panel will see a copy of your representations.

The patient will also see your representations, and have a chance to comment on them, unless the tribunal decides otherwise.

Representations from victims can only discuss:

- whether any conditions should be imposed if the patient is to be discharged or released from hospital
- what conditions should be imposed

The tribunal will assess the patient's current mental health, and whether they're ready to be discharged.

Where the tribunal has power to impose conditions, it will ask the views of any victim on whether to impose conditions and, if so, what conditions to impose.

Where the tribunal cannot impose conditions itself, it can tell the patient's psychiatrist about the victim's representations for possible conditions. It might do this if, for example, a non-restricted patient is recommended for discharge onto a CTO.'

Attendance at hearings

The tribunal holds hearings in nearly all cases except for patients on a CTO.

In CTO cases the tribunal will look at all the papers, which will include any representations made by the victim.

In most cases, written representations are the best way for victims to make their views known about possible conditions.

If you feel that the tribunal cannot deal with a case fairly and justly without giving you as a victim an opportunity of being heard in person, then you may apply in advance for permission to attend and give evidence about possible conditions.

Your application must explain why the right to make written representations is neither sufficient nor adequate, and why you need the additional opportunity to be heard in person.

If the tribunal agrees to your attendance then you will be told the time and place of the hearing, but your involvement will necessarily be limited to the matters referred to above and you may not be allowed to stay for the whole case.

Disclosure of information

As a victim, you're not a party to the proceedings so we can't disclose any confidential case papers or reports to you.

The Tribunal can't guarantee that any written representations you make to the tribunal about possible conditions will not be disclosed to the patient.

Usually, all relevant matters will be 'disclosed' (explained) to the patient, unless the explanation is likely to put someone at risk of serious harm.

There is a special procedure for asking that written evidence be withheld from the patient, and the VLO will advise you of this, if necessary.

In restricted cases, the tribunal office will usually tell the VLO the relevant aspects of the tribunal's decision, in writing within 7 days of the hearing.

The victim is entitled to know:

- whether the patient is to be discharged and, if so, when the discharge will take effect
- if a restricted patient is to be discharged subject to conditions, whether the victims needs to know the detail of any conditions and, if so, what those conditions are
- if a restricted patient has previously been discharged subject to conditions of which the victim has been notified, of any variation of these conditions by the tribunal
- if the restriction order is to cease to have effect by virtue of action to be taken by the tribunal, of the date on which the restriction order is to cease to have effect

Help and support

HM Courts & Tribunals Service
First-tier Tribunal (Mental Health)
PO Box 8793
5th Floor
Leicester
LE1 8BN

Ministry of Justice Mental Health Casework
Section
14th Floor, Southern House
Wellesley Road
Croydon
CR0 1XG

You can also [get help from Victim Support online, by phone or email](#)
(<https://www.victimsupport.org.uk/help-and-support/get-help>).

Published 1 April 2012

[↑ Contents](#)

OGI

All content is available under the [Open Government Licence v3.0](#), except where otherwise stated

[© Crown copyright](#)