



Information for non-restricted patients detained under the Mental Health Act 1983

First-tier Tribunal – Health, Education and Social Care Chamber (Mental Health)

The following guidance is designed to inform you about tribunals.

The tribunal

The tribunal is an independent judicial body which reviews your detention in hospital under a section of the Mental Health Act 1983. The tribunal can also review guardianship orders.

Members of the tribunal

The tribunal usually consists of a judge, a consultant psychiatrist and a specialist lay member who has substantial experience of mental health cases.

What the tribunal does

The tribunal considers whether your section should continue or not. If it considers that the section should continue, the tribunal may make recommendations to help with your recovery and eventual discharge.

Recommendations the tribunal can make

The tribunal cannot change your treatment, such as your medication, but can recommend a transfer to another hospital, if they think that would be a more appropriate place for you. The tribunal can also recommend leave from hospital, or that a community treatment order or a guardianship order is considered by your doctor.

How to apply to the tribunal

Applications can be made by you or someone authorised by you such as your legal representative. A form can be downloaded from our website www.gov.uk/mental-health-tribunal. The form should be sent to:

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

Or emailed to: mhtapplications@justice.gov.uk

Your nearest relative can also apply in certain circumstances.

When to apply to the tribunal

You can apply within the first 14 days if you are detained under section 2.

You can apply at any time if you are detained under any other section except for section 37.

Remember you can only apply once during each period of detention. If you are detained under a section 37 hospital order you may only apply between 6 and 12 months from the date of the order and during each subsequent 12-month period.

When a hearing will take place

One week if you are on a section 2, or about 8 weeks if you are on any other section.

After you apply

The tribunal office will acknowledge receipt of your application. If you are not legally represented they will send you information regarding your rights to legal representation and to see the tribunal doctor. You should let the office know in writing at least 14 days before the day of the tribunal hearing if you want to have an interview with the tribunal doctor.

The tribunal office will also ask the hospital for reports from your doctor and the social work and nursing teams responsible for your care. Your nearest relative will be told of your application and the date of the hearing, which they can attend. Nearer the time of the hearing you will be given copies of the reports so that you can check the information is correct and work out any questions you wish to ask.

Legal representation

Free legal representation is available to anyone who has applied for a tribunal regardless of their financial circumstances. The hospital keeps a list of specialist legal representatives who will be able to help you with your case. Some legal representatives are members of the Law Society Mental Health Panel. This means that they are recognised as having particular expertise in representing patients at a tribunal. If you want to be represented by a person with this expertise, you should ask the Mental Health Act Administrator to confirm that the person you have chosen has this qualification.

Where the tribunal will be held

Your tribunal can be held remotely by video or face to face with the participants attending the venue. The venue is usually at the hospital where you are, or were detained, or possibly some other suitable community location.

If you change your mind about having a tribunal

If you do not want to proceed with your application then you must tell the tribunal office as soon as possible in writing. In certain circumstances, if you change your mind again and decide you do want to proceed after all, you can get your application reinstated.

If you have not made an application but your case has been automatically referred to the tribunal then you cannot withdraw it, but you do not have to attend a hearing if you don't want to. The tribunal will, however, still consider your case based on the reports and evidence made available to it.

The tribunal hearing

If you have asked to see the tribunal doctor before your hearing, arrangements will be made for this to take place. The doctor will examine you and may read (and may make copies of) your medical records. This can be remotely by video or face to face.

The hearing is usually in private although you can apply to have it in public. Medical and social circumstances reports will be provided to you, your legal representative and the tribunal members. If you are detained in hospital a nursing report will also be provided.

Your solicitor may ask for an independent psychiatric report. Any information that would be likely to cause you or some other person serious harm if it is disclosed to you must be submitted in a separate confidential report giving the reasons why the information should be withheld from you. The tribunal may direct that these documents should be sent to your legal representative.

At the hearing your doctor, care coordinator and, if you are detained, a nurse, will be asked to give evidence. The tribunal and your legal representative will be able to ask them questions. You can attend the hearing but you do not have to do so. You can give evidence if you want to and may be asked some questions by your legal representative and the tribunal members. You can choose to speak first or wait until after the treating team have given their evidence.

Support at the hearing from someone other than a legal representative

You may be represented by any person authorised by you but this must not be a patient from the hospital. If you have an independent mental health advocate they can also attend the hearing with you.

The tribunal decision

The tribunal normally makes a decision at the end of the hearing and announces this to you and your legal representative. The tribunal must send written reasons for the decision within 3 days if you are on section 2 and within 7 days if you are on any other section.

Appeal against a tribunal decision

In certain circumstances you may have the right to appeal against the decision made by the tribunal. These rights will be explained in writing and will be forwarded to you along with the written decision from the tribunal.

Further information

Guidance and further information is available on the tribunal website at www.gov.uk/mental-health-tribunal.

Or you can contact the Customer Service Team at:

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

Telephone: 0300 123 2201

Email: mhtenquiries@justice.gov.uk