



Your Rights at a Tribunal Hearing

Who is the Mental Health Tribunal?

The Mental Health Tribunal (Tribunal) is established under the *Mental Health Act 2014* (Act) to provide independent oversight of persons receiving compulsory treatment and to minimise limitations on people's rights.

The Tribunal visits mental health services to conduct hearings. The Tribunal also conducts hearings by video-conference. Each division of the Tribunal has three members: a lawyer, a psychiatrist or registered medical practitioner and a community member.

The Tribunal decides whether a person should receive compulsory treatment. The Tribunal must be satisfied that all the treatment criteria in the Act apply before making a Treatment Order.

The Tribunal may also hold hearings to decide whether to approve electroconvulsive treatment (ECT) in limited circumstances.

What is a Mental Health Tribunal hearing?

A Tribunal hearing is a special meeting for making decisions about whether the criteria for compulsory treatment apply to a person.

You have the right to a fair and timely hearing

The Tribunal conducts hearings in a fair, timely manner. You will be respected, involved, and listened to during the hearing. Your opinion is important.

A fair hearing means that you should be provided with information that the Tribunal will be taking into account and given enough time before the hearing to prepare what you want to say. The mental health service must give you the Compulsory Treatment Report prepared by the treating team at least 48 hours before the Tribunal hearing. Unless special circumstances exist you are also entitled to have access to the information on your clinical file at least 48 hours before your hearing.

You may need time to make arrangements for legal representation or for someone to attend and support you at the hearing. If you or your support person cannot attend the hearing, you may contact the Tribunal and request a new hearing date. The Tribunal will do what it can to accommodate your request but the Act has strict time limits for when hearings must be held and the Tribunal must comply with these time limits.

You have the right to attend the hearing to have your say

You have the right to attend the hearing and to have your say. You may bring your carer, family members or friends to support you at the hearing. Your views, preferences and needs are important to the Tribunal when deciding whether or not to make a Treatment Order or whether to approve ECT. If you choose not to attend, the Tribunal may conduct the hearing and make a decision in your absence.

You have the right to have a lawyer represent you

You can decide whether or not you would like to have a lawyer represent you at your hearing. Victoria Legal Aid provides free legal services and in some cases, can represent you at your hearing. Tribunal members will still want to talk to you directly even when a lawyer is representing you.

Contact **Victoria Legal Aid** on **1300 792 387** to see what help they can give you. Victoria Legal Aid lawyers also regularly visit hospitals and some community mental health clinics.

The **Mental Health Legal Centre** can also provide legal advice and services. Their contact number is **9629 4422** and **1800 555 887** for country callers.

You have the right to nominate a person to receive information and to support you

You have the right to appoint a person, who may be a carer, a family member or a friend to receive information and to support you. This person is called Nominated Person. A Nominated Person can assist you to exercise your rights and communicate your views and preferences. Your treating team can provide you with information on how to appoint a Nominated Person.

You have the right to provide information to the Tribunal before the hearing

You can bring **Your Report to the Tribunal** and your **Advance Statement** to the hearing.

Your Report to the Tribunal is a form that can help you communicate your views to the Tribunal. The form will be sent to you with the notice of the hearing. You can also download it from the Tribunal website.

An **Advance Statement** is a document for you to set out your treatment preferences. Your treating team must give consideration to the preferences in your Advance Statement when deciding on your treatment.

You have the right for your cultural or other specific needs to be considered

If you or your support person need an interpreter at the hearing, please ask the mental health service to notify the Tribunal to arrange it for you. An interpreter can help you or your support person to communicate effectively at the hearing. You do not need to pay for this. Please inform the mental health service if you have any other cultural or specific needs.

You have the right to privacy and confidentiality

Tribunal hearings are closed to the general public. This means that only the people who will contribute to the hearing can attend.

Members and staff of the Tribunal are required by law to keep information about you confidential.

You have the right to request a written decision

You can contact the Tribunal to request a written explanation of the Tribunal's decision. This is called a Statement of Reasons. A request for a Statement of Reasons must be made in writing within 20 business days after your hearing.

You have the right to appeal

You can apply to the Tribunal for a hearing at any time. At a hearing you can explain to the Tribunal why you do not need to be on an Order. Application forms are available from the mental health service. Application forms can also be downloaded from the Tribunal website. Staff at hospitals and clinics can help you complete the form. An independent advocate or community visitor can also provide you with support to complete the form and prepare for the hearing.

If the Tribunal makes a Treatment Order or an ECT Order you can also apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the Tribunal's decision. You must lodge your application with VCAT within 20 business days after the Tribunal's decision.

Victorian Civil and Administrative Tribunal (VCAT)

Phone: 9628 9900
1300 079 413
(Toll free for country callers only)
Email: vcat-hrd@vcat.vic.gov.au
Website: www.vcat.vic.gov.au

You have the right to receive help from an independent advocate or community visitor

You may discuss your rights with an independent advocate or with community visitors.

Independent Mental Health Advocacy (IMHA) is a free, independent and confidential service for people receiving compulsory treatment in Victoria. IMHA advocates will assist people receiving compulsory treatment to make or participate in decisions about their assessment, treatment and recovery.

Phone: 1300 947 820
Email: contact@imha.vic.gov.au
Website: www.imha.vic.gov.au

Community Visitors are people who visit mental health services and can assist you with any questions, and ensure you are being cared for and supported with dignity and respect, and to identify any issues of concern. You can contact the Office of the Public Advocate for more information about community visitors.

Phone: 1300 309 337
Email: OPA_Advice@justice.vic.gov.au
Website: www.publicadvocate.vic.gov.au/our-services/community-visitors

You have the right to make a complaint

The **Mental Health Complaints Commissioner (MHCC)** is an independent mental health complaints body that helps with concerns or complaints about public mental health services.

Phone: 1800 246 054 (Free call from landlines) or 9032 3328
Email: help@mhcc.vic.gov.au
Website: www.mhcc.vic.gov.au

If your feedback or complaint is about the Tribunal, a Tribunal member or Tribunal staff, you can contact the Tribunal or complete the *Feedback and Complaints form* which can be downloaded from the Tribunal's website.

If you have further questions about the Mental Health Tribunal, please contact us at:

Address: Level 30, 570 Bourke Street
Melbourne Victoria 3000
Phone: 9032 3200 or
1800 242 703 (Toll free)
Email: mht@mht.vic.gov.au
Website: www.mht.vic.gov.au