

What to expect at my Mental Health Tribunal hearing

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Why am I having a hearing?

Your psychiatrist has made a **compulsory treatment** order because they believe you meet all of the four treatment criteria as set out in the *Mental Health Act 2014* (Vic). The Tribunal will have a hearing to decide if you do need a Treatment Order based on the criteria.

What are the four treatment criteria?

The treatment criteria as set out in the *Mental Health Act 2014* (Vic) are:

1. you have a mental illness; and
2. because of the mental illness, you need immediate treatment to prevent:
serious deterioration in your mental health or physical health; or
serious harm to yourself or to another person; and
3. immediate treatment will be provided to you if you are subject to a compulsory treatment order; and
4. there is no less restrictive way reasonably available to enable you to receive immediate treatment.

What is a hearing?

A hearing is like a meeting. Your hearing will either be held at the hospital or clinic where you are receiving treatment. Hearings usually take less than one hour.

There will be three Tribunal members at your hearing: a legal member, a community member, and a psychiatrist or medical member. Sometimes, the Tribunal members will be at your hearing on video-conference. This means they will be on a TV screen instead of attending your hearing in person.

If you do not want a video-conference hearing, please let someone in your treating team know, or let the Tribunal know by calling the Tribunal on (03) 9032 3200 or Toll Free on 1800 242 703.

You may bring your carer, nominated person, family member and/or a friend to support you at your hearing. You may also ask a lawyer to represent you. You can talk to a lawyer to help you prepare for your hearing. A lawyer can also represent you at the hearing. You can call **Victoria Legal Aid** on 1300 792 387, or the **Mental Health Legal Centre** on (03) 9629 4422 or 1800 555 887 (for country callers).

→ [Victoria Legal Aid](#) → [Mental Health Legal Centre](#)

Someone from the treating team will be at the hearing to answer questions from the Tribunal.

At a hearing the Tribunal must decide whether to make a Treatment Order or to end the current Order. You can find out more about Treatment Orders in the **Mental Health Act Handbook**.

→ [Mental Health Act Handbook](#)

To find out about your rights, go to **Your rights at a Tribunal hearing**. This is also available in 11 other languages on the Tribunal's website **Your rights at a hearing in other languages**.

→ [Your rights at a Tribunal hearing](#) → [Your rights at a hearing in other languages](#)

Can my carer, friends or family come to my hearing with me?

You may bring any support person with you to your hearing. You may like to bring your carer, nominated person, family member and/or a friend to support you at your hearing.

You may also nominate a person to receive information and to support you during the compulsory treatment process. This person would be your nominated person. If you would like to nominate someone, you should ask your mental health service for a **Nominated Person Form**. Go to **About Nominated Persons** for more information about the role.

You can ask the service to check who they have listed as your carer or Nominated Person to make sure the information is up to date. The Tribunal relies on the health service to send through your carer or nominated person details.

→ [Nominated Person Form](#) → [About Nominated Persons](#)

What will happen at my hearing?

At your hearing the Tribunal members will talk with you, your carer, family member and/or nominated person about whether a Treatment Order is needed. The Tribunal members may ask about your views and preferences about treatment. You can tell the Tribunal members what you think about your treatment and your treatment goals.

If you have an Advance Statement you can provide a copy to the Tribunal for the hearing. The Tribunal must consider what it says about your views and preferences about treatment. To find out more about Advance Statements, go to **About Advance Statements**. This link includes access to the form AS1 Advance Statement. You can also go to the Victorian Mental Illness Awareness Council's (VMIAC) **Guide to making an Advance Statement**.

→ [About Advance Statements](#)

→ [Guide to making an Advance Statement](#)

The Tribunal members will also ask the treating team why they think you need compulsory treatment. You can also ask your treating team some questions. If you attend your hearing with a support person, such as a lawyer or nominated person, they can ask questions of the treating team or about the report.

When the Tribunal members have finished asking questions and have listened to and read all of the relevant information given to them, they will ask everyone to leave the room while they make a decision.

The Tribunal must decide whether to make a Treatment Order or to end the Order you are currently on. If the Tribunal makes a Treatment Order this means you will continue to have compulsory treatment.

If the Tribunal makes a Treatment Order it must decide whether it will be an Inpatient Treatment Order (for treatment in hospital) or a Community Treatment Order (for treatment while living at home) and how long the Order will last.

The Tribunal will ask everyone to come back into the room to hear the Tribunal's decision. The Tribunal will tell you the decision they have made and why they have made that decision. They will give you a copy of their decision. This is called a determination.

What decisions can the Tribunal make?

Most commonly, the Tribunal decides whether to make a Treatment Order, for how long and whether you need to be treated in hospital.

The Tribunal can make a:

- **Community Treatment Order** – you do not need to be in hospital while receiving treatment. This Order can be made for a maximum of 12 months if you are 18 years or older.
- **Inpatient Treatment Order** – you must be in hospital while receiving treatment. This Order can be made for a maximum of six months if you are 18 years or older.

If you are under 18 years old, a Treatment Order can only be made for a maximum of three months

The Tribunal can also make an order about electroconvulsive treatment (ECT) and neurosurgery for mental illness. Go to **Information about ECT** for more about ECT.

→ [Information about ECT](#)

Do I have to go to my hearing?

No. But your hearing is an important opportunity for you to have your say.

At your hearing you will have an opportunity to say what you think about your treatment. You have the right to seek legal advice prior to your hearing. You may bring a lawyer to represent you at your hearing. You may also bring your carer, family member and/or a friend to support you at the hearing.

If you don't go to the hearing, the Tribunal must still make a decision.

Even if you don't want to go to the hearing, you can still write down some notes about what you think about your treatment. The Tribunal will send you a form called 'Your Report to the Mental Health Tribunal'. You can use this form to help you prepare what you want to say. If you don't have a copy of the form, ask your treatment team or go to **Your Report to the Mental Health Tribunal** to print a copy of this form.

→ [Your Report to the Mental Health Tribunal](#)

If you have an Advance Statement you can provide a copy to the Tribunal for the hearing. To find out more, go to **About Advance Statements**. This link includes access to the form AS1 Advance Statement. You can also go to the Victorian Mental Illness Awareness Council's (VMIAC) **Guide to making an Advance Statement**.

→ [About Advance Statements](#)

→ [Guide to making an Advance Statement](#)

When will my hearing be?

The Tribunal will send you a letter called a Hearing Notice. The Hearing Notice will tell you the date of your hearing and where it will be held.

If you have not received the Hearing Notice, you can call the Tribunal on (03) 9032 3200 or Toll Free on 1800 242 703 to confirm your hearing date.

The mental health service will tell you what time your hearing will start. It is a good idea to arrive 15 minutes early.

If you cannot attend your hearing, contact your treating team or the Tribunal and tell them why you cannot attend. Sometimes the Tribunal will be able to delay your hearing to another date. In some cases the Tribunal cannot delay the hearing and the hearing will need to go ahead without you.

If you cannot attend your hearing and you would like to tell the Tribunal what you think about your treatment and whether or not you need to be on a Treatment Order, you can complete the 'Your report to the Mental Health Tribunal' form. The Tribunal will consider what you say in your report and take your views into account. You can also write a letter or send an email to the Tribunal. The Tribunal members will read it at the hearing.

To print a copy, go to **Your report to the Mental Health Tribunal** and after you have filled it in, you can give it to your treatment team to email it to the Tribunal. The Tribunal's email address is: mht@mht.vic.gov.au

→ [Your Report to the Mental Health Tribunal](#)

How do I prepare for my hearing?

Read the report

The treating team must give you a copy of their written report, and any other documents they are providing to the Tribunal, at least 48 hours before the hearing. The report will tell you why the treating team think you need compulsory treatment and why they are asking the Tribunal to make a Treatment Order.

It is a good idea to read the report written by the treating team before the hearing or ask them to explain it to you.

You may disagree with some of the things the treating team have written in the report. At your hearing you can tell the Tribunal what your experience has been and your views about what the report says.

Make notes about what to say

At the hearing the Tribunal may ask you about your mental health. The Tribunal will be interested in what you think about your treatment. The Tribunal may ask you some questions about whether you would voluntarily accept some or any of your treatment. The Tribunal will want to hear about how things are going with your treating team.

Victoria Legal Aid has a useful booklet to help you prepare for your hearing. Go to **Going to a Mental Health Tribunal Hearing**. Printed copies may be available at the hospital or clinic. Please request one to be printed if none are available.

→ [Going to a Mental Health Tribunal Hearing](#)

The Tribunal also has a form where you can write some notes. This form has prompts to help you to plan what to say at your hearing. Go to **Your Report to the Mental Health Tribunal**.

→ [Your Report to the Mental Health Tribunal](#)

Seek advice

You can talk to a lawyer to help you prepare for your hearing. A lawyer can also represent you at the hearing. You can call **Victoria Legal Aid** on 1300 792 387 or the **Mental Health Legal Centre** on (03) 9629 4422 or 1800 555 887 (for country callers).

For further information about Victoria Legal Aid services and Independent Mental Health Advocacy services, go to **Mental Health and Your Rights – Get Help**.

→ [Mental Health and Your Rights – Get Help](#)

Help with an Interpreter

If you need an interpreter at your hearing, or your carer, nominated person or family member needs an interpreter, please let your treating team know. The Treating team will tell the Tribunal and they will arrange an interpreter to come to your hearing. You will not need to pay for this.

Go to **Your rights at a hearing in other languages** to see if more information is available in your language.

→ [Your rights at a hearing in other languages](#)

Can I see my clinical file before the hearing?

You have the right to see documents that are connected with your hearing **at least 48 hours before your hearing**. This includes the current volume of your clinical file (or at least certain documents on that file). Go to **Information about access to documents prior to a hearing** to find more details on types of information you can access.

→ [Information about access to documents prior to a hearing](#)

However, if your treating team believes that showing you a particular document may cause serious harm to you or to someone else, they can ask the Tribunal not let you see that document. The Tribunal will make a decision about these documents before your hearing.

What to expect after my hearing?

If at your hearing the Tribunal **revoked** the Treatment Order, you are no longer a compulsory patient. This means you can make your own treatment decisions.

If the Tribunal made an **Inpatient** Treatment Order, the treating team will give you a copy. It may take up to 14 days for you to receive your copy of the Order.

If the Tribunal made a **Community** Treatment Order, a copy of the Order will be sent to you in the mail. It may take up to 14 days for you to receive your copy of the Order.

The Treatment Order will have an expiry date. This tells you when it ends.

How do I get written reasons for the decision made at my hearing?

If you would like a written explanation of the decision made at your hearing, you can request a statement of reasons. A request for a statement of reasons must be made in writing and within 20 business days after the hearing. If you request a statement of reasons, a copy will also be provided to your treating team.

You can ask your lawyer, the treating team, a mental health advocate or call the Tribunal to ask them help you to request a statement of reasons. You can call the Tribunal on 9032 3200 or Toll Free on 1800 242 703, send an email to mht@mht.vic.gov.au or go to **Contact the Tribunal**.

→ [Contact the Tribunal](#)

For more information about what a statement of reasons is, or to look at statements of reasons published on the Tribunal's website, go to **Statement of Reasons**.

→ [Statement of Reasons](#)

What can I do if I do not agree with the Tribunal's decision?

If you don't agree with the decision the Tribunal made at your hearing, you can do one of two things:

1. Appeal the decision. This is called an application to the Tribunal to revoke the Treatment Order. This means you are applying to the Tribunal to stop, cancel or end the Treatment Order. If you make an application to revoke your Treatment Order, the Tribunal will hold another hearing and will make a fresh decision. The Tribunal will need to make a decision about whether to end the Treatment Order or to make a new Treatment Order. Go to **Application to Mental Health Tribunal** to print a copy; or

→ [Application to Mental Health Tribunal](#)

2. Appeal the decision of the Tribunal to the Victorian Civil and Administrative Tribunal (VCAT). This means VCAT will hold a hearing to decide whether to cancel the Treatment Order or to keep the Treatment Order. VCAT may also change the Order to an Inpatient Treatment Order or a Community Treatment Order. VCAT may also change the duration of the Order. Visit VCAT's website for more information.

→ [VCAT](#)

How can my Treatment Order be revoked?

This means you want your Treatment Order to stop.

You can tell your treating team or the Tribunal that you want to revoke your Order at any time. To print and complete a copy of the application to revoke the Treatment Order, go to **Application to the Mental Health Tribunal** or email directly via the **Mental Health Tribunal website**.

→ [Application to the Mental Health Tribunal](#)

→ [Mental Health Tribunal website](#)

If you make an application to revoke the Treatment Order, the Tribunal will arrange another hearing. At the hearing the Tribunal members may ask you why you no longer need compulsory treatment.

A hearing to revoke your Treatment Order may not go ahead if you or your legal representative do not attend.

If you want to revoke your Treatment Order and you are in hospital

You can ask for a revocation form from the nurses' station. You can ask for assistance to complete and lodge the form. The treating team will send the form to the Tribunal on your behalf.

If you want to revoke your Treatment Order and you are living at home

You can ask your case manager to assist you to complete and lodge the application to revoke the Treatment Order form. You can also make an application to revoke in the following ways:

1. Use the → [online form](#)
2. Send the Tribunal an email at mht@mht.vic.gov.au and type in that you do not want to be on the Treatment Order
3. Call the Tribunal on (03) 9032 3200 or Toll Free on 1800 242 703 and say you do not want to be on the Treatment Order
4. To print and complete a copy of the application, go to → [Application to the Mental Health Tribunal](#) and post it to:

Mental Health Tribunal
Level 30, 570 Bourke St
Melbourne 3000

Once the Tribunal receives your application to revoke the Treatment Order, you will be sent a Hearing Notice with the date of your hearing and where it will be held.

How does the Tribunal let my carer or nominated person know about a Tribunal hearing?

The Tribunal is required to tell carers, guardians and nominated persons about a hearing.

The Tribunal will send your carer, guardian and/or nominated person a letter with the date of hearing and where it will be held. This is called a Hearing Notice.

The Tribunal recognises the importance of the involvement of carers, family members and friends that can support a consumer at a hearing.

The mental health service will let them know when the hearing starts. It is a good idea for them to arrive 15 minutes early.

The Tribunal relies on mental health services to send the Tribunal contact details of carers, guardians and Nominated Persons. If your carer, guardian or Nominated Person has not received a notice, please contact the Tribunal. If you are a carer, guardian or Nominated Person but have not received a Hearing Notice, please contact the Tribunal on (03) 9032 3200 or Toll Free on 1800 242 703 or through the website contact form or send the Tribunal an email to mht@mht.vic.gov.au

→ [Tribunal contact form](#)

→ Mental Health Tribunal email : mht@mht.vic.gov.au