

Forensic leave hearings by the Mental Health Tribunal

Information for forensic patients about what's changing

From 1 September 2026, the Mental Health Tribunal (the Tribunal) will make decisions about applications for forensic leave. Previously your applications for forensic leave have been handled by the Forensic Leave Panel (Panel). Your next application will be handled by the Tribunal. This information explains what will be different and what will be the same.

The test for deciding whether to grant an application for leave

The Tribunal must apply the same test that the Panel applied to decide whether to grant leave. That test is contained in the Crimes (Mental Impairment and Unfitness to be Tried) Act and it has not been changed.

The Tribunal must focus on three things, they are whether:

1. the leave you have requested will contribute to your rehabilitation;
2. your safety, and the safety of others will not be seriously endangered by the leave; and
3. any conditions should apply to the leave (e.g. a condition that you cannot go to a specific place).

Because the test for granting leave has not changed, the Tribunal will want to talk to you and your treating team about similar things to the Panel.

Who conducts Tribunal hearings?

At a Tribunal hearing you will meet with three Tribunal members. Instead of a judge there will be a legal member. Legal members are lawyers from different professional backgrounds who have experience that is relevant to the role of the Tribunal. There will only be one psychiatrist member at the Tribunal hearing, unlike the Panel which had a second psychiatrist nominated by the Chief Psychiatrist. The third Tribunal member will be a community member.

Scheduling of Tribunal hearings

The Tribunal has more capacity to hold hearings than the Panel and this means hearings will be scheduled differently:

- your hearing will have a specific start time that you will be given in advance of the day of your hearing
- hearings will be scheduled for longer – if that time isn't needed your hearing will finish early, but it will mean there is more time to talk about your leave application if it is needed, and
- if something happens that means your hearing cannot go ahead, or you need another hearing, we will be able to reschedule soon.

Hearings will continue to be online.

Tribunal orders

The Tribunal's orders (decisions) will be different to the Panel's orders. Panel orders included a lot of detail about the places a person could go when they were on leave, and treated each location as a different leave. Panel orders also said how often and how long each leave could be. The Tribunal will want to know about and discuss these things with you and your treating team, but generally won't include all those details in its orders.

Example: a Panel order approving leave may have detailed one escorted leave to go to Station Street Fairfield, a second escorted leave to go to Northland Shopping Centre, and a third escorted leave to go to appointments, each for a certain amount of time and a number of times per week or month.

A Tribunal order approving the same leave will approve escorted leave for the rehabilitation goals of physical and mental wellbeing and daily living and self care, without saying exactly where you can go. It will also specify whether leave is to be during standard hours or can be outside those times.

While the Tribunal order will be less detailed it will allow the same activities. Your treating team will work with you to determine the details of each leave you will take.

Tribunal orders will include additional details if conditions are needed. For example the Tribunal might decide that a specific location should be excluded from your leave.

Because Tribunal orders are different, applications will also change and are intended to be simpler. There is a separate information sheet that explains how you apply for leave, and your treating team will assist you with providing the information the Tribunal needs.

Feedback

The Tribunal wants its processes to work effectively for everyone involved in forensic leave hearings. It is especially important that making an application is as straightforward as possible, and that hearings are conducted in a way that encourages you to participate. We will continue to review our processes and we are always keen to receive feedback. If you do have feedback please ask to speak to Amber Fraser-Dahlqvist, Thomas Embling Hospital's Consumer and Carer Engagement Lead who will help you provide it to the Tribunal.