

# Know your rights

A guide for involuntary patients  
receiving mental health treatment



# INTRODUCTION

**The Mental Health Commission wrote this booklet to help you understand more about your stay in hospital and about your rights as an involuntary patient as outlined in the Mental Health Acts 2001 - 2018.**

**This booklet will explain:**

The information in this booklet is based on questions commonly asked by patients. If you do not understand any of this information, you can ask your care team to explain it to you or you can contact the Mental Health Commission (see details at the end).



# WORDS WE USE IN THIS BOOKLET

## **Admission order**

A form signed by a consultant psychiatrist to say you must stay in hospital for care and treatment for 21 days.

## **Renewal order**

A form signed by a consultant psychiatrist to extend your stay in hospital.

## **Lawyer**

A legal representative who will help you prepare for and will be at your Mental Health Tribunal.

## **Hospital**

In this booklet, the word hospital means an inpatient mental health unit that is registered by the Mental Health Commission.

## **Mental disorder**

A mental disorder is where you have a mental illness and there is a serious risk that you may cause immediate and serious harm to yourself or others **or**, where you have a mental illness and your condition could get worse if you were not admitted to hospital for treatment and going into hospital would be likely to improve your mental health significantly.

## **Mental Health Tribunal**

This is an independent review by three people of your involuntary admission or renewal order.

# YOUR FIRST DAY IN HOSPITAL

There are three important things, which must happen within 24 hours of your admission:

## 1. A decision will be made on whether you need to stay in hospital

When you arrive at the hospital, you will be under the care of a doctor or a nurse. A consultant psychiatrist will meet you to decide if you need to stay in hospital.

If the consultant psychiatrist believes that you have a mental disorder, and you do not wish to stay in hospital as a voluntary resident, they will sign an admission order. This order means you must stay in the hospital. An admission order can last up to 21 days. However, it can be for a shorter time if you no longer have a mental disorder or you decide to stay in the hospital on a voluntary basis and your consultant psychiatrist agrees.



## 2. You must be made aware of your rights

You have a right to be informed about your care and treatment. Your consultant psychiatrist must give you a written statement explaining your rights. This information should include:

1. When an admission order (or a renewal order) has been made
2. What type of treatment is being recommended for you
3. That you may stay in the hospital as a voluntary patient
4. That you have the right to a lawyer
5. That your involuntary stay will be reviewed by a Tribunal
6. That you can appeal the decision of the Tribunal to the Circuit Court
7. That you may contact the Inspector of Mental Health Services
8. That you may request a second review after three months if your order is for a period longer than three months

## 3. Your consultant psychiatrist must inform the Mental Health Commission about your admission order

This information is used to set up an independent review (a Mental Health Tribunal) to make sure that the law was followed when you were admitted to hospital.

Your admission order contains some of your personal information, such as your name, date of birth and home address. The Mental Health Commission will use this information to do three things:

1. Organise a lawyer for you free of charge so that you have someone who can represent you and help you at your Tribunal. You can also appoint your own private lawyer if you wish but you will have to pay their fees, and
2. Arrange for an independent consultant psychiatrist to visit and examine you. This will take place within 14 days. This person does not work for the hospital you are staying in, and
3. Arrange a date for your case to be reviewed by a Mental Health Tribunal. This will take place within 21 days.

You will receive letters from the Mental Health Commission about these matters during your stay in hospital.

## Why Tribunals are important for your rights

Some people become worried when they hear the word 'Tribunal'. A Tribunal is a *review* and it is the normal procedure that happens whenever someone is involuntarily admitted to a hospital.

Tribunals are held for you, to support you, to protect your rights and to make sure that the law is being followed correctly.

### Who is involved in a Tribunal?

- Chairperson
- Consultant Psychiatrist
- Lay person

## Who makes the decision at a Tribunal?

There is no judge at a Tribunal. Instead, there is a panel made up of three independent people. This means that they have no connection with the hospital where you are being treated.

It is their job to review your order and to decide if the law was followed and if you need to stay in hospital. All three people have a say in making the decision. The Tribunal will make sure that your rights are protected.

## Who is on the Tribunal?

### 1. Chairperson

This person is either a barrister or a solicitor. They are in charge of the Tribunal. They make sure that everyone has had an opportunity to speak and will inform you of the Tribunal's decision.

### 2. A Consultant Psychiatrist

This is a consultant psychiatrist who is not involved in your care. They will be able to explain the medical information to the other members of the Tribunal and this will help the Tribunal to make a decision.

### 3. A Lay Person

A member of the public with knowledge or experience of mental health services or mental health legislation. This person cannot be a nurse, a doctor or a lawyer.

## Who else attends the Tribunal?

### Your lawyer

Your lawyer will meet you to explain about the Tribunal and to discuss your case with you. They will speak on your behalf at the Tribunal.

The Mental Health Commission assigns the lawyer from a panel. If you are unhappy with your lawyer, you can request that the Commission provides you with a different one.

### Witnesses

The Tribunal members may ask to speak to people or may be asked to speak to people who are involved in your care in hospital or to anyone involved in your admission process. These people are called witnesses. Any witness who speaks at the Tribunal can be questioned by you or your lawyer.

### Support person

You can bring a support person into the Tribunal with you. This could be a family member, friend, advocate, trusted person or a staff member working at the hospital. If you want to bring a support person, you should tell your lawyer before the Tribunal and they can tell the Tribunal that you will be asking someone to attend with you.

### Treating psychiatrist

The psychiatrist who is providing care and treatment to you. They have to tell the Tribunal why you need to continue to stay in hospital.

### Independent consultant psychiatrist

The Mental Health Commission will arrange for an independent consultant psychiatrist to provide a report about your mental health for the members of the Tribunal and your lawyer. The information in this report is based on:

1. Their examination of you, and
2. A review of your clinical file, and
3. A discussion with your consultant psychiatrist.

Generally, the independent consultant psychiatrist person does not attend the Tribunal.

# THE DAY OF THE TRIBUNAL

## What happens during the Tribunal?

Before the Tribunal starts, the members of the Tribunal will have read all the documents about your case.

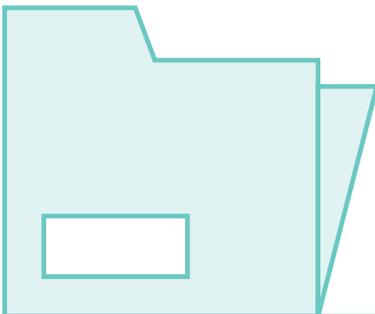
The Tribunal must see:

1. Your admission/renewal forms,
2. The report from the independent consultant psychiatrist,
3. Any forms which the hospital gave you regarding your stay, and
4. Your hospital file.

You and your lawyer will be given copies of all documents and reports. You can discuss these with your lawyer and your care team.

## Where is the Tribunal held?

The Tribunal is held in private and usually takes place in a private area of the hospital you are staying in. The Tribunal is not like a formal courtroom. In general, everyone sits together around a table.



## **How long does a Tribunal last?**

The average Tribunal lasts for 1-2 hours.

## **Can I have my say at a Tribunal?**

**Yes**, you will be able to speak to the members of the Tribunal. You can discuss any aspect of your admission to hospital with them.

## **What do I wear to a Tribunal?**

There is no formal dress code for a Tribunal. That means you can wear your day-to-day clothes.

## **Will a Tribunal cost me money?**

**No**, the Mental Health Commission will automatically hire a lawyer to represent you, free of charge. However, if you choose a private lawyer who is not on the panel, you will have to pay their fees.

## **Can someone come to support me at a Tribunal?**

**Yes**, you can ask to have someone with you during the Tribunal. This can be a family member, friend, trusted person, or a staff member working at the hospital. If you want to bring a support person, you should tell your lawyer before the tribunal.

## **Do I have to go to the Tribunal?**

**No**, you do not have to attend if you do not want to. You can discuss this with your lawyer and your care team.

Your lawyer will still be there to present your case for you, so your voice will be heard.

## **Can my Tribunal be cancelled?**

This can happen but it is very rare. If your Tribunal is cancelled, you will be notified and the Mental Health Commission will arrange to have it rescheduled as soon as possible. You will be notified when a new date is arranged.

# THE DECISION OF THE TRIBUNAL

## How does the Tribunal make a decision?

The three members of the Tribunal will carefully consider everything they have heard and the reports and documents they have read. When making their decision, they think about:

- All of the information about your admission and stay in hospital
- The views that you and your lawyer have presented
- The views of any witnesses at the Tribunal
- The view of your treating psychiatrist

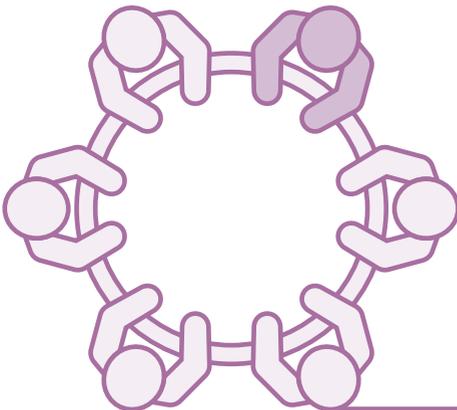
## What decision can the Tribunal make?

The panel members can decide either of the following:

### You must stay in hospital

To reach this decision, two or three members of the panel must be satisfied that the law was followed correctly when you were admitted and that you remain unwell and need to stay in hospital.

In official terms, their decision is to **affirm** the admission.



## **You are free to leave hospital**

To reach this decision, two or three members on the panel must believe either the law was not followed correctly when you were admitted or that you no longer have a mental disorder requiring treatment in a hospital.

In official terms, their decision will be to **revoke** the admission.

## **When will I know the Tribunal's decision?**

You will be told the decision of the Tribunal on the same day it takes place. The Tribunal will also tell your consultant psychiatrist and your lawyer the decision.

## **What if the Tribunal decides that I do not have to stay in hospital?**

If the Tribunal decides that you should no longer be involuntarily admitted, you will be free to leave the hospital. If you wish to stay in hospital as a voluntary patient, you can discuss this with your care team.

# AFTER THE TRIBUNAL

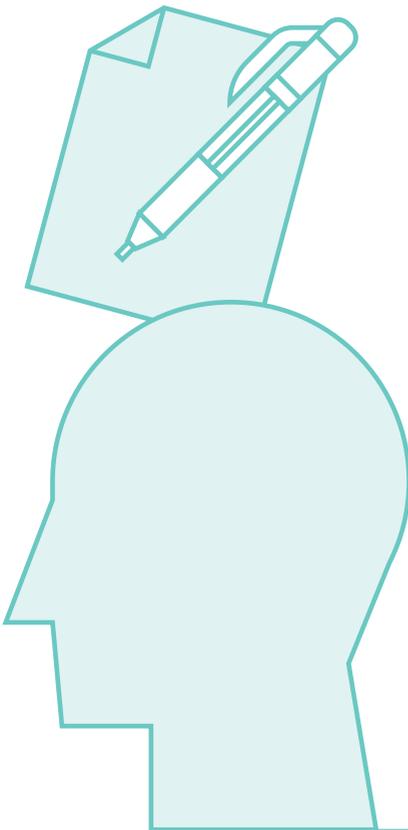
## What can I do if I disagree with the Tribunal's decision to affirm the order?

You can appeal the decision to the Circuit Court on the basis that you are not suffering from a mental disorder.

You must make the appeal within 14 days of the Tribunal's decision. Your lawyer can assist you with this. If you are not happy with the decision of the Circuit Court, you should discuss this with your lawyer.

## If I am discharged, or become a voluntary patient before my Tribunal, can I still have a Tribunal?

**Yes**, if you would still like the Tribunal to go ahead, you or your lawyer should inform the Commission in writing. This must happen within 14 days of your discharge or of the decision that you will become a voluntary patient. The Commission will then arrange a Tribunal.



# HOW LONG DO I HAVE TO STAY IN HOSPITAL?

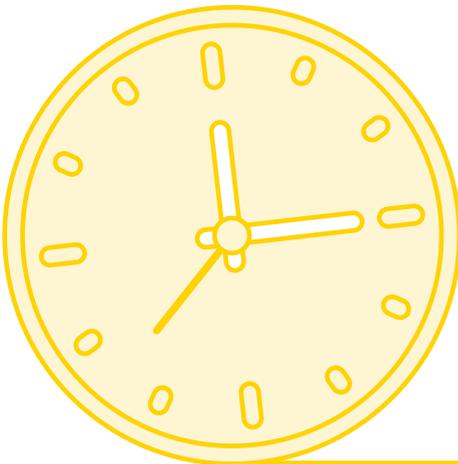
## Can I be kept in hospital after the admission order ends?

**Yes**, but only if a renewal order is made by your consultant psychiatrist if they believe you still have a mental disorder.

Like with the admission order, your consultant psychiatrist must examine you to determine if you have a mental disorder. They will then sign a document called a renewal order. The first renewal order cannot last longer than three months but can be for a shorter period.

If after three months your consultant psychiatrist still believes you have a mental disorder, they can sign another renewal order. This type of renewal order cannot last longer than six months but can be for a shorter period.

This process can continue until your consultant psychiatrist thinks you are well enough to go home. There are strict rules in place about extending your stay in hospital.



## **Do I have to ask for a Tribunal if I have to stay in hospital on a renewal order?**

**No.** If your stay has been extended by a renewal order, your consultant psychiatrist will inform the Mental Health Commission within 24 hours of signing the order. The Commission will automatically arrange for a Tribunal to take place within 21 days.

This will happen each time a new order is signed.

## **Can I ask for an additional review?**

An additional review means an extra Tribunal to look into your case. This can only happen if your renewal order is for a period greater than three months up to six months. If you are still detained in the hospital three months after that order is made, you can ask to have it reviewed.

You must still be involuntarily detained at the time to ask for this type of review.

The Mental Health Commission can only organise an additional review if you ask them to do so. You can discuss this with your lawyer.

# CHANGING HOSPITALS

## Can I be moved to another hospital?

**Yes.** Either you or the person who asked your doctor to recommend that you be admitted may ask for you to be moved to another hospital.

Sometimes another hospital may have other treatments available that your care team believes could improve your condition. You may be transferred to that hospital for treatment.

Here is what must happen before you can be moved to another hospital:

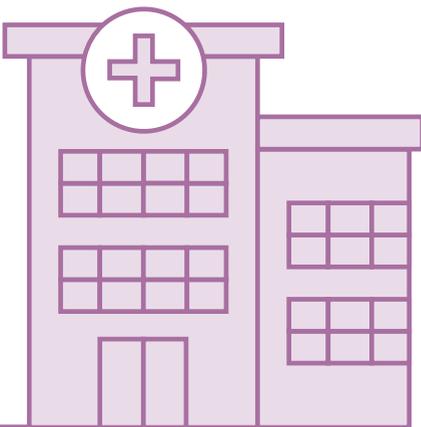
- The person who is in charge of the hospital (the clinical director) where you are staying must believe that it is in your best interests to be moved to the other hospital.
- The clinical director of the hospital where you might be moved must agree with the clinical director at your current hospital.

## Can I be moved to a general hospital to receive treatment?

**Yes,** if you need medical treatment that is provided in a general hospital during your stay, you may be moved. The clinical director of the hospital you are staying in will decide if you need to do this. You will be moved back to the hospital for mental health treatment once your medical treatment has finished.

## Can I be moved to the Central Mental Hospital?

The Central Mental Hospital is a specialist service providing forensic mental health care. You can only be moved to the Central Mental Hospital if a Tribunal reviews the proposal to transfer you there and approves it.



# GOING ON LEAVE

## Can I leave the hospital while I am an involuntary patient?

If you would like to take leave from the hospital, you can discuss this with your care team. You should explain why you want to leave and for how long you would like to leave.

Your consultant psychiatrist will consider your request. If they agree, you will be given a note that allows you to leave the hospital.



This note will let you know how long you can leave the hospital for and any conditions that you must follow while you are away from the hospital.

This is called being 'absent with leave'. You must return to the hospital on or before the day and the time given in the note.

## Can I be asked to come back earlier than planned?

**Yes**, during your leave you may be asked to return early if:

- Your consultant psychiatrist thinks it is in your best interests to return, or
- You break any of the conditions attached to your time away.

If this happens, you will be told in writing that you have to come back straight away.

## What if I leave without a note from the Consultant?

If you leave without permission, or if you do not return when you are supposed to, you will be considered to be 'absent without leave' or AWOL.

The staff of the hospital may bring you back to the hospital. Sometimes, they may ask the Gardaí to help them.

# DISCHARGE FROM HOSPITAL

## **When can I be discharged?**

You may be discharged at any time if your consultant psychiatrist believes that you no longer have a mental disorder that requires treatment in hospital.

## **Will my treatment continue when I leave the hospital?**

In most cases, you will continue your treatment to make sure you are supported after you leave the hospital. For example, you may attend as a day patient, you may see your GP or you may meet with the community mental health team.

Your consultant psychiatrist will discuss this with you before you leave. You should ask your consultant and your care team any questions you may have. It is very important that you understand your treatment.



# HOW TO MAKE A COMPLAINT

Each hospital has a complaints procedure in place and has a specific person you can contact if you want to make a complaint. You can make a complaint in person, over the phone, or in writing.

## Inspectors of Mental Health Services

If you contact the Mental Health Commission (MHC) with a concern about a specific service, the MHC may direct you to the Inspector of Mental Health Services if appropriate. Such concerns can be sent by email to **concerns@mhcirl.ie**.

If the Inspector or Assistant Inspectors are visiting a hospital where you are detained, you have a right to talk to them and they will ask if you wish to speak to them.

## Contact details for the Mental Health Tribunals team

If you have a question or would like to talk to someone about your tribunal please contact the Mental Health Commission at **01 6362400** and **Dial 1** to speak with someone from the Tribunals team.

Further information on Mental Health Tribunals can be found on the Commission's website **[www.mhcirl.ie](http://www.mhcirl.ie)**









