

Court Assessment Order

Statement of rights

You have been given this booklet because a Court Assessment Order has been made for you. This booklet provides information about Court Assessment Orders and your legal rights and entitlements under the *Mental Health Act 2014*. When you are assessed a member of the treating team will talk to you about this information and answer your questions.

If at any time you have questions about this information or your rights, ask someone to explain. You can ask a member of the treating team, a friend, a family member, a lawyer, an advocate or a community visitor.

Copies of this booklet are available online at:
www.health.vic.gov.au/mentalhealth

What is a Court Assessment Order?

A Court Assessment Order is an order made by the court that hears your criminal charge(s).

A Court Assessment Order helps the court to find out if you need compulsory treatment for mental illness. This is done by having a psychiatrist examine you.

'Compulsory treatment' means that a psychiatrist can give you treatment for mental illness even if you don't want it.

Why has a Court Assessment Order been made for me?

You have been found guilty or pleaded guilty to criminal charges and you appear to need immediate treatment for mental illness:

- to stop your illness getting worse
- to stop you from being seriously hurt or seriously hurting someone else.

What does the examination involve?

A psychiatrist will examine you to find out if you need compulsory treatment and report back to the court. This can happen even if you don't want to be examined.

You can be examined at home or at a community clinic. Sometimes you may be taken to a hospital to be examined by a psychiatrist. This can happen even if you don't want to go.

The psychiatrist will listen to what you have to say about whether you need compulsory treatment. The psychiatrist will also listen to what some other people who know you have to say about your treatment:

- your nominated person
- a guardian
- a carer if the assessment will directly affect the carer or the caring role
- a parent if you are a young person under 16 years of age
- the Secretary to the Department of Human Services if you are on a custody to Secretary order or a guardianship to Secretary order.

The psychiatrist must also ensure reasonable steps are taken to provide a copy of the Court Assessment Order to the people listed above and to tell them when the examination is complete.

How long is a Court Assessment Order?

A psychiatrist must examine you before the Court Assessment Order ends.

The Court Assessment Order ends 7 days after:

- the Court Assessment Order was made if you are examined at home or at a community clinic
- your arrival at the hospital if you have been taken there for examination.

What happens after the examination?

If the psychiatrist says you do not need compulsory treatment and you are at the hospital or a community clinic you can leave. If you are on bail or have given an undertaking to the court that made the Court Assessment Order, you still need to go to the next court hearing.

If the psychiatrist says you need to be given compulsory treatment they may make a **Temporary Treatment Order** for you before the next court hearing. Compulsory mental health treatment will begin once the Temporary Treatment Order is made.

Court report

When the examination is complete the psychiatrist will send a report to the court. You will be given a copy of the report. The report will tell the court if you need compulsory treatment and:

- if you are on a **Temporary Treatment Order**
- if a **Court Secure Treatment Order** should be made for you.

Next court hearing

At the next hearing the court will read the psychiatrist's report and decide what penalty to impose for your offending behaviour.

If the offences are serious and the court is considering sending you to prison, the court can make a Court Secure Treatment Order instead, if this was recommended by the psychiatrist.

If the court makes a Court Secure Treatment Order you will be taken to a hospital for compulsory treatment after the hearing.

If you are on a Temporary Treatment Order, it has no effect while you are on the Court Secure Treatment Order.

If the court does not make a Court Secure Treatment Order they will sentence you in the same way as any other offender. If you are on a Temporary Treatment Order, the court must take this into account.

Can I be given mental health treatment while I am on a Court Assessment Order?

While you are on a Court Assessment Order, a doctor can only give you treatment for mental illness if:

- you agree (by giving informed consent)
- you need **urgent** treatment to stop your illness getting worse or to stop you from being seriously hurt or seriously hurting someone else.

You can be given treatment for mental illness while you are on a Court Assessment Order if you are also on another order and the treatment is given under that other order.

For example if the psychiatrist who examines you for the Court Assessment Order makes a Temporary Treatment Order before your case goes back to court.

Restrictive interventions (seclusion and bodily restraint)

'**Restrictive interventions**' is another name for 'seclusion' and 'bodily restraint'. Restrictive interventions may be used if you are taken to hospital while you are on a Court Assessment Order.

Seclusion

'**Seclusion**' is when a person is kept alone in a room and cannot open the door or windows.

This can only happen if it is needed to protect the person or other people from imminent and serious harm.

'**Imminent**' is another way of saying 'very soon'.

Seclusion must be stopped if the reasons for putting the person in seclusion are not there anymore.

Seclusion can only be used when all other ways of stopping the serious harm:

- have been tried
- are thought to be unhelpful in stopping the serious harm.

If seclusion is used, the psychiatrist must tell:

- your nominated person
- a guardian
- a carer if the use of seclusion directly affects the carer or the caring role
- a parent if you are a young person under 16 years of age
- the Secretary to the Department of Human Services if you are on a custody to Secretary order or a guardianship to Secretary order.

Bodily restraint

'Bodily restraint' is when a person is stopped from moving around by:

- being physically held
- the use of a device such as a strap or harness or blanket.

Restraint can only be used on a person if it is needed to:

- protect the person or other people from imminent and serious harm
- give the person treatment for mental illness
- give the person treatment for a medical condition.

Restraint must be immediately stopped if these reasons are not there anymore.

If restraint is used the psychiatrist must tell:

- your nominated person
- a guardian
- a carer if the use of bodily restraint directly affects the carer or the caring role
- a parent if the person is under 16 years of age
- the Secretary to the Department of Human Services if the person is on a custody to Secretary order or a guardianship to Secretary order.

What happens if I am secluded or restrained?

If you are put in seclusion or you are restrained:

- you must be given food and water when you want
- you must be given blankets and pillows and bedding
- you must be given clothing
- you must be able to use the toilet
- you must be able to wash.

If you are secluded or restrained:

- a doctor or nurse must check on you at least every 15 minutes to see that you are ok
- a psychiatrist or doctor must examine you at least every four (4) hours to make sure that you are ok.

If you are being restrained a doctor or nurse must also watch you all the time to make sure that you are ok.

Authorisation

'Authorise' means to give someone permission to do something.

A psychiatrist, doctor or nurse must give permission for a restrictive intervention to be used on a person.

A restrictive intervention must be immediately stopped when the reasons for using the restrictive intervention are not there anymore.

Your rights

You have the right to get support

You can ask to get help from a family member, a carer or any other person you choose.

You can also get help from a person who can speak your language.

A doctor, nurse, psychiatrist or other member of the treating team must help you to contact the people you would like to help you.

You have the right to communicate with anyone you choose

You can communicate with any person you choose while you are in hospital.

You can make a phone call.

Your mail will not be opened.

A doctor, nurse, psychiatrist or other member of the treating team must help you to communicate with any person.

A psychiatrist can stop you communicating with another person if it is necessary to protect the health, safety or wellbeing of you or another person.

A psychiatrist cannot stop you communicating with:

- a lawyer
- the Mental Health Complaints Commissioner
- the Mental Health Tribunal
- the Chief Psychiatrist
- a community visitor.

You can speak up if you think something wasn't ok with your assessment or treatment

You can make a complaint about the mental health services you have been given.

You can talk to the treating team or staff at the hospital about your complaint. You can also talk to the Mental Health Complaints Commissioner or someone at the Commissioner's office.

The Mental Health Complaints Commissioner is an independent organisation that makes sure that mental health services are doing the right thing.

The Commissioner makes sure all assessment and treatment follow the law.

You can talk to the Commissioner or someone at the Commissioner's office at any time if you are unhappy about your assessment and treatment.

A psychiatrist, doctor, nurse or other member of the treating team must help you to talk to the Commissioner.

You can also ask a family member, a carer or any other person you choose to help you to talk to the Commissioner.

The contact details of the Mental Health Complaints Commissioner office's are included at the end of this booklet.

Making an advance statement

An **advance statement** says what treatment you would like when you are unwell.

You can make an advance statement at any time, if you:

- understand what an advance statement is
- understand what it means to make an advance statement.

You make an advance statement by:

- writing it down
- signing the document.

The document must also be signed by a witness.

A **'witness'** can be a psychiatrist, a doctor, a nurse or another member of the treating team, a lawyer or some other people.

The witness must say:

- that you understand what an advance statement is
- that you understand what it means to make an advance statement.

A psychiatrist, doctor, nurse or another member of the treating team can help you to make an advance statement if you ask them for help.

You can ask to get help from any other person you choose.

Choosing a nominated person

You can ask someone to be your nominated person at any time.

A **'nominated person'** is someone you can choose to look out for you if you have to have compulsory treatment.

Your nominated person can be:

- a family member
- a carer
- a partner
- anyone else you choose.

Your nominated person gets lots of information about your mental health treatment.

Because of this you should choose someone who knows you well and who you can trust.

The person needs to agree to be your nominated person.

You can choose a nominated person if you:

- understand what a nominated person is
- understand what it means to choose a nominated person.

You choose the nominated person by:

- writing it down
- signing the document.

The document must also be signed by a 'witness'.

A **'witness'** can be a psychiatrist, a doctor, a nurse or another member of the treating team, a lawyer or some other people.

The witness must say:

- that you understand what a nominated person is
- that you understand what it means to choose a nominated person.

The witness cannot be the person you choose to be the nominated person.

A psychiatrist, doctor, nurse or another member of the treating team can help you to choose your nominated person if you ask them for help.

You can ask to get help from any other person you choose.

For more information or to ask other people to help you

You can call:

Mental Health Tribunal is an independent tribunal that makes Treatment Orders and hears applications from patients for revocation of Temporary Treatment Orders or Treatment Orders, applications against transfer to another hospital and periodically reviews the Orders of security patients.

Tel: 9032 3200

Toll Free: 1800 242 703

Fax: 9032 3223

Email: mht@mht.vic.gov.au

Website: www.mht.vic.gov.au

Address: Mental Health Tribunal
Level 30, 570 Bourke Street
MELBOURNE VIC 3000

Mental Health Complaints Commissioner is an independent complaints body that can help you with any concerns or complaints you may have about the mental health services you are being given.

Toll Free: 1800 246 054

Email: help@mhcc.vic.gov.au

Website: www.mhcc.vic.gov.au

Address: Mental Health Complaints Commissioner
Level 26, 570 Bourke Street
MELBOURNE VIC 3000

Victoria Legal Aid provides free legal information, education and advice about lots of areas of law. It provides a visiting advice service to most of Melbourne's mental health inpatient facilities and many regional mental health inpatient facilities.

For information about the law and how we can help you, call Legal Aid on **1300 792 387**

More information is on the Victoria Legal Aid website at www.legalaid.vic.gov.au

Mental Health Legal Centre provides a free legal advice service on Tuesday and Thursday evenings between 6.30 pm and 8.30 pm.

Tel: 9629 4422

More information is on the Mental Health Legal Centre website at www.communitylaw.org.au/mhlc

Community Visitors are people who visit mental health services and can assist you with any questions and help you to seek support or resolve issues about the mental health services you are being given.

Tel: 1300 309 337