

Court Secure Treatment Order

Statement of rights

You have been given this booklet because a Court Secure Treatment Order has been made for you. This booklet provides information about Court Secure Treatment Orders and your legal rights and entitlements under the *Mental Health Act 2014*. 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 Secure Treatment Order?

A Court Secure Treatment Order requires you to begin your prison sentence in hospital so you can be given compulsory treatment for mental illness.

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

While you are in hospital you are a security patient.

Why has a Court Secure Treatment Order been made for me?

You have been convicted of an offence(s) and would have been sent to prison but you need treatment for serious mental illness:

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

Treatment for mental illness

You must be given treatment for mental illness if a Court Secure Treatment Order has been made for you and you have been taken to hospital.

You can make decisions about your mental health treatment. A psychiatrist must talk to you about what mental health treatment you would like.

If you agree to treatment this is called '**informed consent**'.

To give informed consent to treatment you must be able to:

- **understand** the information you are given about treatment
- **remember** the information you are given about treatment
- **use or weigh** the information about treatment
- **communicate** your decision about treatment.

A psychiatrist or another member of the treating team will help you to make decisions about your mental health treatment.

To help you to make a decision about your treatment a psychiatrist must:

- give you enough information to help you to make a decision about your treatment
- give you time to think about the decision before you make a decision
- tell you what the treatment will do to help you get better
- tell you what other treatments may help to make you better
- tell you about any side-effects, discomforts or risks of the treatment or other treatments.

You can ask a psychiatrist any questions that you want about your treatment. The psychiatrist must answer your questions in a way that you will best understand.

You can also have other people help you to make decisions about your mental health treatment, such as:

- a family member
- your nominated person
- a guardian
- a carer
- a mental health advocate.

What if I don't want treatment or I can't make a decision?

A psychiatrist will make a decision about your treatment if:

- you do not agree to the treatment that the psychiatrist thinks will help you get better
- you are unable to make a decision about your treatment when the decision needs to be made.

If you do not agree to the treatment or are unable to make a decision about your treatment the psychiatrist will still listen to what treatment you would like.

A psychiatrist will also look at your advance statement if you have one. An advance statement is written by you when you are well.

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

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 treatment decision 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 will also look at any second opinion about your mental health treatment that has been given to the psychiatrist.

The psychiatrist will also think about how it will affect your mental health if the treatment is not given to you.

Even if you are unable to make a decision about your mental health treatment now, you may be able to make a decision at another time.

If the psychiatrist decides you don't need compulsory mental health treatment you will be discharged as a security patient and taken to prison.

If the psychiatrist decides you need to stay in hospital for compulsory mental health treatment and you don't agree you can apply to the Mental Health Tribunal to stop being a security patient and be returned to prison.

Mental Health Tribunal hearing

The Mental Health Tribunal will decide whether you need compulsory treatment for mental illness.

The Tribunal is an independent organisation.

The Tribunal has a President and many members who work around Victoria. There are four groups of members:

- lawyers
- psychiatrists
- doctors
- members of the community who know about mental illness.

The Tribunal will hold a hearing to decide if you need compulsory treatment. The hearing will be held within 28 days of your arrival at the hospital and at least every six (6) months after that while you remain in hospital. At the Tribunal hearing there will be a group of three (3) members:

- a lawyer
- a psychiatrist or a doctor
- a member of the community.

The Tribunal will listen to what you have to say about whether you need compulsory treatment for mental illness.

The Tribunal will also look at your advance statement if you have one.

The Tribunal will also listen to what some other people who know you have to say about whether you need compulsory treatment for mental illness:

- the authorised psychiatrist
- your nominated person
- a guardian
- a carer if the treatment decision directly affects the carer or the caring role
- a parent if you are 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
- any other person who you would like to come and help you at the hearing.

The hearing will be held at the hospital where you are getting treatment.

Sometimes, the hearing will be via video-link.

You have a right to come to the hearing and to be supported by anyone you choose.

You can ask to get help from a lawyer to get ready for the Tribunal hearing.

The lawyer can also help you to have your say about whether you need compulsory treatment at the hearing.

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

Access to information for Mental Health Tribunal hearing

You have the right to look at any documents about you that are held by the mental health service.

A **'mental health service'** is the hospital where you are having mental health treatment.

You can look at these documents to help you get ready for the hearing with the Mental Health Tribunal.

A psychiatrist must let you look at the documents at least 48 hours before the Tribunal hearing.

A psychiatrist or another member of the treating team can help you to look at the documents about your mental health treatment.

You can also ask to get help to look at the documents from a lawyer or any other person that you choose.

Application for non-disclosure of information

A psychiatrist may ask the Tribunal to stop you looking at a document about your mental health treatment.

This is called an **'application for non-disclosure'**.

A psychiatrist can only stop you looking at a document if the Tribunal says so.

The Tribunal can only stop you looking at a document about your mental health treatment if the information in the document:

- may cause serious harm to you
- may cause serious harm to another person.

Application to the Mental Health Tribunal to stop being a security patient

You can ask the Mental Health Tribunal to stop being a security patient at any time. This is called an **'application to be discharged as a security patient'**.

The Tribunal will hold a hearing to decide whether you need compulsory mental health treatment.

If the Tribunal decides you don't need compulsory mental health treatment they will discharge you from being a security patient and return you to prison. The Court Secure Treatment Order continues as a prison sentence for the unexpired portion of the order. If the Tribunal decides you need compulsory mental health treatment you will remain a security patient at the hospital.

You can ask the Tribunal for written reasons for the decision. The request for reasons usually needs to be made within 20 business days after the decision.

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

You can also get help to contact the Mental Health Tribunal from a family member, a carer or any other person you choose.

What if I become seriously unwell after I return to prison?

Compulsory mental health treatment cannot be given to you in prison.

If you become unwell after you are returned to prison a psychiatrist will examine you to decide if you need compulsory mental health treatment. If the psychiatrist decides you need compulsory mental health treatment a direction will be made for you to be taken to hospital for treatment.

You must be examined by a psychiatrist and a direction made each time you are moved from prison to hospital.

Leave of absence

You can ask a psychiatrist for leave from hospital for a short time. Leave may be for treatment or medical treatment or to visit family or friends or for some other purpose.

If you would like to have leave you should talk to a psychiatrist, doctor, nurse or another member of the treating team.

You can also get help to ask for leave from:

- a family member
- your nominated person
- your guardian
- a carer
- any other person you choose.

Your psychiatrist will make the final decision about a request for leave.

Monitored leave

You can ask for leave from hospital to help you prepare for your release into the community. This is called monitored leave.

Monitored leave can be for:

- your rehabilitation
- maintaining or re-establishing relationships with the people who can support you outside
- your re-integration into the community.

If you would like to apply for monitored leave you should talk to a psychiatrist, doctor, nurse or another member of the treating team. You can also get help to ask for monitored leave from any person you choose.

The application can be made by you, your psychiatrist or any person at your request.

The Secretary to the Department of Justice will make the decision about a request for monitored leave.

Security conditions

While you are a security patient you may be made subject to such security conditions as the psychiatrist considers necessary to protect your health and safety or to protect the safety of any other person. For example limiting your phone calls.

Restrictive interventions (seclusion and bodily restraint)

'Restrictive interventions' is another name for 'seclusion' and 'bodily restraint'. Restrictive interventions may be used while you are in hospital on a Court Secure Treatment 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 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.

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 someone who you would like to help you.

You have the right to communicate with anyone you choose while you are in hospital

You can communicate with any person you choose **unless this is contrary to a current security condition.**

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 do so.

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

You can speak up if you think something was not ok with your 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 follows 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 for the Mental Health Complaints Commissioner's office 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.

Second psychiatric opinions

You can ask for a second psychiatric opinion at any time.

Asking for a second psychiatric opinion will not stop you being given compulsory treatment.

Your psychiatrist can still give you compulsory treatment while you wait for a second psychiatric opinion and even once you receive a second opinion report.

A **'second psychiatric opinion'** means that another psychiatrist will examine you and say if they think:

- you need compulsory mental health treatment
- what treatment would best treat your mental illness.

You can ask for a second psychiatric opinion from a psychiatrist who is not working at the hospital where you are getting treatment.

A psychiatrist, doctor, nurse or another member of the treating team must help you to get a second psychiatric opinion if you ask them for help.

You can also ask some other people can help you get a second psychiatric opinion:

- any person you would like to help you to get a second psychiatric opinion
- a guardian
- 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.

What will the second opinion psychiatrist do?

A second opinion psychiatrist will listen to what you have to say about:

- whether you need compulsory treatment
- what treatment you would like.

A second opinion psychiatrist will look at your advance statement if you have one.

The second opinion 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 recommended changes 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 second opinion psychiatrist will then give you a written report on what they think about your compulsory treatment.

The second opinion psychiatrist will also give a copy of the written report to your treating psychiatrist and:

- your nominated person
- a guardian
- a carer if the second opinion 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.

What happens if the second opinion psychiatrist recommends different treatment for me?

Your psychiatrist has to read the second opinion report and think about whether to change your treatment.

This is called 'having regard' to the second opinion report.

Your psychiatrist does not have to change your compulsory treatment.

If your psychiatrist does not change your treatment then the psychiatrist:

- must say that they are not going to change your treatment
- must say why they are not going to change your treatment.

Your psychiatrist must also tell you that you can ask the Chief Psychiatrist to review your treatment.

The Chief Psychiatrist is a senior psychiatrist employed by the Department of Health. The role of the Chief Psychiatrist is to help service providers improve the quality and safety of their services.

A **'review'** means that the Chief Psychiatrist will look at the report by the second opinion psychiatrist. The Chief Psychiatrist will say if they think:

- you need compulsory mental health treatment
- what treatment would best treat your mental illness.

If the Chief Psychiatrist thinks it is necessary they may:

- examine you
- look at your clinical record
- look at your advance statement if you have one
- speak with the authorised psychiatrist and other staff involved in your treatment.

When deciding whether to recommend changes to your treatment the Chief Psychiatrist may take into account the views of the following people:

- your nominated person
- a guardian
- a carer if the recommended changes 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 Chief Psychiatrist may direct your psychiatrist to change your compulsory mental health treatment.

For more information or to ask other people to help you

You can call:

Mental Health Tribunal is an independent tribunal that reviews Court Secure Treatment Orders and hears applications from patients to be discharged as 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