

Mental Health Review Tribunal

Homepage

Welcome to the website for the Mental Health Review Tribunal in the Isle of Man.

This website is provided by the General Registry to give general guidance only in relation to the Mental Health Review Tribunal and is not, and should not be treated as, a complete and authoritative statement of the law. Advice from legal or other appropriate sources should be sought as necessary.

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[Mental Health Review Tribunal Guidance \(from 1st July 2017\)](#)

[Department of Health & Social Care](#)

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General

1 What is the Mental Health Review Tribunal and what does it do?

The Mental Health Review Tribunal is an independent judicial body established in law, operating under the provisions of the Mental Health Act 1998, the Mental Health Review Tribunal Rules 2000 and the Mental Health Regulations 2000.

The Tribunal's main purpose is to protect the rights of people receiving involuntary treatment for mental illness. It provides an independent review, and makes decisions about whether the involuntary treatment will continue or not. In making these decisions, the Tribunal must balance the rights of the patient with the rights of others and the protection of the community. The Tribunal may direct the discharge of any patient where the statutory criteria for discharge have been satisfied.

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2 Who sits on the Tribunal and how are they appointed?

The Tribunal is an independent body consisting of three panels –

Chairpersons – The High Bailiff or, in his absence, two other persons, being barristers, solicitors or advocates of not less than seven years' standing.

Medical Members – Five persons, being registered medical practitioners appointed after consultation with the Isle of Man Medical Society. At least one of these persons must have suitable experience in psychiatric medicine.

Lay Members – Four lay persons having experience in administration, such knowledge of Social Services or such other qualifications or experience as the Appointments Commission considers suitable.

The Tribunal convened to hear an application will comprise of three persons, one from each of the above panels.

With the exception of the High Bailiff, the appointment of the Chairpersons, medical members and lay members of the Tribunal is the responsibility of the Appointments Commission established under the provisions of the Tribunals Act 2006.

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3 Who are the current persons appointed to the Tribunal?

The current appointments made by the Appointments Commission are:

Chairperson – The High Bailiff who holds the position *ex officio*, Mr J Wright and Mr P C Carlé.

Panel of Medical Members – Dr R U H Qureshi, Dr D M Foreman and Dr P Saleem.

Panel of Lay Persons – Mr M A Johnson, Mr D M Booth, Mr P Harper, Mr A Jones and Mr P Cartmel.

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4 Are there regulations governing the procedure of the Tribunal?

Yes – the procedure of the Tribunal is subject to the provisions of the Mental Health Act 1998 ("the Act"), the Mental Health Regulations 2000 ("the Regulations") and the Mental Health Review Tribunal Rules 2000 ("the Rules").

A reference within this website to a Section by number (without more) is to that Section of the Mental Health Act 1998.

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Making an Application

5 Who can lodge an application?

Depending on the reason why the patient is being detained, Section 74(1) of the Act stipulates who can make the Application.

Section 74(1) of the Act states "an application may be made to the Mental Health Review Tribunal within the relevant period – (i) by the patient (except in cases mentioned in paragraphs (i) and (m)) or, in the cases mentioned in paragraphs (d), (j), (k) and (l), by his nearest relative if he has been (or was entitled to be) informed under the Act of the report or acceptance and (ii) in the cases mentioned in paragraphs (i) and (m), by his nearest relative."

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6 Is there a charge for bringing an application?

No – there is no charge for bringing an application.

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7 How do I make an application?

Application forms can be obtained from the Harbour Suite or Glen Suite, Manannan Court, Noble's Estate. If you choose not to use an application form, your application must still comply with the requirements of the Rules in that it shall:

- be in writing and signed by the patient or any person authorised by them to do so on their behalf
- set out the name and address of the patient (to include the address of the hospital or mental nursing home where the patient is detained); or
- the names and addresses of the patient's private guardian; or
- in the case of a conditionally discharged patient or a patient to whom leave of absence from hospital has been granted, the address of the hospital or mental nursing home where the patient was last detained or is liable to be detained;
- where the application is made by the patient's nearest relative, the name and address of the applicant and their relationship to the patient;
- the section of the Act under which the patient is detained or is liable to be detained;
- the name and address of any representative authorised to conduct the case on the patient's behalf or, whether the applicant intends to authorise a representative or wishes to conduct their own case;
- in the case of a patient subject (or to be subject) to after-care under supervision –
 - (i) the names of the persons who are (or who are to be) the patient's supervisor and community responsible medical officer;
 - (ii) the name and address of any place at which the patient is (or will be) receiving medical treatment;
 - (iii) where the patient is subject to after-care under supervision his current address, or in the case of a patient who is subject to after-care under supervision upon leaving hospital, the address of the hospital where he is, or was last, detained or is liable to be detained

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8 How long do I have to lodge an application?

Written notice of an application should be given to the Clerk to the Tribunal within 14 days for a Section 2 admission and within 6 months from the date of admission for a Section 3.

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9 Who should I send my application to?

You should send your application to:

The Clerk to the Mental Health Review Tribunal
Tribunals Office
Isle of Man Courts of Justice
Deemster's Walk, Bucks Road
Douglas, Isle of Man
IM1 3AR

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10 Can I be represented in proceedings before the Tribunal?

Yes - in proceedings before the Tribunal a party may represent themselves or be represented by any other person.

Please note that once the details of a representative have been provided, future correspondence will be issued to that representative.

The Tribunal would encourage all patients to obtain representation when lodging an application.

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11 So does that mean I can get an Advocate to represent me?

Yes – as stated above, you can be represented by any other person you wish although you should be aware that if you use an Advocate you personally will be responsible for any professional fees charged by the Advocate to act on your behalf.

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12 Is Legal Aid available for proceedings before the Mental Health Review Tribunal?

Yes – Legal Aid is available for these proceedings provided you meet the necessary criteria. For further details please contact the Legal Aid Office on 685246 or visit the [LEGAL AID](#) website

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Before the Hearing

13 How will my application be progressed?

Upon receipt, the application is checked by the Clerk to the Tribunal to ensure compliance both with the requirements of the Rules and also with regard to any time limit prescribed by statute.

The application will be given a unique case number and will be acknowledged in writing.

The Tribunal Office will then send notice of the application to:-

- (1) the Department of Health & Social Care ('the Department') with a request for Statements by the Department containing information pursuant to rule 6(1) of the Rules
- (2) the patient (where he is not the applicant) and
- (3) if the patient is a restricted patient, the Department of Home Affairs ('the Home Department') containing information pursuant to rule 6(2) or (3) of the Rules.

All parties, and their representatives, are encouraged to consider the guidance provided by the Tribunal [GUIDANCE NOTES](#)

A date for the hearing must then be set within the relevant time scale. All applications are heard as soon as possible, although statute dictates that an application under Section 2 must be heard within 7 days of receipt of the application. Applications under Section 3 are generally heard within 6-8 weeks of receipt of application being received.

Once a date has been identified by the Chairperson and venue availability has been confirmed by the Clerk (this usually being the Board Room at Manannan Court for the convenience and safety of patients), two other Tribunal members with availability to hear the application must be identified, these being one Medical Member and one Lay Member.

When the Statements from the Department (see (1) above) and the Home Department (in the case of a restricted patient) have been received, they are sent out to the members of the Tribunal and the patient, or their representative (if there is one appointed), as soon as possible.

Any further submissions of papers received for the hearing are issued, where possible, to the Chairperson and Tribunal members and parties in sufficient time to allow for reading prior to the hearing.

Prior to the actual hearing, the patient will be seen by the Medical Member of the Tribunal who will examine the patient and take any other steps considered necessary to form an opinion of the patient's mental condition to assist the Tribunal. In practice, the examination normally takes place one or two days prior to the hearing unless time restraints make this impracticable. In the matter of a Section 2 appeal it is quite common for the examination to take place on the actual day of the hearing, but still before the hearing starts.

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14 What if I have any further information to add to my application?

You may submit any further information to the Clerk to the Tribunal at any time up until the Tribunal hearing but if the Tribunal have not had enough opportunity to consider the information supplied the hearing may be adjourned. In order to avoid delays, it is therefore important that you make every effort to include all the information, and supporting documentation that you wish the Tribunal to consider, as part of your initial application wherever possible – where it is not possible to lodge all the information as part of the application, you should forward the additional information as soon as you can.

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15 When will I be advised of the date for the hearing before the Tribunal?

Applications under Section 2 must be heard within 7 days of receipt of the application, whereas applications under Section 3 are generally heard within 6-8 weeks of receipt of application.

The Clerk to the Tribunal will confirm the time, date and place of the hearing as soon as possible after your application has been received. In relation to Section 2 applications, this will be within a matter of days bearing in mind the hearing must take place within 7 days of the application being received.

In the case of a Section 3 application, the Clerk will give all parties at least 14 days notice of the date, time and place fixed for the hearing (or such shorter notice as all parties may consent to).

In the event that there is a change of address or telephone number for you, or your representative, it is

important that such is communicated immediately in writing to the Clerk to the Tribunal.

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16 Can I ask for a postponement?

An application for a postponement of a hearing should be submitted in writing as soon as possible to the Clerk setting out the full reasons for the application. Only the Tribunal has the authority to grant an adjournment. If necessary, a short hearing before the Tribunal Chairperson will be arranged so that parties may be heard on the matter.

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17 What if I do not wish to attend the hearing?

Although you do not have to attend the hearing, it is important that you do try to attend; the Tribunal will have considered the written evidence but that alone may not tell the whole story. By attending the actual hearing you will be offered the opportunity to put your side of the story forward, as well as calling any witnesses you may wish to give relevant evidence, and answer any questions the Tribunal may have. You will also be able to ask questions of the Responsible Medical Officer, the Approved Social Worker and any witnesses they call.

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18 If an application is made can it be withdrawn?

Yes – an application may be withdrawn at any time at the request of the Applicant provided the request is made in writing and the Tribunal agrees.

An application to withdraw must be sent to the Clerk to the Tribunal.

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19 Where will the hearing take place?

For the convenience and safety of patients the hearing will take place at the Board Room, Manannan Court which is located in the grounds of Noble's Hospital, Strang, Braddan.

Any persons attending should be aware that although there is a car park at Manannan Court, this may be full and you may need to park further away. Extra time should be allowed for this.

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The Hearing

20 Who will be present in the hearing room?

As well as the Tribunal Chairperson and members, the Clerk to the Appeal Tribunal will also be present as the Clerk is responsible for recording the hearing. Prior to the hearing, if you have any questions, please do not hesitate to contact the Clerk who will do their utmost to assist you. However, please bear in mind the Clerk will not be able to provide you with legal advice or comment on the merit of your appeal.

The Responsible Medical Officer, the Approved Social Worker, the Nurse, the nearest relative and the representative (if there is one appointed) will also be present in the room and any further witnesses that may be called to give evidence.

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21 What happens at the hearing?

Please bring your case papers with you as you may need to refer to them from time to time. The Chairperson will introduce everyone and explain the procedure, however please do not hesitate to ask if you are unsure about anything.

Your hearing will usually take about an hour, although, depending on the complexity of the matter, some cases may take longer.

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22 Is the hearing recorded?

Yes - the Clerk will ensure that the hearing is recorded and parties will see microphones for this purpose located on each of the tables.

Although copies of the recording may be purchased following the hearing (it usually takes a few days for copy discs to be made available), on payment of the prescribed fee, it is the responsibility of parties to take their own notes for their use during the proceedings.

Apart from the Clerk, it is **not permitted** for any other person in attendance at the hearing to use any form of recording equipment.

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23 Are members of the public allowed to attend the hearing?

The Rules provide that "*the Tribunal shall sit in private unless the patient requests a hearing in public and the Tribunal is satisfied that a hearing in public would not be contrary to the interests of the patient*".

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24 How do parties address the Chairperson and members of the Tribunal?

It is customary to address the Tribunal via the Chairperson who should be called either 'Sir' or 'Madam', as applicable. If it is necessary to address either of the lay members directly they may be referred to as 'Sir' or 'Madam', as applicable, or alternatively by name.

Tribunal hearings are less formal than, for example, in the High Court so there are no wigs and gowns worn. It is not necessary to bow to the Tribunal upon entering and leaving the hearing room and it is not necessary to stand to address the Tribunal, unless of course a party prefers to do so.

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25 Can a party be liable for costs in proceedings before the Tribunal?

No – there are no provisions for costs to be awarded

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The Decision

26 When will I be given a decision?

After closing statements the Tribunal is likely to adjourn briefly to consider the application and reach a decision; you will be asked to be seated in the waiting area. Once the Tribunal have made their decision, parties will be invited back into the hearing room and, at the discretion of the Tribunal, the Chairperson may communicate the decision verbally. The written decision of the Tribunal, including the reasons, will be

issued to the parties thereafter – within 3 days of the hearing in the case of a Section 2 application, and within 7 days of the hearing in the case of a Section 3 application.

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27 Does the decision have to be unanimous?

No – a decision of the Tribunal may be taken by a majority, the Chairperson having a second or casting vote.

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Appeals against the Tribunal's decision

28 Can the Tribunal's decision be appealed?

Once the Tribunal has issued its decision, it will not reconsider the matter further. If you feel aggrieved by the decision of the Tribunal, you should seek legal advice as to whether or not you have the right to make an application to appeal to the High Court and, if so, the time limits that may be applicable for lodging such an application.

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Contacting the Tribunal

29 What is the address for the Mental Health Review Tribunal?

The address to which correspondence should be sent is:

Clerk to the Mental Health Review Tribunal
Tribunals Office
Isle of Man Courts of Justice
Deemsters Walk, Bucks Road
Douglas
Isle of Man, IM1 3AR

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30 How do I contact the Clerk to the Mental Health Review Tribunal?

If a person wishes to contact the Clerk they can do so during normal office hours:-
Monday to Thursday 9.30am to 4.30pm, Friday 9.30am to 4.00pm

Tel: 685023 Fax: 685573 or Email: tribunals@gov.im

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