

Practice Direction:



Detaining forensic patients under the *Mental Health Act 2007*

Purpose

In 2013, amendments were introduced into both the *Mental Health Act 2007* (MHA) and the *Mental Health (Forensic Provisions) Act 1990* (MHFPA) which allow a forensic patient to be detained in a mental health facility if the patient is a mentally ill person within the meaning of the MHA.

The Tribunal's Forensic Guidelines provide more information about this process at pages 21 to 22.

The purpose of this practice direction is to set out the Tribunal's processes for dealing with hearings under the MHA which concern a forensic patient.

The Tribunal expects that this process will only be applicable to forensic patients who have been granted conditional release and have become mentally unwell. If a patient becomes mentally unwell whilst on leave from a mental health facility, the Medical Superintendent has the discretion to revoke that leave, returning the patient to the close supervision of a hospital environment.

Involuntary admission of Forensic Patient

1. An authorised medical officer (AMO) must advise the Tribunal as soon as practicable if a forensic patient is detained under the MHA, (see section 28A of the MHA). The AMO or delegate should contact the Tribunal on 9816 5955 and ask to speak to a Senior Forensic Officer.

Mental Health Inquiry

2. A forensic patient who is detained under the MHA must be presented for a mental health inquiry as soon as practicable after admission under s. 27 of the MHA.
3. The mental health inquiry should be arranged with the Tribunal's registry in the usual way, but including a note that the patient is a forensic patient.
4. A mental health inquiry in relation to a forensic patient will be constituted by the President or a Deputy President of the Tribunal.

Review of the patient under s. 37 MHA

5. If the facility wishes to extend the forensic patient's involuntary stay beyond the period set by the initial involuntary order, the patient should be brought before the Tribunal for further review under s. 37 of the MHA.

6. A s.37 review in relation to a forensic patient will be presided over by the President or a Deputy President.

Case management by the Tribunal's Forensic Division

7. The staff of the Tribunal's Forensic Division should be kept regularly updated of the forensic patient's progress whilst involuntarily detained. This can be done by contacting the Tribunal on 9816 5955 and asking to speak to a Senior Forensic Officer.
8. The AMO or delegate should advise the Tribunal (by speaking with a Senior Forensic Officer) if it is the AMO's intention to discharge the forensic patient.
9. The AMO must advise the Tribunal as soon as practicable after discharge of a forensic patient (see section 43A of the MHA).

Section 68 order

At any time during a forensic patient's detention under the MHA, the President of the Tribunal may decide to issue an order under s. 68 of the MHFPA for the patient's detention.

If an order is issued under s. 68 MHFPA, the AMO should consider whether there remains a need for the patient to be detained under the MHA. If the AMO decides that it is appropriate to discharge a patient from the MHA regime, the patient will nonetheless remain in the facility until the Tribunal determines that the patient should be discharged under the MHFPA.

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President, Mental Health Review Tribunal

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