

Information for Victims



Mental Health
Review Tribunal

The Forensic Patient Victim Register

The Tribunal maintains a Forensic Patient Victim Register. The Register is a way you, as the victim, can find out information about the Tribunal process, some information about the forensic patient and be given the opportunity to make submissions at hearings.

Charter of Victims Rights

Victims of crime in New South Wales have a Charter of Victims Rights to promote and protect their rights. The NSW Victims Services website <http://www.victimsservices.justice.nsw.gov.au/> has more information on:

- Your rights as a victim, including information about access to support services
- The Charter of Victims Rights, and how to lodge a complaint if your rights as a victim have been breached, and
- How to access the Victims Support Scheme, including counselling, financial assistance and recognition payments.

Eligibility to register as a victim

You can register if you are a victim of an act of violence, by a person who has been:

- found by the Court to be not guilty by reason of mental illness, or
- nominated by the Court for a limiting term and ordered to be detained.

If the victim has died as a result of the act of violence, then family members of the victim are able to register. The family members that are able to register are:

- the victim's spouse
- de facto partner of the victim
- parent, guardian, or step-parent of the victim
- child or step-child of the victim or any child of whom the victim is the guardian
- siblings (including half and step-siblings) of the victim

When to register

You can register when the criminal justice process of the Court (e.g. District or Supreme Court) has been finalised, and the matter is referred to the Tribunal.

How do I register?

You can register by completing the registration form on the Mental Health Review Tribunal's website: www.mhrt.nsw.gov.au or you may wish to contact the Forensic Division on (02) 9816 5955 to get support in completing the registration.

When registering, you will need to let the Tribunal know how you would like to be involved in Tribunal hearings and what things you would like to be informed about.

Your rights as a registered victim

If you are a registered victim, you can decide what information you would like to receive from the Tribunal.

Receiving information from the Tribunal may be upsetting for you, and you may experience grief and distress as a result of the hearings. To help us to help you, you may want to discuss with the Tribunal Registrar what information you would like to receive and how you would like to receive it. You may also want to receive support from a victims' support group.

As a registered victim you can ask the Tribunal to tell you about:

- the hearing dates, and how you can attend;
- whether any changes to the leave arrangements for the patient are likely to be considered at the next hearing;
- whether there is a request to release the patient, conditionally or unconditionally, at the next hearing;
- whether the patient has escaped or failed to return from leave and the Tribunal has issued an order for the patient to be apprehended.

As a registered victim you have the right to ask the Tribunal to consider making an order:

- that a patient not contact you (also known as a 'non-association order')
- restricting the places where a patient can visit or live (also known as a 'geographical restriction order')

When do I stop being a registered victim?

You will stop being a registered victim when:

- a forensic patient who was found not guilty by reason of mental illness has been unconditionally released by the Tribunal;
- the limiting term expires for a forensic patient who received a limiting term; or
- you ask to be removed from the register.

The Tribunal

The Tribunal is responsible for deciding:

- where a forensic patient should be detained,

- whether the forensic patient can have any leave from the hospital (ie go outside of the hospital),
- whether a forensic patient is ready to be released into the community with conditions,
- whether a forensic patient is ready to be unconditionally released (so that they are free to resume their life in the community without conditions).

There are legal limits on the role of the Tribunal and the information that can be provided to you by Tribunal staff.

- The Tribunal cannot provide legal advice to you or to the treating team;
- The Tribunal cannot change a Court's ruling;
- The Tribunal is not allowed to tell you the location or address of a forensic patient, or to provide you with personal information about the forensic patient. It can only tell you that the person is being detained in a prison or a hospital;
- The Tribunal is not allowed to give you any information about the forensic patient's medical treatment or history.

Hearings

The Tribunal hearings are to review the forensic patient's circumstances at the time of the hearing. The people on the Tribunal's review panel are:

- The President or a Deputy President of the Tribunal, who must be a lawyer
- A psychiatrist
- A third person who is otherwise qualified or experienced.

Other people who may be present at the hearing are:

- Members of the patient's treating team such as:
 - A case manager
 - A psychiatrist
 - Allied health professionals (eg an occupational therapist, social worker or psychologist)
 - Nursing staff
- The patient's legal representative
- A support person for the patient
- The patient's family members
- The victim and victim's representative or support person

Watching or participating in a hearing

The Tribunal will send you a letter three weeks before the hearing telling you the proposed hearing date. The actual time for the hearing on the day is usually decided closer to the hearing date.

Victims have a right to attend hearings and listen to proceedings. You may also ask a representative to attend the hearing for you. You may also bring a support person.

If you would like to attend the Tribunal hearing, please let the Tribunal know so that it can make arrangements for you. Many of the Tribunal's hearings are in secure facilities (prisons or hospitals) that have strict security requirements and are difficult to access.

The easiest way to participate in a hearing held in secure facilities is to be linked in by phone or video from the Tribunal in Gladesville. If you are attending by video-link from Gladesville, a staff member from the Tribunal will sit with you and arrange for you to be linked in by video to the place where the hearing is being held.

Hearings are generally for 45 minutes but may be longer. Sometimes hearings may run later or earlier than scheduled. It is best that you arrive fifteen minutes before the scheduled time and be prepared for possible delays. It is always a good idea to bring something to do or read while you're waiting.

Do I see the forensic patient and does the forensic patient see me?

As much as possible, the Tribunal will arrange the hearing so that the patient cannot see you but can hear you. The three panel members will see you and let attendees know that you are at the hearing. However, in some facilities, there are limitations and so there may be some circumstances where the forensic patient may see you.

Do I need to attend hearings?

You do not need to attend hearings. Attending a hearing may be difficult for you, as the review may touch upon painful or tragic events in your life. For this reason, you may choose not to attend a hearing.

Making a submission

Not only do you have a right to attend Tribunal hearings, you also may make submission seeking:

- an order that a patient not contact you (also known as a 'non-association order'), or
- an order restricting the places where a patient can visit or live (also known as a 'geographical restriction order').

If you knew the forensic patient before the event occurred, you may be able to give the Tribunal information that is relevant to the Tribunal's decision about the patient's care, treatment or detention. If you have information of this kind, it is helpful to provide it to the Tribunal in writing before the hearing. You can ask that your letter stay on the Tribunal's file to be considered at each hearing; or you can write a new letter before each hearing.

Asking for a non-association order or place restriction from the Tribunal

So it can decide if an order should be made, the Tribunal will need some information from you about why you want an order to be made.

For non-association orders:

If you are asking for an order prohibiting the forensic patient from contacting particular people, then the following kinds of information will be useful to the Tribunal:

- the names of the people who are not to be contacted;
- the relationship of those people to you; and
- whether the forensic patient is likely to know or recognise the named people.

For geographical restrictions:

If you are asking for an order preventing a forensic patient from going to particular places, then the following kinds of information will help the Tribunal:

- A description of the places that you do not want the forensic patient to visit. Many registered victims choose to describe the places by referring to the Local Government Areas. For example, if a registered victim lives in Quakers Hill, the Tribunal may be asked to prohibit the forensic patient from visiting the Blacktown Local Government Area.
- Who goes to this place and their relationship to the registered victim or the forensic patient?
- Why does the person go to this place? Is this the place where the person usually works, lives, shops, plays sport or does other recreational activities, or is it the address of close family or friends?
- How often does the person expect to visit that place (unless the address is the usual work place or residential address)?

It is best if you can provide this information to the Tribunal in writing. You can send your request to mhrtforensic@doh.health.nsw.gov.au, or post it to PO Box 2019, Boronia Park, NSW 2111

What happens to the information that I have given to the Tribunal?

The Tribunal understands that in many cases registered victims may share a family relationship with the forensic patients. If this applies to you, this may present challenges, such as wanting to support the forensic patient's care and treatment, while expressing concerns as to your own safety when the Tribunal considers their leave and release.

A copy of your letter (with your identity and address blacked out) will be provided to the forensic patient's lawyer. If necessary, this edited copy may also be shown to the patient's clinical treating team. Your letter will not be shown to the forensic patient.

Holding part of the hearing in private

If you attend the hearing, you may be asked questions by the Tribunal panel about your request. These questions may be asked in a private Tribunal hearing if you ask the Tribunal to consider that. If you would like to discuss these issues in private, please let a Tribunal staff member know before the date of the hearing.

If you wish, you can ask the Tribunal panel to consider the forensic patient and their treating team leaving the room while you explain your reasons for asking for a non-association order, place restriction or other concerns. It is likely that the forensic patient's lawyer will be invited to stay, to be sure that the hearing is fair.

At other times, the Tribunal may ask you to leave for parts of the hearing. This may be done to:

- assist a forensic patient to confidentially discuss highly sensitive and personal information; or
- make sure that a forensic patient's safe and effective care, and the safety of the public, are not jeopardised by a public discussion of information that is relevant to a Tribunal decision.

In that case, the video-link may be put on mute, or you will be asked to leave the hearing room.

Decisions of the tribunal

Regardless of whether you attend a hearing or not, you will be kept informed by letter of the hearings you want to be told about. This includes what orders were made and the outcome of the hearing.

I disagree with the Tribunal's decision, what can I do?

Tribunal decisions can be appealed to the Supreme Court. However, registered victims may only appeal Tribunal's decisions on non-association and place restriction.

Forensic pathway – detention

Many forensic patients spend a period of time detained for care and treatment. This is usually in a mental health facility. Sometimes forensic patients are detained in a correctional centre (prison), particularly in the time immediately after the Court proceedings are finalised.

Mental Health Facilities Locations

Forensic patients who are detained in a hospital are usually in one of these hospitals:

Long Bay Hospital is a prison facility jointly managed by Corrective Services NSW and Justice Health. It is located within the grounds of Long Bay Correctional Centre at Malabar in Sydney.

The **Forensic Hospital** is located on Anzac Parade at Malabar. It is a highly secure mental health facility managed by Justice Health.

The **Bunya Unit** at Cumberland Hospital is located at Parramatta.

The **Kestrel Unit** at Morisset Hospital in Morisset.

The **Macquarie Unit** at Bloomfield Hospital in Orange.

The **Macquarie Hospital** at Ryde.

The **Concord Centre for Mental Health** at Concord.

How secure are they?

Prison and the Forensic Hospital

As a general rule, patients detained in custody and at the Forensic Hospital do not have access to leave outside of the perimeter walls except with an escort. The Medical Superintendent of a mental health facility can issue leave for emergency medical appointments or other emergencies subject to assessment.

Where the forensic patient is detained in a prison, that patient is subject to the security conditions agreed between the Director-General of the Ministry for Health and the Commissioner of Corrective Services or the Department of Juvenile Justice.

Bunya, Kestrel and Macquarie Units

These are locked areas within a hospital. The area may include a closed ward environment where exit is prohibited for patients and limited to authorised visitors only. A forensic patient may be given permission by the Tribunal for various forms of leave, for example to the hospital grounds or to the community outside.

Macquarie and Concord Hospitals

Macquarie and Concord Hospital have some forensic patients in their locked wards and rehabilitation units. The Tribunal order for the forensic patient will usually allow leave.

Forensic pathway – Leave

For the duration of their treatment, the Tribunal may grant approval for the patient to take leave.

When hearing an application for leave, the Tribunal must consider the risk to the safety of the forensic patient and the greater community. It does this by scrutinizing the treating team's assessment of risk which is done by means of tests and other clinical tools, and testing the evidence at a hearing.

The Tribunal also considers any requests for place restriction and non-association from registered victims.

Once leave is granted by the Tribunal, that does not mean it is automatic. Leave will only be allowed on any particular day if the patient has been assessed by staff of the hospital to be well enough on that day. All leave is subject to the conditions and restrictions that apply to the individual forensic patient's circumstances including time, place or other conditions imposed by the Medical Superintendent of the facility where the patient is detained.

Leave is closely monitored on an ongoing basis by the treating team and the forensic patient may need to be tested for alcohol and drug use when returning to hospital.

Type of Leave	Location & Duration	Supervision
Escorted Day Leave	Outside hospital grounds	Direct supervision by one or more hospital staff
Supervised Day Leave	Outside of hospital grounds during day time hours	In the trust of an approved family member or friend who can look out for, and respond to signs of the patient becoming unwell.
Supervised Overnight Leave	Outside of hospital grounds and at an approved location, overnight.	
Unsupervised Day Leave	Outside of hospital grounds during day time hours.	Unsupervised but may be subject to geographical restrictions and non-association orders if requested.
Unsupervised Overnight Leave	Outside of hospital grounds and at an approved location, overnight.	Overnight leave to an approved residential address, but may be subject to geographical restrictions and non-association orders if requested.

I received a letter notifying me that the forensic patient is to be transferred to another facility with leave. What does this mean?

This means that the team responsible for treating the forensic patient have applied to the Tribunal for the patient to move to another hospital or facility (usually with fewer restrictions) and to have access to some level of leave.

The safety of the patient and the community is important to the Tribunal when it considers any application for transfer and leave. Forensic clinicians will assess the level of risk and to address other factors that may contribute to the forensic patient becoming destabilised.

It is important to note that the Tribunal will not approve any leave unless it is satisfied of the safety of the forensic patient and the community (including the victims).

What happens if the forensic patient absconds?

If a patient has absconded, it means that they have escaped or did not return from authorised leave.

In these circumstances, the authorized medical officer may alert the police and the Tribunal may issue an order that will allow police to apprehend the patient and take them to a hospital or prison.

Will I be told if the forensic patient absconds?

When registering, if you wish to be told when a patient escapes or absconds, the Tribunal will contact you if the patient has escaped from the facility, or the patient has not returned to the facility from leave and the Tribunal has issued an order for the patient to be apprehended and detained.

The Tribunal will hold a hearing a few days after the person has been returned to detention to find out why the patient did not follow the conditions of the order. It may make an order after the hearing as to where the patient should be held or should continue to live.

What happens if the forensic patient does not comply with the conditions of the Tribunal's leave order?

If a forensic patient who has been granted leave does not comply with the conditions of the order, that leave may be suspended by the treating team, depending on how serious the non-compliance is. Leave may recommence when the patient is better, but if a patient has become very unwell, the patient may be transferred to another hospital for treatment.

What can I do if I think that the forensic patient has not complied with their conditions?

If you are concerned that a forensic patient has not complied with their conditions of leave, you can contact the Tribunal. The Tribunal will then investigate and, if appropriate, will advise of the outcome of an investigation.

Forensic pathway - Conditional release

When the Tribunal is satisfied that the patient does not need to be kept in a restrictive hospital environment, the patient may be conditionally released.

The forensic patient may no longer be held in a locked environment and may live in the community. They will be managed by a community mental health team under conditions determined by the Tribunal.

Before an order for conditional release is made, a risk assessment by a person (usually a forensic psychiatrist) independent of the treating team is required and must be considered by the Tribunal.

The Tribunal will include a number of conditions in the order for conditional release and the forensic patient is required to adhere to the conditions. These conditions could include geographic and non-association restrictions.

How long before the forensic patient is released?

The length of time varies depending on how each patient responds to treatment and rehabilitation, which may vary from a few months to a many years. A person on a limiting term will be released from the forensic order at the end of their limiting term unless their forensic patient status is extended by the Supreme Court.

The Tribunal's role includes monitoring and encouraging a patient's progress towards rehabilitation and recovery.

Forensic pathway - unconditional release

When the Tribunal is satisfied that the patient is not a risk to themselves, victims or the community, the patient may be released unconditionally to live in the community.

Similar to conditional release, before an order for unconditional release is made, a risk assessment by a person independent of the treating team is required and must be considered by the Tribunal.

When a person is unconditionally released, they are no longer a forensic patient. As they are no longer a forensic patient, they are not required to comply with any conditions imposed by the Tribunal. Tribunal hearings will no longer be held and the person resumes independent living.

When a forensic patient is unconditionally released, you are no longer a registered victim.

If you are ever concerned about your immediate safety call 000

Tribunal contacts

If you would like to contact the Tribunal, ask to speak with a Principal Forensic Officer or Forensic Team Leader.

Tel: (02) 9816 5955

Fax: (02) 9879 6811

Email: mhrtforensic@doh.health.nsw.gov.au

Postal Address: Mental Health Review Tribunal
PO Box 2019
BORONIA PARK NSW 2111

Other helpful contacts

Victims Services at the Ministry of Justice 1800 633 063

Victims Services provides support services, including free counselling and financial assistance to NSW victims of crime. Victims have rights which are set out in the Charter of Victims Rights, which includes the right to be treated with courtesy, compassion and respect.

<https://www.victimsservices.justice.nsw.gov.au/>

Victims of Crime Assistance League (VoCAL) (02) 4961 4755

www.vocal.org.au

Homicide Victims' Support Group (HVSG) (02) 8833 8400

www.hvsgnsw.org.au

Enough is Enough (02) 9542 4029

www.enoughisenough.org.au

Police Assistance Line 131 444