

What happens at Mental Health Review Tribunals?

A guide for patients detained under the Mental Health (Jersey) Law 2016

What is the Mental Health Review Tribunal?

People who have a mental disorder (including children and young people) can be kept in hospital for assessment and/or treatment. When they don't want to stay in hospital but others (including their treating staff) think it is necessary, this can be done against the person's wishes. We call this "being detained under article".

The Mental Health (Jersey) Law 2016 (the **Law**) sets out the rules that need to be followed when detaining someone and it says that people can be detained if they are suffering from a mental disorder and where the detention is in the interests of their health and/or safety or for the safety of other people.

If you have been detained and you don't want to be or don't think you should be, you can make an application (appeal) to the Mental Health Review Tribunal (the **Tribunal**).

The Tribunal is an important legal check about a patient's detention.

We also approve transfers of patients off-island for treatment, and we can also review decisions that have been made restricting a patient's access to devices such as mobile phones, tablets and laptops and post.

Who is on the Tribunal?

The Tribunal panel is a group of three people. We do not work for the hospital or for Government and we are independent from the people looking after you. The three people are:

1. A Chairman, Vice-Chairman or Deputy Chairman (lawyers who manage the hearing and write the decision).
2. A doctor. This can be a GP or consultant psychiatrist. They will not be involved in your care or work for the hospital.
3. A lay member. This is someone who knows about the care of mental health patients.

We will usually come to the hospital where you are to have the hearing and this takes place in a special hearing room away from the ward. If you are living in the

community however, we will usually have a hearing at the Tribunal offices in St Helier.

How can I apply?

When you are detained you will receive a letter (and your Nearest Relative will receive one too) explaining why you have been detained and letting you know that you can appeal the detention to the Tribunal. If you have had your access restricted to electronic devices/post you will be sent a letter about this and that you can appeal the restriction to the Tribunal.

You can ask the staff to give you a form to fill in or you can ask to see one of the Independent Mental Health Advocates (**IMHA**) from [Independent Advocacy, MyVoice](#) and they can help you fill the form in and send it to the Tribunal. Our forms are also available on our [website](#).

If you want to appeal, you need to do this in a set timeframe. Different timeframes apply to different appeals. If you are detained and don't want to be, you should let the nursing team or the IMHA know as soon as possible so they can help you apply.

Who helps me at the Tribunal?

If you appeal your detention you will be given access to a lawyer. This is free and the lawyer is a specialist lawyer in mental health matters and they will represent you at your appeal.

You can still get support from your IMHA if you want to. Your lawyer will discuss this with you.

What happens when I've put my appeal in for a hearing?

We will put a date in the diary for your hearing and we will tell your lawyer who will tell you. We may tell your Nearest Relative (for children, one of your parents) but we won't if you don't want us to. We will expect your lawyer to speak to your IMHA if you have one about whether you want them to attend too and so that they can ask us for permission to attend.

Before the hearing we will get reports from:

1. Your doctor (Responsible Medical Officer (**RMO**))
2. Your primary nurse
3. Your care co-ordinator

We will also get copies of the papers that were filled in when you were detained.

Copies of this paperwork will be given to your lawyer. They will review your Care Partner records (Care Partner is the computer system at Health and Care Jersey that saves your mental health records) and they will come and meet with you before the hearing to talk about why you want to appeal and to go through the reports with you.

Your lawyer will usually give you advice about whether they think you will win your appeal or not. It is important to listen to the advice they give you because you can only ask for an appeal at certain times and if your appeal is not successful there will be a delay until you can ask for another hearing. If they feel that your appeal is unlikely to succeed, they may advise you to withdraw your appeal rather than go ahead with the hearing. This is because you have a limited number of appeals you can make to the Tribunal, so you should carefully consider the advice your lawyer is giving you. If an appeal is withdrawn, you can re-apply at a later date.

What happens on the day?

The Tribunal doctor will usually come and see you the morning before your hearing. This is so they can understand a bit more about you, your condition and why you want to leave hospital/not be under the article any more. The Tribunal doctor will usually speak to the staff looking after you as well. At the beginning of the hearing, the Tribunal doctor will tell the rest of the panel about your meeting.

If you are at Orchard Ward, the Tribunal usually has the hearing in a special hearing room away from the ward. This is the room:



(View from where the Tribunal sit)



(View from where you sit)

Sometimes we hold hearings in other places such as the General Hospital or at the Tribunal office in St Helier. We usually do this for children who are having treatment on Robin Ward, for patients who might be in the General Hospital for other reasons or where patients are back living in the community. The room at the General Hospital and Tribunal office will be set up in a similar way to the photos above.

All hearings are usually held in private and are recorded on special equipment kept safe by the Tribunal staff. No one else has access to the recordings but we need to keep them in case someone doesn't agree with our decision and so we have a record of what happened on the day.

No-one else is allowed to record the hearing and you won't be allowed to bring your phone into the hearing room.

The hearing usually follows a set pattern:

1. The Chairman will turn on the recording and say that this is your appeal against detention under the Law and will then introduce you to the Lay Member and Tribunal Doctor (who you will have met already).
2. You will be reminded about what the hearing process is and you will be told a few rules.
3. The Tribunal Doctor will tell us about their meeting with you and your lawyer will be able to ask questions about that meeting.
4. The Tribunal panel will then ask questions to your doctor, nurse and care-coordinator and your lawyer will be able to ask them questions as well.
5. We will ask your lawyer to tell us why you want to leave hospital, not be under article etc. Your lawyer might ask you to tell us why you want to leave hospital etc. and we might ask you some questions too. If your Nearest Relative is with you, we might also ask them some questions. If

your IMHA is with you, they will be with you for support only (they are not entitled to give their views to the Tribunal).

6. When we have asked all our questions, we will ask everyone to leave the room and wait in a special waiting area near the hearing room. Whilst you are waiting the Tribunal will discuss the reports and all the things that have been said during the hearing and decide whether or not you need to stay in hospital. This usually takes 15-30 minutes but can sometimes take longer.
7. We will call everyone back into the room and the Chairman will tell you what the decision is. We will write down our reasons and send those to your lawyer shortly after the hearing (within 28 days).

How long will a hearing last?

Hearings can take a couple of hours but it depends how much information there is. Some can be shorter; some can be longer; but it's really important that we hear all the information we need to make a good decision.

We know that having to sit through a long meeting can be difficult and you might not be used to it so we will tell your lawyer to let us know if you need a break.

Do I have to come to the hearing?

No; you do not have to come to the hearing if you do not want to. You can talk to your lawyer about this in advance and you can change your mind right up until the time the hearing starts.

Sometimes, we may decide that it is not appropriate for you to come to the hearing. This is rare but there are times when a patient is too unwell and it would not be in their best interests to attend. We always start on the basis that patients want to attend their hearings.

Do I have to stay for the whole hearing?

No; you don't have to stay for the whole thing. We understand that it can be really difficult to sit through a whole hearing listening to people discussing you and your treatment and if you decide you want to leave and go back to the ward you can tell your lawyer, and they will let us know.

Sometimes we have to ask patients to leave hearings if their behaviour is not acceptable. We will only do this as a last resort and will give warnings before this happens.

Who can come with me into the hearing?

We have to tell your Nearest Relative about the hearing unless you have told us that you don't want us to do that. If you want your Nearest Relative at the hearing, we will ask your lawyer to tell us that at least 48 hours before the hearing and this is so that we can let them know. It is our decision who to allow to attend the hearing (including Nearest Relatives and IMHAs) and your lawyer needs to ask our permission for anyone else to attend.

Sometimes the Authority ask for permission for trainee doctors, nurses, social workers etc. to attend the Tribunal for training. If we receive a request like that we will ask your lawyer for their and your views on that.

What kind of questions will be asked?

Your doctor will be asked some of the more complicated questions about your disorder including your treatment plan and your nurse and care co-ordinator will be asked questions too. The types of questions we ask (and why we ask them) are set out at the end of this document.

What can the panel decide?

If your appeal is against being detained in hospital, we need to be sure that you need to remain detained in hospital and that it's necessary and in the interests of your health or safety, or for the safety of others. Those looking after you will need to convince us this is the case. This is the same test if you are out on leave and you don't think that you need to be on article anymore.

If we don't agree with them and think you should be released from article, we can order that you are immediately discharged from hospital, or we can say that we think you need to be discharged by delay it to a certain date (usually to allow arrangements to be made for your care). If you are out on leave, we can order that you are discharged from your article.

If we do agree with them, we can say that you need to remain in hospital or (if you're on leave) that you need to remain on article. That does not mean that the doctor cannot discharge you at some point in the future.

If your appeal is about your post/telephone/social media access being restricted again we need to be sure that these restrictions are necessary, and it is for those looking after you to convince us that is the case.

We can also review Ministerial decisions to transfer patients off-island (e.g. for specialist treatment in the UK) but we need to be satisfied that transfer is in the

patient's best interests and that appropriate things are in place at the receiving hospital and to transfer the patient safely.

What if I disagree with the decision?

You can talk to your lawyer and they will explain what your options are and they can tell you when you will be able to appeal to the Tribunal again.

What kind of questions are asked at a Tribunal and why?

1. Is the patient suffering from a mental disorder?
 - a. Your doctor will be asked why they think you have a mental disorder (illness) and what it is. You might not agree with what the doctor says and we need to decide whether we agree with the diagnosis you've been given.
2. Is the patient's disorder of a nature that requires detention?
 - a. 'Nature' means what your disorder has been like over time. Do you sometimes feel better than other times? Do you take your medication? What do you think about your illness? How have you dealt with it in the past? We need to understand how your disorder affects you.
3. Is the patient's disorder of a degree that requires detention?
 - a. This is a question about how you are at the moment, on the day of the hearing (known as your mental state). Your doctor may talk about your symptoms and behaviour and whether your condition has improved/stabilised since you came into hospital. We need to know this information to help us decide whether you are too unwell to leave hospital, or whether your condition has improved.
4. Is the assessment of the patient completed?
 - a. This question will be asked if you are on Article 21 as the hospital have up to 28 days to do an assessment (with or without treatment). We need to know what further assessments are needed, why, and how long they will take to complete. We also need to know if they need to be done in hospital.
5. What is the appropriate treatment for the patient?
 - a. This is everything the hospital is doing to try and help you feel better. It is not only about what your nurses and doctors are doing, but also your medication (including side effects), any groups you go to and other people you see. It is also about the plans for when you leave hospital and any support you might get.
6. What is the risk if your article is lifted: there are three parts to risk: risk to your health, risk to your safety and risk to the safety of others
 - a. Risk to your health: your doctor might talk about whether you would stay well and be able to care for yourself if you were out of hospital.
 - b. Risk to your safety: your doctor might talk about whether you do things that are risky, e.g. self-harm, or putting yourself in risky situations.
 - c. Risk to others: your doctor might talk about whether people feel threatened by your behaviour when you are unwell.

We need to know this information because we need to know if it would be safe (for you and others) to lift your article.

7. Your nurse will be asked questions about your behaviour on the ward, how you interact with other patients, and how they think you have responded to treatment. If you have been having leave, they will tell us what type of leave you've been having and how it's been going.
8. Your care co-ordinator will be asked to tell us what plans are in place for you when you leave hospital. If you've worked with a care co-ordinator before, we will ask them questions about how you've got on with them in the past and we'll want to know who will be supporting you when you leave hospital. We may ask them questions about any views your family have on you being in hospital and whether they need any support as well.