

## The Domestic Violence, Crime and Victims Act 2004

The Domestic Violence Crime and Victims Act 2004 provides victims with an additional statutory right to make representations to the tribunal about **discharge conditions**. This right will apply:

- When the offender was either convicted of a sexual or violent offence and is detained in hospital; or was sentenced to more than 12 months in prison and thereafter is transferred to hospital; or was found unfit to plead or not guilty by reason of insanity, and
- You are a victim of that criminal offence

Note that sentence must have been passed **on or after 1st July 2005**.

In such circumstances, the tribunal office will inform the Victims Liaison Officer (VLO) of the hearing, who will consult you about any representations you may wish to make relating to

- Whether the patient if discharged should be made subject to conditions
- Whether you wish to receive information about those conditions, in the event of his or her discharge

The tribunal office will inform the VLO of the tribunal decision within seven days of the hearing.

## Disclosure of Information to the Patient

**You must understand that no guarantees can be given that any written representations you make to the tribunal as above will not be disclosed to the patient. The expectation is that all relevant matters are disclosed to the patient, unless somebody will suffer serious harm as a result of such disclosure to the patient.**

### Useful addresses

First-tier Tribunal: Mental Health,  
PO Box 8793  
5th Floor Leicester  
LE1 8BN

Victim Support National Office 39 Brixton Road  
London SW9 6DZ

Ministry Of Justice Mental Health Unit: **2nd Floor, Fry Building 2 Marsham Street, London. SW1P 4DE**

Parliamentary Ombudsmen:

The Parliamentary and Health Service  
Ombudsman  
Millbank Tower  
Millbank  
London  
SW1P 4Q



Tribunals Service  
Mental Health

## Information for Victims

## Who is this leaflet for?

You should find this leaflet useful if you are a victim (which can include families of the victim) of a violent or sexual offence committed by a person who was subsequently detained under the Mental Health Act 1983 and whose detention is in the course of being reviewed by the Mental Health Tribunal. It provides information about the procedures for information sharing and victims' representations in certain types of cases.

If you are a victim, you should have been contacted by a Victim Liaison Officer on behalf of the local Probation Board, whose role it is to provide information about the offender and an opportunity for your views to be heard. If you have not been contacted and wish to take the matter further you should contact your local Probation Board or one of the addresses at the end of this leaflet.

## What are Mental Health Tribunals?

All detained patients are subject to the Mental Health Act 1983 as amended by the 2007 Act. Those patients are entitled to periodic reviews of their case by a Mental Health Tribunal. The tribunal is an independent judicial body whose function is to review the detention of patients who are in hospital, or patients under community orders. It is made up of three people - a judge, a consultant psychiatrist and a person with special interest in mental health issues.

In order to reach its decision, the tribunal has to consider a number of questions, for example whether the patient still has a mental disorder, the severity of the disorder, the continuing need for treatment in hospital, and the risks to the patient and/or the public if the patient is discharged from section.

Prior to the hearing reports about the patient including medical, nursing and social circumstances reports are sent to the tribunal. All the reports prepared for the tribunal will be sent to the patient and his or her representative, unless the disclosure of such documents to the patient will be likely to cause serious harm to the patient or any other person. It is for the tribunal to decide whether any documents should be disclosed or whether oral evidence can be given in the absence of the patient.

At the hearing, the tribunal normally hears evidence from the patient, from members of their treating team, a social worker and occasionally from the patient's close relatives. The hearing normally takes place at a hospital and is held **in private**.

Patients can be detained under a variety of sections but an important distinction is whether or not the case is 'restricted'.

If the case is 'restricted', that means that the patient was convicted of a serious offence and was regarded at the time of sentence as being a danger to the public. In these circumstances the patient's treatment in hospital and future management in the community will involve the Secretary of State for Justice, who can make representations to the tribunal via the Mental Health Unit based in the Ministry of Justice. In a 'restricted' case, the tribunal hearing will be chaired by a judge with experience of the criminal justice process. The tribunal's powers include discharge into the community, usually subject to specific conditions such as place of residence and supervision. There is a power to recall the patient who relapses or breaks the conditions of discharge.

A 'restricted' patient may apply to have his or her case heard by a tribunal once every year. If the patient does not apply, the Ministry of Justice will refer the case to the tribunal for a hearing every three years.

All other hearings are described as unrestricted cases. In these cases the patient can be discharged by the tribunal but it cannot impose any conditions following discharge.

## What information about a hearing can you as a victim, request from the tribunal?

If you are the victim of a violent or sexual offence where the offender has subsequently been detained under the Mental Health Act 1983 you can apply to be informed of any future tribunal hearing.

Such applications must be in writing and addressed to: **Head of Administration, First-Tier Tribunal: Mental Health**. The address is at the end of this leaflet. Thereafter you will be informed of any future hearing dates.

You can make representations to the tribunal in a written form and you can also ask the tribunal if exceptionally you might be allowed to attend the hearing in order to give oral evidence. It is important to understand that the tribunal will only be willing to consider representations that are relevant to the questions the tribunal are considering i.e. should the patient be discharged and if so under what conditions, if any? So your feelings as the victim of the original offence, however strongly felt will only be considered relevant to the hearing if they provide some evidence of the patient's continuing mental state at the time of the hearing, thereby casting light on his or her readiness or not, for discharge.