

INFORMATION FOR FORENSIC PATIENTS

This information explains:

- who a forensic patient is
- what leave a forensic patient may have
- how this can be applied for
- how leave is granted
- how leave may be changed or cancelled.

Who should read this

This information is for patients and their family, carers, guardians and other support people.

Protective Division- Mental Health Stream
Phone: 1800 657 500
Web: www.tascat.tas.gov.au
Email: mentalhealth@tascat.tas.gov.au
GPO Box 1311, Hobart TAS 7001

 **TASCAT**
TASMANIAN CIVIL &
ADMINISTRATIVE TRIBUNAL

WHO IS A FORENSIC PATIENT?

A forensic patient is someone who may be admitted to the secure mental health unit (the Wilfred Lopes Centre) or who is under supervision in the community.

They may be there under the *Criminal Justice (Mental Impairment) Act 1999*, the *Sentencing Act 1997*, the *Youth Justice Act 1997* or other acts.

Supervision order

What it is

A supervision order is an order that releases someone into the community under the supervision of the Chief Psychiatrist.

It may have conditions attached to it; for example, requiring the person to take certain medication or report to a medical centre once a week.

Who makes it

The Supreme Court makes a supervision order.

The Tribunal must review the supervision order within 12 months of it being made, and at least once every 12 months after that.

How long it lasts

A supervision order continues until the order is cancelled (revoked) by the Supreme Court.

For more detail about these orders, see our fact sheet on supervision orders.

Restriction order

What it is

A restriction order is an order that requires someone to be admitted to and detained in a secure mental health unit until the order is discharged by the Supreme Court.

It may have conditions attached to it; for example, requiring the person to take certain medication.

Who makes it

The Supreme Court makes a restriction order.

The Tribunal must review the restriction order within 12 months of it being made, and at least once in each 12 months after that.

How long it lasts

A restriction order continues until it is cancelled (discharged) by the Supreme Court.

For more detail about these orders, see our fact sheet on restriction orders.

AUTHORISING TREATMENT FOR FORENSIC PATIENTS

The Tribunal can make an order authorising treatment of forensic patients, when;

- the treatment has been recommended and applied for by a doctor
- the patient has a mental illness which, without treatment, will (or is likely to) cause serious harm to the safety and health of the patient and/or others in the community
- the treatment will be appropriate and effective
- the patient is not well enough to make decisions and provide informed consent for treatment.

How the Tribunal decides

The Tribunal will hold a hearing to decide whether to:

- fully authorise the doctor's recommendations for treatment
- authorise parts of the doctor's recommendations for treatment
- authorise the doctor's recommendations for treatment, subject to conditions such as supervision requirements.

Reviewing the authorisation

The Tribunal must review the authorisation within 60 days and then every 180 days, if it is still in effect.

LEAVE FOR FORENSIC PATIENTS

The Tribunal may grant a forensic patient a period of leave from the secure mental health unit that they are being treated in.

Leave may be granted for a particular purpose, for a particular period of time, or both.

Who can apply for it

The Chief Psychiatrist, or their delegate, can apply for a patient to be granted leave for clinical reasons.

The patient, the Chief Psychiatrist, or someone with a genuine interest in the patient's welfare can apply for a patient to be granted leave for personal reasons.

How to apply for it

The Tribunal's form 'Application for Leave of Absence Forensic s78 & s79' must be used. To find this, go to www.tascat.tas.gov.au.

People who are notified

Once the Tribunal receives the application:

- the Tribunal must notify the Secretary of the Department of Justice
- if applicable, the Secretary will make every reasonable attempt to notify eligible persons on the Eligible Persons Register (for more information, go to <https://www.justice.tas.gov.au/victims/victimsregister>)
- the Tribunal will notify anyone else it determines is relevant.

In the last two instances, these people have the right to have a say about the leave application. They can send their written comments to the Tribunal. It must happen within 10 days of being notified. The Tribunal will consider their views when determining the application.

How the Tribunal decides

Once the Tribunal has received the application and any submissions, it will hold a hearing to:

- consider the application and any submissions
- decide if the leave should be granted
- impose any conditions on the leave, and how long it will be for.

In detail

The Tribunal may impose conditions to ensure the safety and health of the patient and/or others in the community. For example, it may decide the patient must be accompanied by an escort while on leave. The Tribunal may also specify a start and end date for the leave.

If the leave is granted for a specific purpose only, then the Chief Psychiatrist may specify the period of the leave.

Before the leave can start

The patient cannot take their leave until the Secretary of Corrections has notified those on the Eligible Persons Register about the leave being granted and any conditions on it.

If this can't be done, then the patient may take their leave.

Changing the leave

If a forensic patient has already been granted leave, the Tribunal may change, vary or extend it if:

- the Chief Psychiatrist applies, for **clinical** reasons
- the patient, the Chief Psychiatrist, or someone with a genuine interest in the patient's welfare applies, for **personal** reasons.

Any application must be lodged with the Tribunal at least 20 days before the leave expires.

The Tribunal will notify the patient and people with a genuine interest in the patient's welfare.

The leave can be changed more than once. It can take effect immediately or at a specified date.

Cancelling the leave

A forensic patient's leave may be cancelled at any time if continuing the leave would endanger the safety and health of the patient and/or others in the community.

This can be done by:

- the Tribunal
- the Chief Psychiatrist
- the controlling authority of the secure mental health unit
- the Secretary of Corrections in the Department of Justice
- the treating doctor
- an approved doctor.

APPEALING A DECISION

A patient can appeal the decision made by the Tribunal. To do so, they must lodge an appeal with the Supreme Court, and they should seek legal advice about this.

Find information at www.supremecourt.tas.gov.au.

For legal advice a patient can:

- arrange their own lawyer, or
- ask Tasmania Legal Aid for someone to support them. Call 1300 366 611.