

## Specialist Victims Support Service

### Fact sheet: Submissions to the Mental Health Review Tribunal

If you are a victim/survivor of a **forensic patient**, this fact sheet will explain:

- what is a submission,
- when you can make a submission,
- what you can include in your submission,
- the conditions that you can ask the Tribunal to impose if it grants the forensic patient leave or release,
- who will be allowed to see your submission, and
- what you can do if you do not want them to see your submission.

► **Note:** “Victim” includes family victim. Although we will be referring to you as a victim in this fact sheet, we (the Specialist Victims Support Service) will ask you for your preferred term (for example, client or survivor), which we will use in future.

**For the purposes of making a submission to the Tribunal**, a person is a **forensic patient** if a court has found them:

- **act proven but not criminally responsible**, or
- **unfit to stand trial** and a **limiting term** has been imposed **after a special hearing** (this is the court’s estimate of the sentence that would have been imposed at an ordinary trial)

A submission is something that you say to the Mental Health Review Tribunal (**the Tribunal**) in relation to a forensic patient. It can be made in **writing** or **verbally at a Tribunal hearing**. Making a submission gives you a chance to tell the Tribunal about a forensic patient’s behaviour and voice any concerns that you may have. It is a way for you to have a say in the decisions that are made about a forensic patient.

### When can I make a submission to the Tribunal?

If you are a victim of a forensic patient, you have the right to make a submission to the Tribunal if **the Tribunal is considering granting leave or release to the forensic patient**. The Commissioner of Victims Rights must notify you if you are listed on the Specialist Victims Register and the Tribunal has indicated that they will be considering an application for leave or release.

### What can I include in my submission?

- The forensic patient’s behaviour (past or present) and its impact on you and your family.**
- The risks that the forensic patient poses to you, your family and others.**  
*For example, you may be worried about your safety, or about the forensic patient contacting you.*
- The impact on you and your family if the Tribunal was to grant leave or release to the forensic patient.**  
*For example, this may affect your work, or the places you choose to go.*

### What conditions can I ask the Tribunal to impose on a forensic patient’s leave or release?

In your submission, you can ask the Tribunal to impose a **non-association condition** or a **place restriction condition** if it decides to grant leave or conditional release to a forensic patient.

► **For example**, if your child goes to school in Seven Hills, you may ask the Tribunal to restrict the forensic patient from the Blacktown Local Government Area because you need to take your child to and from school every day.

### Non-association condition

The forensic patient is **not allowed to contact certain people** (for example, you or members of your family)

#### What information will the Tribunal need?

- The **names of the people** who you do not want the forensic patient to contact
- **Your relationship** to those people
- Whether the forensic patient is **likely to know or recognise** the named people

### Place restriction condition

The forensic patient is **not allowed to go to particular areas** (for example, the suburb where you live or work)

#### What information will the Tribunal need?

- **The name of the area** that you want the forensic patient to be restricted from (this may be the Local Government Area)
- **Who goes to this area** and their relationship to you or the forensic patient
- **Why** the person goes to this area
- **How often** the person expects to visit that area

## How will the Tribunal use my submission?

The Tribunal **must acknowledge your submission** (either in writing or at the hearing) and take it into account when making its decision about the forensic patient. However, the Tribunal may not make the orders that you have asked for in your submission.

## Who else can see my submission?

The Tribunal may allow the forensic patient's **treating team** to see the submission. However, the treating team is **not allowed to tell the forensic patient what is in your submission**. The Tribunal may also allow the forensic patient's lawyer to see your submission if the Tribunal thinks that this is in the interests of procedural fairness.

**If you do not want the forensic patient to see your submission**, you can ask the Tribunal not to disclose it to them. The Tribunal must agree to your request, unless it thinks that this would be unfair to the forensic patient.

If the Tribunal thinks that the forensic patient's lawyer should be able to see your submission for procedural fairness reasons, it can give them an edited version. However, the Tribunal **must tell you first** and give you an opportunity to withdraw your submission, make an edited version or change an edited version.

The forensic patient's lawyer **cannot show the edited submission to the forensic patient** without the Tribunal's consent. They can only provide the forensic patient with general information about the submission and any proposed conditions.

► **Procedural fairness** means that the Tribunal has followed a **fair and proper procedure when making its decision** (for example, it has given the forensic patient a chance to respond). It is not about the fairness of the actual decision that the Tribunal has made.

► **For example**, if you request that the Tribunal restricts the forensic patient from attending the Blacktown Local Government Area (because your child goes to school there and you need to take them to and from school), the forensic patient's lawyer can tell them about the proposed restriction from the Blacktown Local Government Area and the broad reasons for the request. However, **they cannot identify you, your family or the places where you normally go (such as your child's school)**.

## Help preparing your submission

Our team will happily work with you if you would like **help in preparing your submission**. You can come down to our offices or we can go through your submission with you over the phone if you would prefer.

*Please feel welcome to contact our team at the Specialist Victims Support Service if you have any questions.*

**Phone:** Victims Access line 1800 633 063 | Aboriginal Contact Line 1800 019 123 | **Email:** svss@dcj.nsw.gov.au

**Post:** Locked Bag 5118, Parramatta NSW 2124 | **Web:** www.victimsservices.justice.nsw.gov.au

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