

# Treatment Authorities



This is a fact sheet about involuntary mental health treatment in Queensland under the Mental Health Act 2016.

## What is a Treatment Authority?

A Treatment Authority is an order made by psychiatrists at hospital and they authorise your treatment for mental illness without your consent. This treatment can include:



Medications



Appointments and follow up by your treating team



Hospital admissions (sometimes)



Normally, you will be on a community category Treatment Authority, this means you can receive your treatment while you live at home. An inpatient category Treatment Authority means you currently need inpatient care and must stay in a hospital or a mental health facility until you can be safely discharged to the community. You must only remain an inpatient if your treatment and care needs OR your safety and welfare, OR the safety of others cannot be met while you live in the community.

## Why is a Treatment Authority made?

You can be placed on a Treatment Authority if you meet all 4 of these criteria:

### 1 You have a mental illness

There must be evidence of symptoms of a mental illness. If symptoms have a different explanation, such as religious beliefs or drug usage, there may not be a mental illness.

### 2 You currently do not have capacity to consent to treatment for the illness

Everyone is presumed to have capacity unless proven otherwise. Capacity does not mean you have to agree with treatment, but that you understand the purpose, benefits, risks, and the consequences of no treatment. Capacity must be stable, not fluctuating (changing).

### **3 There is risk of imminent serious harm or deterioration**

Because of your illness, without involuntary treatment, there is likely to be a risk of imminent serious harm to yourself or others OR serious mental or physical deterioration for yourself.

There needs to be evidence of particular risk that is imminent (immediate, impending) and serious (important, significant), or that serious deterioration (decline) is likely. There may be factors that protect against risk or deterioration, such as family support, a willingness to receive treatment, or a plan to manage mental health in other ways (GP, private psychiatrist or psychologist).

### **4 There is no less restrictive way for you to receive treatment**

A Treatment Authority should not be made if consent for treatment can be given under an advance health directive for mental health, by a guardian, an enduring power of attorney or a statutory health attorney.

## **How can a Treatment Authority be stopped?**

A Treatment Authority can be stopped (revoked) by your treating psychiatrist, the Mental Health Review Tribunal (MHRT) or the Mental Health Court.



### **Psychiatrist**

While on a Treatment Authority, you must be assessed by a psychiatrist at least every 3 months. If the psychiatrist decides you do not meet the criteria for a Treatment Authority, then they must stop the Treatment Authority. Sometimes speaking openly with your treating team and listening to what they say, and coming up with a plan can be the best way to get treatment you are happy with and work towards coming off your Treatment Authority.



### **Mental Health Review Tribunal**

Your Treatment Authority will be reviewed by the Mental Health Review Tribunal within 28 days of being made. If you remain on the Treatment Authority you will be reviewed every 6 months for the first year, then every 12 months after that. You can also apply for an early review by the Mental Health Review Tribunal at any time. Please see our fact sheet on applying for an early review (Applicant Review).



### **Mental Health Court**

You can appeal the Mental Health Review Tribunal's decision to the Mental Health Court within 60 days. The Court's decision is final.

The Mental Health Review Tribunal and the Mental Health Court can stop your Treatment Authority, but they cannot make decisions about what medications you receive or the dosage, who your doctor or case manager is, and they rarely get involved with decisions about leave or discharge from hospital.

## What happens at the Mental Health Review Tribunal?

A hearing at the Mental Health Review Tribunal is like a conversation between you, your treating team and the Tribunal members. The treating team will prepare a clinical report, which must be given to you 7 days before your hearing. You should read this report.

You can be supported by a lawyer or other representative, and/or a support person at your hearing, but the Tribunal will want to hear from you as well. It can help to put your views in writing, by completing a self report, as well as any support letters and reports.

The Tribunal will either confirm or revoke your Treatment Authority. If you want to appeal the Tribunal's decision, it is a good idea to ask the Tribunal for a statement of reasons and get advice from a lawyer about your chances of success. For legal advice you can contact us at QAI, Legal Aid, or another organisation that assists people in mental health law.

## What about problems with medication or treatment?

It is important for you to raise any concerns you have with your treating team. An Independent Patient Rights Adviser (IPRA) might be able to help you communicate your views. If your concerns are not resolved, you could:

- Ask for a second opinion
- Make a complaint through your Hospital & Health Service Patient Liaison Officer
- Make a complaint to the Health Ombudsman on 133 646 or on their website at [www.oho.qld.gov.au](http://www.oho.qld.gov.au). There is usually a 2 year time limit on complaints.

## Need help?

If you would like more information or legal advice about Treatment Authorities, or would like representation at the Mental Health Review Tribunal, please contact us.

**Phone:** [1300 130 582](tel:1300130582) or [07 3844 4200](tel:0738444200)

**Email:** [qai@qai.org.au](mailto:qai@qai.org.au)

**Website:** [www.qai.org.au](http://www.qai.org.au)



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