

# Information about your hearing before the Mental Health Review Board

*Security Patients*



*Mental Health  
Review Board  
of Victoria*

# INFORMATION ABOUT YOUR RIGHTS

This brochure helps answer questions you might have about your hearing before the Mental Health Review Board. A member of staff at the mental health service will talk to you about the Board and your rights. Also make sure that you ask them for a booklet that sets out your rights. If at any time you have questions, you should ask someone of your choice to assist you. This may be a member of staff, your case manager, a friend, relative or lawyer, or your psychiatrist. At the end of this brochure is a list of organisations that might help you with further information and advice.

## WHAT DOES "SECURITY PATIENT" MEAN?

You are a security patient if you were admitted for treatment in either of the following ways:

- You were transferred to a mental health service from prison, police cells, a youth training centre, a remand centre or a youth residential centre. This is called a **restricted hospital transfer order**.
- or,
- You have been found guilty of an offence and the court has sentenced you to be admitted to and detained in a mental health service on a **hospital security order** for the time specified in the order.

If you are uncertain as to whether you are a security patient you should ask the staff at your mental health service.

## WHAT IS THE MENTAL HEALTH REVIEW BOARD?

The Board is an independent tribunal. It is not part of the hospital or clinic but visits them to hear cases. The Board decides whether or not you should continue to be a security patient. The Board must make its decision in accordance with the law. Its job is to protect your rights.

## WHAT ARE THE BOARD'S FUNCTIONS?

The Board hears appeals and reviews concerning both involuntary patients and security patients. This brochure covers only security patients.

The main functions of the Board in relation to security patients are:

- to hear appeals from or on behalf of persons who want to be discharged from being a security patient;
- to review whether or not someone should be a security patient within 8 weeks of them becoming a security patient;
- to review all security patients at least every 12 months to decide if they should continue to be a security patient;
- to hear appeals from security patients who have been refused leave by the Chief Psychiatrist;
- to hear appeals from security patients who do not want to be transferred to another mental health service.

# ISSUES TO CONSIDER BEFORE YOUR HEARING

## **Where and when will your hearing be held?**

If, like almost all security patients, you are detained at the Victorian Institute of Forensic Mental Health, your hearing will be held there.

Occasionally a security patient on leave of absence may be receiving treatment from another mental health service. If so, the hearing will be held at that service.

Most hearings are initially listed to start at 10 am. As there are several hearings on the same day your hearing may start at a later time. You should speak to the medical records staff or your case manager who will be able to tell you the approximate time the hearing will start.

## **Do you have to attend the hearing?**

You can choose whether or not to attend. It is best if you attend so that you can tell the Board what you want and so that you can answer any questions. You can also ask your own questions. If you do not attend, the Board may hear the case in your absence.

## **What do you do if you need an interpreter?**

If you have any special needs for the hearing, such as an interpreter, tell your psychiatrist or case manager. If you need an interpreter for the hearing this will be arranged and paid for by the Board.

## **Can you bring someone with you to the hearing?**

Yes. Other people can attend if you agree or if the Board gives permission. This means you can choose to bring family members and friends with you.

## **Can you be represented?**

Yes. You may like to bring a friend, relative or carer or any other support person with you to the hearing to assist you in making your views known to the Board. Also, you may wish to be legally represented. If you choose to be represented, please ask your representative to contact the Board as soon as possible. Arrange your representation as early as possible.

The Mental Health Legal Centre Inc., Victoria Legal Aid and community legal centres are independent legal services. If you cannot afford a private solicitor, these organisations may be able to give you legal advice. They may also be able to represent you at your hearing. The addresses and telephone numbers of these organisations are on the last page of this brochure.

## **Can you have access to documents before a hearing?**

Yes. You or your representative have a right to read any documents to be given to the Board for your hearing, including your clinical file. You can see them at least 24 hours before the hearing.

However, your psychiatrist can ask the Board to decide that you not see all or part of any document. The Board must decide whether:

- seeing the document would cause serious harm to your health or the health or safety of another person; or
- the information in a document was given in confidence; or
- the document contains personal information about another person and it would be unreasonable to disclose that information.

## **Does the hearing cost you anything?**

The Board does not charge any fee for the hearing.

## How should you prepare for a hearing?

Before the hearing your psychiatrist will prepare a report for the Board. This report will state why the psychiatrist believes you are ill, their diagnosis, your treatment and other information about you. The psychiatrist should give you a copy of the report in advance. Read the report. If you want to see your file ask for it. Think about what you are going to say to the Board. Think about each of the questions in the "At the hearing" section of this brochure.

## AT THE HEARING

### What happens at the hearing?

Normally there are three members on the Board: a lawyer, a psychiatrist and a community member. If the hearing is an annual review one member may conduct the hearing.

The hearings are conducted in an informal manner. They are closed to the public to protect your privacy. People present at the hearing will be you, your psychiatrist and possibly your case manager and other members of the clinical staff. In addition, you may choose to bring people with you. The Board may also ask other people to be present for part of the hearing to give it information.

The hearing is an opportunity for the Board to listen to what you want to say and to ask questions. At the hearing, your psychiatrist and other members of the treating team will give information to the Board. You and your representative (if you have one) will be able to ask questions. All parties are given the opportunity to speak.

At the end of the hearing, the Board will advise you of its decision and the reasons for it. You will be given a written copy of the Board's decision. You can ask the Board to prepare a statement of the reasons for its decision. The request must be in writing and sent to the Board within 28 days of the decision.

### What does the Board decide?

### Reviews and appeals about security patient status

The law says that the Board must answer the following questions if you are a security patient. Before you go to your hearing think about what you want to say.

If you are under a **restricted hospital transfer order** think about each of these questions and what you want to say about them.

1. Do you have a mental illness? (That is, does it appear from the available information that you have a significant disturbance of thought or mood or perception or memory?)
2. Does the mental illness require immediate treatment and can that treatment be obtained through this order?
3. Is your detention and treatment in the mental health service necessary either:
  - to avoid a risk to your health (including preventing it getting worse), **or**
  - to avoid a risk to your safety, **or**
  - to protect any other person?

If you are under a **hospital security order** think about each of these questions and what you want to say about them.

1. Do you have a mental illness? (That is, does it appear from the available information that you have a significant disturbance of thought or mood or perception or memory?)

2. Does the mental illness require treatment and can that treatment be obtained through this order?

3. Is your detention and treatment in the mental health service necessary either:

- to avoid a risk to your health (including preventing it getting worse), **or**
- to avoid a risk to your safety, **or**
- to protect any other person?

If the Board's answer to any one or more of these questions is "no" it *may* decide that your detention as a security patient is no longer necessary.

The Board, in determining whether or not you should continue to be a security patient, must have regard to the public interest and all the circumstances of your case, including your criminal and psychiatric history.

## Appeals Against Transfer

If you appeal against a decision to transfer you from one mental health service to another, the Board must decide whether that transfer will be of benefit to you or whether the transfer is necessary for your treatment.

## THE BOARD'S DECISION

### What happens if the Board discharges you?

If the Board determines the answer to any of the above three questions is "no" it may decide to discharge you. If you are discharged by the Board, you will be returned to your original place of detention. If you are a hospital security order patient, you will be discharged and sent to prison to serve the rest of your sentence.

Your psychiatrist will regularly review you to see if you should be discharged. If you are still a security patient after 12 months, the Board will automatically review your case again. If the term of your sentence ends, or you are released from custody by a Court, or you are granted bail, you can no longer be treated as a security patient. If this happens, you should discuss continuing treatment with your psychiatrist or case manager.

## CAN YOU APPEAL AGAINST THE BOARD'S DECISION?

Yes, you can appeal. If you do not agree with the Board's decision, you have two alternatives available to you.

- You have the right to appeal to the Board at any time. Also, a friend, relative or community visitor may appeal to the Board on your behalf.

Appeal forms are available from mental health services and the Board. Once you complete the appeal form it should be sent to the Board by post or fax. If an appeal form is not available, a letter can be sent to the Executive Officer of the Board setting out your name, the name of the mental health service and the reason you are appealing.

- You also have the right to apply to have the Board's decision reviewed by the Victorian Civil and Administrative Tribunal (VCAT). VCAT has the power to confirm or overturn a decision of the Board. It is recommended that you do this with the help of a lawyer. You must lodge an appeal to VCAT within 28 days of the Mental Health Review Board's decision. You can do this by writing to the Registrar (General List), VCAT, 7<sup>th</sup> Floor, 55 King Street, Melbourne 3000. Telephone: (03) 9628 9755.

## DO YOU WANT FURTHER INFORMATION?

### About the Hearing

If you have any questions about your hearing, please contact the Board on (03) 8601 5262 or toll free for Victorian country callers on 1800 242 703. The fax number is (03) 8601 5299. If you have access to the internet, check out our website for more information about the Board. The website address is <http://www.mhrb.vic.gov.au>

All correspondence for the Board should be posted to the:

Executive Officer  
Mental Health Review Board  
Level 30, Marland House  
570 Bourke Street  
Melbourne 3000

### The *Mental Health Act 1986*

The mental health service where you are detained must by law make available to you a copy of the *Mental Health Act 1986*.

### Recorded Information - Your Rights and the *Mental Health Act 1986*

For recorded information about your rights and the *Mental Health Act 1986*, please call:

English (English)	For recorded information call	(03) 9679 9838
Arabic (Arabic)	For recorded information call	(03) 9679 9825
Cambodian (Cambodian)	For recorded information call	(03) 9679 9826
Cantonese (Cantonese)	For recorded information call	(03) 9679 9827
Croatian (Croatian)	For recorded information call	(03) 9679 9828
Greek (Greek)	For recorded information call	(03) 9679 9829
Italian (Italian)	For recorded information call	(03) 9679 9830
Macedonian (Macedonian)	For recorded information call	(03) 9679 9831
Mandarin (Mandarin)	For recorded information call	(03) 9679 9837
Polish (Polish)	For recorded information call	(03) 9679 9832
Russian (Russian)	For recorded information call	(03) 9679 9833
Serbian (Serbian)	For recorded information call	(03) 9679 9834
Turkish (Turkish)	For recorded information call	(03) 9679 9835
Vietnamese (Vietnamese)	For recorded information call	(03) 9679 9836

*The telephone lines are open 24 hours, 7 days a week.*

### Other Organisations

These are the names, addresses and telephone numbers of organisations you can contact for assistance and more information.

**The Mental Health Legal Centre Inc.** is an independent free legal service, which specialises in mental health legal issues. It may be able to arrange representation for you at Mental Health Review Board hearings or advise you about other legal matters. You can contact the Centre at:

Level 4, 520 Collins Street  
Melbourne 3000

Telephone: (03) 9629 4422  
Toll free for Victorian country callers: 1800 555 887

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**Victoria Legal Aid** provides free legal advice about a range of issues and legal assistance if you cannot afford a private solicitor. It may be able to arrange legal representation for you at Mental Health Review Board hearings. You can contact Victoria Legal Aid at:

350 Queen Street  
Melbourne 3000  
Telephone: (03) 9269 0416 (Civil section)  
Toll free for Victorian country callers: 1800 677 402

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**Federation of Community Legal Centres** will be able to give you the phone number of the Community Legal Centre nearest to you.

Suite 11, 1<sup>st</sup> Floor, 54 Victoria Street  
Carlton South 3053  
Telephone: (03) 9654 2204

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### **Community Visitors**

These independent community representatives can go with patients to hearings and can investigate complaints. To request to see a community visitor call (03) 9603 9500 or toll free 1800 136 829.

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### **Telephone Interpreting Service (TIS)**

For clients requiring interpreting over the telephone, please call 131 450.

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