



What do I Need to Know? Information for Consumers Currently Being Treated Under the Mental Health Act 1996.

Tasmania has new mental health legislation. The *Mental Health Act 2013* will commence at 12.01am on 17 February 2014.

How the new Act applies to each individual will be different depending on the type of treatment being given, however there are some general principles which apply to everyone who will be receiving treatment under the new Act. An overview of the new Act and these principles can be found in the accompanying fact sheet: *What do I need to Know? An Overview of the new Mental Health Act 2013*.

If you are currently being treated under the *Mental Health Act 1996* or if consent for your treatment is authorised by or under the *Guardianship and Administration Act 1995*, this Fact Sheet provides a range of information to help you understand what will happen when the new *Mental Health Act 2013* commences.

Your case manager or treating practitioner should work with you before 16 February 2014 to make sure you continue to receive the best care and treatment under the new Mental Health Act, and answer any questions you may have.

Protective Custody

The new *Mental Health Act 2013* provides for protective custody. If you are in protective custody at 12.01am on 17 February 2014, you will remain under protective custody and must be taken to the nearest approved assessment centre as soon as possible. If you are in protective custody you must be seen by a medical practitioner within four hours of arriving at the approved assessment centre so that a decision can be made about whether further assessment or treatment is needed.

If you are in protective custody you must be released:

- if you have given informed consent to assessment or treatment
- if an Assessment or Treatment Order is made
- if the mental health officer or police officer reasonably forms the belief that you should not remain in protective custody
- if you have been at the assessment centre for more than four hours and none of the above have happened.

Initial Orders:

Under the new *Mental Health Act 2013* Assessment Orders (AOs) will replace Initial Orders (IOs).

An Assessment Order is a short term Order enabling a person to be assessed, without informed consent, to determine the state of their mental health and to identify treatment options. Assessment Orders can be made by any medical practitioner and can last for up to 96 hours. They may also require the person to be detained in an approved hospital for a short period of time. An AO does not allow treatment to be given.

If you are on an IO at 12.01am on 17 February 2014:

- the IO will automatically become an AO. This means that your treating team may still make decisions about your assessment, including that you remain in hospital while you are being assessed.
- if you don't agree that you should be on an AO, you can apply to the Mental Health Tribunal for a review of the decision.

If you are on an IO before the new Act commences, your treating team will work with you to ensure that you can continue to be provided with care and treatment when this is needed

Continuing Care Orders and Community Treatment Orders

Under the new *Mental Health Act 2013*, Treatment Orders (TOs) will replace Continuing Care Orders (CCOs) and Community Treatment Orders (CTOs).

A Treatment Order is an Order enabling a person to be given specific treatment. Treatment Orders can only be made by the Mental Health Tribunal and in most cases can last for up to six months. They may also require a person to be detained in an approved facility for the purposes of receiving treatment.

If you are on a CCO or a CTO (including one which is suspended), at 12.01am on 17 February 2014 the CCO or CTO will automatically become an TO.

Prior to this time, your treating team will work with you to:

- review your CCO against the treatment criteria outlined in new Act and apply for a TO if required
- develop a new treatment plan if you are likely to be on a CCO or CTO when the new Act commences
- work with you to ensure you understand how the new Act will apply to you

Authorisation for Temporary Admission

If you are in hospital on an Authorisation for Temporary Admission (ATAs) on 16 February 2014 or in the week following the 17 February 2014 your treating team will work with you to consider the best treatment options for you.

The Mental Health Tribunal

Under the new Act, a single Tribunal has been established with responsibility for decisions about both treatment and treatment setting. You and your guardian or representative may be contacted by the Mental Health Tribunal about any tribunal hearings that have been scheduled to consider the treatment you are receiving.

Consent under the new Mental Health Act 2013:

If your treatment is being authorised by the *Guardianship and Administration Act 1995*, including if consent to your treatment is being given by a person responsible, your treating team will determine whether you are likely to meet the treatment criteria under the new Act after it commences on 17 February 2014.

Getting Your Questions Answered

A range of questions you might like to consider working through with your Case Manager or Treating Practitioner are listed below.

- What will change for me and my treatment under the new *Mental Health Act 2013*?
- Can I have a copy of the order I am currently on?
- Can I have a copy of the order I will be on once the new Act commences?
- How can I work with you to develop my treatment plan?
- When will we start working on developing a treatment plan?
- How can I find someone to represent my interests?
- How can I nominate someone to represent my interests?
- What are my rights under the new Mental Health Act?
- Who can I contact for more information/advice or representation?
- I am working with other health care practitioners to treat and manage my illness. Can I provide their details so we can work together to develop my treatment plan?
- A family member/carer/friend is currently helping with my treatment and care. Can I provide their details so that they can be involved in my treatment under the new Act?

Other Resources:

Accompanying Fact Sheets

Your Case Manager should be able to provide you with copies of these. Alternatively they can be accessed by clicking on the Mental Health Act logo at www.dhhs.tas.gov.au/mentalhealth

- *What do I need to Know? An Overview of the new Mental Health Act 2013*
- *What do I need to Know? Information for Carers, Family Members, Representatives and Support Persons of People Being Treated Under the Mental Health Act 2013*
- *Statement of Rights*

Other Organisations

Advocacy Tasmania: www.advocacytasmania.org.au

This service is for consumers and carers. Advocates can assist people to exercise their rights and responsibilities.

Phone:

Hobart - 1800 005 131

Devonport - 6441 0201

Launceston - 6331 0740

The Legal Aid Commission: www.legalaid.tas.gov.au/

Legal Aid can provide lawyers to represent the rights of individuals with mental health issues, especially in cases where they may be detained and/or medically treated against their will.

Phone: 1300 366 611

The Mental Health Tribunal: www.mentalhealthtribunal.tas.gov.au/

The Tribunal is an independent body established to protect the rights of people placed on involuntary orders for mental illness. It provides an independent review, and makes decisions about whether the involuntary order will continue or not. The Tribunal plays no role in relation to persons who voluntarily seek treatment for a mental illness.

Official Visitors: officialvisitors.tas.gov.au/

Mental Health Official Visitors are members of the community who are appointed to visit approved hospitals and the secure mental health unit, the Wilfred Lopes Centre, to check on the way in which people with mental illness are being treated. They also investigate complaints made to them by people receiving care and treatment in these facilities for mental illness.

Phone: 1800 001 170