



Your Rights if you are Secluded or Restrained under Tasmania's *Mental Health Act 2013*

The Tasmanian *Mental Health Act 2013* (the Act) aims to protect the rights of people with mental illness.

This brochure explains your rights if you are secluded or restrained under the Act. It also outlines what you can do if you think that your rights are not being respected.

If you are an involuntary patient in an approved hospital or if you are a forensic patient the Act allows you to be secluded or restrained in some circumstances. It does not allow you to be secluded or restrained as a form of punishment or for the staff's convenience. It also stops you from being kept in seclusion or under restraint if it is likely to harm your mental or physical health.

The rights outlined in this document are in addition to the general rights that you have under the Act. Please ask a member of staff for a copy of your the Fact Sheet 'Your Rights as an Involuntary Patient - Tasmania's *Mental Health Act 2013*' if you are an involuntary patient or Your Rights as a Forensic Patient - Tasmania's *Mental Health Act 2013*' if you are a forensic patient, if you haven't already received a copy.

When Can I Be Secluded Or Restrained?

If you are an involuntary patient the Act says that you can be secluded or restrained for the following reasons:

- to facilitate your treatment
- to ensure your health or safety
- to ensure the safety of others
- to ensure the continued safe operation of the hospital

If you are a forensic patient the Act says that you can be secluded or restrained for the following reasons:

- to facilitate your treatment or health care
- to ensure your health or safety
- to ensure the safety of others
- to prevent damage to property
- to prevent you escaping
- to ensure the continued safe operation of the Secure Mental Health Unit

You might also be restrained during transfer to another facility.

In addition to the above it is important to know that the Act says the following in relation to seclusion:

- the seclusion or restraint must be authorised by a Chief Psychiatrist or a delegate if you are under 18 years of age. If you are over 18 the seclusion or restraint may also be authorised by a medical practitioner or a nurse who is specifically approved to do this
- the person who authorises the seclusion or restraint must be satisfied that it is a reasonable intervention in the circumstances
- there are Standing Orders and Clinical Guidelines which must be met whenever you are secluded or restrained. You can ask staff to explain what the Standing Orders and Clinical Guidelines say or you can ask for a copy of them

What Timeframes Apply If I Am Secluded Or Restrained?

Under the Act:

- if you are an adult you should be clinically observed by a member of the hospital's nursing staff at least every 15 minutes, and if you under 18 you should be observed all the time
- you should be examined by a medical practitioner or approved nurse at least every four hours to see if the seclusion or restraint should continue or be stopped
- you should also be examined by an approved medical practitioner at least every 12 hours
- the person authorising your seclusion must decide how long you should be secluded or restrained for
- you cannot be secluded or restrained for more than seven hours unless it is authorised by a Chief Psychiatrist or delegate
- if you are secluded or restrained for more than seven hours you must be examined by a medical practitioner within those seven hours

What Rights Do I Have If I Am Secluded Or Restrained?

If you are secluded or restrained, the Act states that you have the following rights:

- you have the right to be told what your rights are under the Act, as soon as possible
- you have the right to be provided with suitable clean clothing and bedding
- you have the right to be given adequate food and drink
- you have the right to be given access to adequate toilet and sanitary arrangements and be secluded or restrained only in a well-lit and ventilated environment
- you have the right to be able to get help while you are secluded or restrained
- you should still receive your prescribed medications in most circumstances
- you have the right to be given access to any physical aids such as glasses, hearing aids, inhalers or wheelchairs and to any electronic devices or other devices that you use to help you to communicate on a daily basis unless the nursing staff decide that it is not safe for you to keep them

Can I Ask For a Review Of Decisions Made Under the Act?

Under the Act:

- you have the right to ask the Mental Health Tribunal for a review
- you have the right to be given reasonable notice of a Mental Health Tribunal hearing
- you can attend the Mental Health Tribunal hearing
- your representative can also attend the hearing
- if you are not happy with the decision that the Mental Health Tribunal makes, you may be able to appeal to the Supreme Court
- you can ask the Chief Civil Psychiatrist or Chief Forensic Psychiatrist to intervene directly in your assessment, treatment and care including in decisions to seclude or restrain you
- you can also ask a member of your treating team to work with you to develop a plan for how to reduce the likelihood of being secluded or restrained in the future. A plan like this is called a Collaborative Advance Safety Plan.

How Can I Raise Concerns and Complaints?

You can do this in a number of ways:

- you can talk with your case manager or another member of your treating team
- you can contact the Chief Civil Psychiatrist or Chief Forensic Psychiatrist
- you can ask an Official Visitor to visit wherever you are being treated
- you can make a complaint to an Official Visitor or ask your support person or representative to make the complaint
- you can contact the Mental Health Tribunal Registrar
- you can also contact the Health Complaints Commission or Ombudsman if you are unhappy about any other aspect of your treatment and care

You have the right to ask for reasonable help from staff to make sure that your rights are respected.

You can contact one of the agencies or services listed below for more information or support.

Advocacy Tasmania Inc.

Phone:

Hobart: 1800 005 131

Devonport: 6441 0201

Launceston: 6331 0740

Website: www.advocacytasmania.org.au

Legal Aid Commission of Tasmania

Phone: 1300 366 611

Website: www.legalaid.tas.gov.au

Mental Health Tribunal

Email: mht@justice.tas.gov.au

Website: www.mentalhealthtribunal.tas.gov.au

Chief Civil Psychiatrist

Phone: 6166 0781

Email: chief.psychiatrist@dhhs.tas.gov.au

Official Visitors

Phone: 1800 001 170

Website: officialvisitors.tas.gov.au

Chief Forensic Psychiatrist

Phone: 6166 0781

Email: chief.psychiatrist@dhhs.tas.gov.au

Ombudsman / Health Complaints Commission

Phone: 1800 001 170

Website: www.healthcomplaints.tas.gov.au/