



Your rights to legal representation and to see the tribunal doctor

You will be having a Mental Health tribunal soon. If you didn't apply for it, it has been arranged because the law requires that your case be reviewed by a tribunal.

What is a tribunal?

A tribunal decides whether you should remain on your Section of the Mental Health Act. The tribunal is a panel that is made up of three people – a judge (who is the chair of the hearing), a tribunal doctor who is a psychiatrist, and a third member who knows about mental health care. None of them have any connection with the clinical or social work team looking after you. Together the panel will decide whether your Section should be lifted after reading the reports about you, and hearing from you and your clinical team.

Who is the tribunal doctor?

The tribunal doctor is a Consultant Psychiatrist and is one of the three people who are on the tribunal panel.

When will I meet the tribunal doctor?

You will meet the tribunal doctor at your tribunal hearing when you will be supported by your legal representative.

Does the tribunal doctor come to see me before the hearing?

This depends on your Section, and whether you or your legal representative asks for the doctor to do so.

If you have been detained in hospital for assessment under Section 2 and you tell us you do not want to see the tribunal doctor before you attend the hearing you will not see them.

Otherwise you will meet with the tribunal doctor before the hearing starts without the other tribunal members present. You should speak to your legal representative about this. This is called a 'pre-hearing examination'.

The Tribunal doctor will ask you about the facts in the report and will question you about your current symptoms. They will also read your notes. (Your representative will also be able to read your notes). The tribunal doctor will then tell the other members about what you said to them and what was in your notes.

If you are on any other Section, then either you or your legal representative need to ask for the interview with the tribunal doctor. You must ask for this in writing **at least 14 days before the day of the tribunal hearing**.

The other time when the tribunal doctor will come to see you is if the tribunal arranges it. This may happen if you decide not to come to the hearing, or for other reasons.

When and where is the interview with the tribunal doctor?

At the moment, because of Covid-19, the pre-hearing examination will be by video. The time of the interview will depend on the tribunal doctor's availability. If you are in hospital the tribunal doctor will probably see you on a day before the hearing. If you are on a section 2 or in the community the doctor will probably see you on the same day as the hearing. If it is on the same day as the tribunal hearing, then you should have enough time after it to speak to your representative and to have a break before the tribunal starts.

You can choose if you want someone there such as a nurse an advocate or your legal representative. Sometimes, your clinical team or the tribunal doctor may advise that someone does sit in.

If you are on a CTO, you might be able to go to your community base or use a room at the hospital.

Why do I have to ask to see the tribunal doctor 14 days before the hearing?

The tribunal office needs 14 days to arrange for the tribunal doctor to visit you.

How is the interview information used?

If you speak to the tribunal doctor then, before you come into the hearing, the doctor will have told the two other panel members what you said in your meeting. At the start of your hearing, the judge will tell you, your legal representative and your clinical team what you said. If you think that this account is not correct, you should tell your representative.

Will the interview with the tribunal doctor make a difference to my tribunal?

If you decide not to meet the tribunal doctor you can still tell the tribunal panel what you want, with the help of your representative, when you are at the hearing.

Some patients think that a chance to talk privately with the tribunal doctor helps them to talk later at the tribunal. However, the tribunal doctor will still form their own opinion about how you are, and they will share this opinion with the other panel members. Other patients think that they would rather wait to speak to the all the tribunal panel together by answering questions from their legal representative.

Some patients like to speak early in the hearing so that they are sure the panel knows what they want. You may wish to do this if you have not had an interview with the tribunal doctor. If you do speak early, you will also be invited to have the last word.

If you have a legal representative, they will advise you about this, and help you to decide what is best for you. That is why it is important to have a legal representative.

Can I have a legal representative?

Yes. Most people do have a legal representative because they can help you to tell the tribunal how you feel and what you want to happen. This does not cost you anything as your representative will be paid for by Legal Aid.

What if I haven't got a legal representative?

If you haven't got a legal representative, the tribunal office can appoint one for you who understands about mental health tribunals.

There's a form at the end of this leaflet which you can use to ask the tribunal office to find a legal representative for you.

You can use this form to tell us whether you want us to find you a legal representative

Case number

Name of patient

Date of birth / /

Name of representative (if any)

If you do not have a legal representative, would you like the tribunal office to appoint one on your behalf? Yes No

Do you wish to see the Tribunal Doctor before your hearing? Yes No

Signature Date / /

Now please either

- Give the completed form to the Hospital Mental Health Act Administrator or to your Care Co-ordinator, and ask them to send it to the tribunal; or
- post the form to:
HM Courts & Tribunals Service
First-tier Tribunal (Mental Health)
PO Box 8793
5th Floor
Leicester LE1 8BN

The Ministry of Justice and HM Courts and Tribunals Service processes personal information about you in the context of tribunal proceedings.

For details of the standards we follow when processing your data, please visit the following address <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

To receive a paper copy of this privacy notice, please call 0300 123 1024 Textphone 18001 0300 123 1024. If calling from Scotland, please call 0300 790 6234 Textphone 18001 0300 790 6234.