

Mental health

Information about assessments and Compulsory Treatment Orders

Mental health treatment

If someone needs help for a mental disorder but doesn't agree they need help, you can ask your local Mental Health Services to assess the person under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Act). If the assessment indicates the person needs compulsory treatment, the mental health service can apply to the Family Court for an order for compulsory treatment.

If you think someone is at risk of harm, call 111, go to the nearest hospital emergency department or phone your local mental health crisis team. See the back page of this factsheet for more information.

Reasons for compulsory mental health assessment and treatment

The Act sets out the reasons a person may be ordered to have a compulsory psychiatric assessment and treatment. The law aims to ensure that both vulnerable people and the public are protected from harm.

The term "mental disorder" is a legal definition, not a medical one. It covers more than just mental illness. Legally, a mental disorder means an abnormal state of mind that:

- poses a serious danger to the health or safety of that person or someone else, or
- means the person can't take care of themselves.

If someone becomes a patient under the Act, their right to refuse treatment can be overridden. The Court can order a patient to turn up for any assessments and treatment, including having to stay in hospital.

A person can't be made to have a compulsory assessment or treatment because of their:

- political, religious or cultural beliefs
- sexual preferences
- criminal or delinquent behaviour
- substance abuse (see addiction treatment)
- intellectual handicap.

Apply for a mental health assessment

People must be over 18 to undergo a mental health assessment and treatment.

If you need to apply for a mental health assessment for someone else, a doctor or local mental health crisis team can help you with the application.

There's a specific application form you'll need to fill in and send to the Director of Area Mental Health Services. It's not enough to just write a letter, even if you cover all the required information. You can get the application form from the mental health crisis team in your area (called a CATT team, for Crisis Assessment and Treatment Team). They'll also tell you how to apply and how the assessment process works.

You can get the contact details for local CATT teams on the Mental Health Crisis Team website. See the back page of this factsheet for more information.

What happens after you apply

Before someone can be ordered to undergo treatment, they need to be assessed. The Mental Health Service will decide when and where the assessment will take place.

PRELIMINARY ASSESSMENT

After an application is made, a medical practitioner or doctor (called the responsible clinician) assesses the patient. This is called a preliminary assessment.

The preliminary assessment takes five days and the responsible clinician must decide if there are reasonable grounds to believe the patient has a mental disorder.

After five days, a Certificate of Preliminary Assessment is issued and the patient is told in writing if the responsible clinician believes more assessments and treatment are needed.

FURTHER ASSESSMENT

If the responsible clinician thinks the patient has a mental disorder, they can issue a Certificate of Further Assessment. The patient must be told in writing that they have to go through further assessments and treatment over a period of 14 days.

FINAL ASSESSMENT

Before the 14 days are up, a Certificate of Final Assessment is issued. If the patient isn't well enough for release, the responsible clinician must apply to the Court for a Compulsory Treatment Order (CTO). This means the patient can be held and treated for another 14 days.

If a court doesn't decide on the application before the end of the second 14-day period, the patient must be released.

Right to review during assessment

The patient can ask the Family Court to review their condition any time during the preliminary assessment and further assessment before the responsible clinician has applied for a CTO.

If the judge decides that the patient can be released from having a mental health assessment, the patient must be discharged immediately and that is the end of the assessment process.

Compulsory Treatment Orders

A CTO is when a court orders that a person with a mental health disorder must receive treatment for up to six months. The person doesn't need to stay in hospital for the treatment.

APPLYING FOR A COMPULSORY TREATMENT ORDER

A relative of the person, the Police or other reputable person can apply for a CTO.

MAKING AN ORDER FOR COMPULSORY TREATMENT

Generally, applications for a CTO are considered by a Family Court judge. The judge will talk with the person within 14 days of the Court receiving an application, or receiving an application to review an existing CTO.

The application must be made before the end of the second assessment period, and the examination by the judge has to be done within 14 days of the application being filed.

The judge will talk with the person about their situation and any proposed or current assessment and treatment. They'll ask what the patient thinks about it.

The judge will also talk with the person's doctor and at least one other health professional who is involved with the person's treatment. The judge may also talk to other people about their treatment.

JUDGE'S DECISION

If the judge decides the person doesn't need compulsory treatment, they'll order such treatment to cease immediately and the person to be released from care.

If the judge decides the patient needs compulsory treatment, they'll hold a hearing to consider the doctor's application for a CTO or (if applicable) why the order should continue.

PREPARING A REPORT

The Court may ask a social worker, doctor or other qualified person to prepare a report about the person's condition. The Court may also call witnesses to give evidence about the person. Usually, the person will attend the hearing. The hearing is private and not open to the public.

APPEALING COMPULSORY TREATMENT

The person's caregiver, welfare guardian or mental health officers can ask for the decision to be reviewed by a review tribunal.

ENDING A COMPULSORY TREATMENT ORDER

The maximum amount of time a CTO can apply for is six months. It can be stopped any time before that by the person's doctor if they think it appropriate. If the doctor believes the person still needs compulsory treatment, they can apply to the Court to extend the CTO for another six months. At the end of the extension, the doctor can apply for an indefinite extension if necessary.

The doctor will review the person's condition every six months. If the doctor decides they no longer need compulsory treatment, they will give the person a certificate as proof of their decision, with a copy to the person's caregiver, welfare guardian or mental health officers if applicable.

Patient rights

The Act has a number of safeguards to protect the rights of people who need compulsory treatment. For more information about patient rights, see the websites listed below.

If a patient believes their rights have been breached, or they're not happy with any aspect of their compulsory assessment and treatment, they can seek the help of a district inspector for mental health. District inspectors are lawyers appointed to help patients get information about their treatment and make sure their rights are upheld.

Legal representation

Under the Act, a patient has the right to be represented by a lawyer and may be able to get legal aid. To find out more about legal aid, **go online to** justice.govt.nz/courts/going-to-court/legal-aid/

justice.govt.nz/family/court-ordered-treatment/

health.govt.nz/your-health/services-and-support/health-care-services/mental-health-services/crisis-assessment-teams

hdc.org.nz/disability/the-code-and-your-rights/

justice.govt.nz/courts/going-to-court/legal-aid/