

# Your Rights if you are Secluded or Restrained (Mental Health Act 2013)

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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 the Fact Sheet 'Your Rights as an Involuntary Patient (Mental Health Act 2013) if you are an involuntary patient or Your Rights as a Forensic Patient (Mental Health Act 2013) if you are a forensic patient, if you haven't already received a copy.

## When Can I be Secluded and 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 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 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 Chief Psychiatrist Advisory notes which must be met whenever you are secluded or restrained. You can ask staff to explain what the Standing Orders and Chief Psychiatrist Advisory notes 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
- if you are secluded or restrained for more than three hours you must be assessed by a medical practitioner within those three hours
- After assessment, a medical practitioner or approved nurse can authorise continuation of the seclusion for an additional period not exceeding 3 hours.
- Subsequent seclusion or restraint episode on completion of 6 hours, must be authorised by the Chief Psychiatrist or delegate.
- the person authorising your seclusion must decide how long you should be secluded or restrained for

## 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 Stream of the TASCAT (the Tribunal) for a review
- you have the right to be given reasonable notice of the Tribunal hearing
- you can attend the Tribunal hearing
- your representative can also attend the hearing
- if you are not happy with the decision that the Tribunal makes, you may be able to appeal to the Supreme Court
- you can ask the Chief 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 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 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.

### Useful Contacts:

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Advocacy Tasmania Inc.  
Hobart: 1800 005 1 31  
Devonport: 6441 020 1  
Launceston: 6331 0740  
Website: [www.advocacytasmania.org.au](http://www.advocacytasmania.org.au)

Legal Aid Commission of Tasmania  
Phone: 1300 366 61 1  
Website: [www.legalaid.tas.gov.au](http://www.legalaid.tas.gov.au)

Mental Health Stream of the Tribunal  
TASCAT  
Email:  
[applications.mentalhealth@tascat.tas.gov.au](mailto:applications.mentalhealth@tascat.tas.gov.au)  
[www.tascat.tas.gov.au](http://www.tascat.tas.gov.au)

Official Visitors  
Phone: 1800 00 1 170  
Website: [officialvisitors.tas.gov.au](http://officialvisitors.tas.gov.au)

Ombudsman Health Complaints  
Commission  
Phone: 1800 00 1 170  
Website:  
[www.healthcomplaints.tas.gov.au/](http://www.healthcomplaints.tas.gov.au/)

Chief Psychiatrist  
Phone: 6166 0778  
Email:  
[chief.psychiatrist@health.tas.gov.au](mailto:chief.psychiatrist@health.tas.gov.au)

Statewide Mental Health Services  
Feedback Line  
**South/Forensic Health Services**  
1800 811 911  
[South.feedback@ths.tas.gov.au](mailto:South.feedback@ths.tas.gov.au)  
**North**  
1800 008 001  
[north.feedback@ths.tas.gov.au](mailto:north.feedback@ths.tas.gov.au)  
**North West**  
1800 062 322  
[northwest.feedback@ths.tas.gov.au](mailto:northwest.feedback@ths.tas.gov.au)