



Ministry
of Justice

Information for victims on the Victim Impact Statement and the Mental Health Tribunal, the Mental Health Review Tribunal for Wales

The Mental Health Tribunal and the Mental Health Review Tribunal for Wales (both referred to as 'the Tribunal') regularly review the detention of restricted patients to ensure they receive the appropriate care, and that the public remain safe.¹

Patients can apply for a Tribunal hearing once a year. If the patient or their solicitor do not apply for three years, the MHCS will refer the patient to the Tribunal. Restricted patients can only be discharged following a decision by the Tribunal or the Mental Health Casework Section (MHCS) on behalf of the Secretary of State for Justice.²

As a victim or bereaved family member who has opted in to the Victim Contact Scheme³, you have the right to be informed about these reviews and be given the opportunity to participate. You can request conditions to be in place in the event that the patient is discharged to help you feel safer. You can also submit a Victim Impact Statement to explain the impact of the offence on you, which the Tribunal can consider when setting discharge conditions.

Your Victim Liaison Officer will support you throughout this process. If you have any concerns or need assistance, they are available to help.

What discharge conditions can be applied

If the Tribunal decide to discharge the patient, they can choose to apply discharge conditions, such as requirements to:

- engage with their doctor and Social Supervisor,
- take medication,
- live at a specific address,
- submit to random drug or alcohol testing where drugs or alcohol contributed to their mental illness.

Through the Victim Contact Scheme, you can request conditions that relate to you. For example, these could include requirements to:

¹ Restricted patients are mentally disordered offenders who are detained in hospital for treatment and who are subject to special controls by the Justice Secretary due to the level of risk they pose.

² This information is about what happens in the Tribunal. For information on decisions made by the Secretary of State, please speak to your Victim Liaison Officer.

³ <https://www.gov.uk/government/publications/get-support-as-a-victim-of-crime/information-about-the-victim-contact-scheme>

- reduce the chances of you encountering the patient in the community through an exclusion zone; or
- stop them from contacting you or your family members.

Your Victim Liaison Officer will support you to make representations about the conditions you would like the Tribunal to apply to the patient's discharge.

How to make a Victim Impact Statement to the Tribunal

You can write a Victim Impact Statement any time leading up to the patient's review, and this must be submitted 28 days before a hearing. Your Victim Liaison Officer will make sure you know when to submit your Statement by.

You can submit the same Statement every time the Tribunal considers discharge, or you can decide to make a new one each time. Once you have submitted a Statement for a hearing, you can ask to submit further Statements before the deadline to add additional information.

What to write in a Victim Impact Statement

Your Victim Impact Statement explains the impact the crime has had on you. This gives you a voice in the Tribunal process and provides the Tribunal with helpful context for any requests you have made for discharge conditions. For example, you might want to mention:

- any physical, financial, emotional or psychological injury you have suffered and/or any treatment you may have received as a result of the crime;
- if you feel vulnerable or intimidated;
- if you no longer feel safe;
- the impact on your family;
- how your quality of life has changed on a day-to-day basis.

We recognise that you may continue to be affected by the crime committed by the patient and understand that it can therefore be very difficult to revisit the impact of the crime on you when making a Statement. You will have support from your Victim Liaison Officer to write your Statement, but it is important to know that you do not have to make a Statement if you do not want to or if you do not feel able to do so. Whether you choose to make a Statement or not, you can still make a request for discharge conditions to be put in place.

Understandably, you may have strong feelings about the possibility of the patient being discharged, but you should know that the Tribunal cannot take these into account when making their decision. This is because when deciding whether to discharge the patient, the Tribunal must use criteria for detention based on the patient's mental health and the risk they pose to themselves and others.

If you have information about any risk you believe the patient may pose if they are discharged, you should share this with your Victim Liaison Officer separately to making your Statement and they will make sure that this is shared with the relevant professionals.

Who will see your Statement

All papers submitted to Tribunal hearings, including your Statement, will be part of what is known as the 'case file'. The Tribunal, MHCS and the patient's solicitor will be able to see

this file. The case file will be part of the patient's medical records, so their medical team may also see the Statement if they think it is relevant to the patient's treatment.

The patient will normally see all information related to the Tribunal review unless, in very exceptional circumstances, the Tribunal decides not to disclose it to the patient.

What if you do not want the patient to see your Statement

You can make a request through your Victim Liaison Officer for the Tribunal to prevent the patient from seeing your Statement. This is called 'non-disclosure'.

Non-disclosure will only be granted if the Tribunal is satisfied that disclosure to the patient would be likely to cause the patient or someone else serious harm and that it is proportionate for them to withhold this information from the patient. Therefore, it is likely that the patient will see your Statement.

You can also request that the Statement be withdrawn if the Tribunal decides it should be disclosed. If your application for non-disclosure is granted, then the Statement will be added to the case file, but the patient will not see it before the hearing.

Please note that, as the Tribunal is a judicial body, it is possible that a Judge may decide not to withdraw your Statement or, on the day of the hearing, that the Statement should be disclosed, even if non-disclosure had been agreed at the outset.

Reading your Statement at a hearing

If the Tribunal decide to hold a hearing, you will be informed about this. You can apply to read your Statement aloud, which will be done remotely. You have several options for how you would like the Statement to be heard. You can apply:

- to attend to read it aloud yourself;
- to have your Victim Liaison Officer read it out on your behalf;
- to make a pre-recording of your Statement which will be played at the hearing by your Victim Liaison Officer, where these facilities are available. If you choose this option, your Victim Liaison Officer will help you to record this in advance of the hearing.

The Tribunal must approve an application to read your Statement aloud at a hearing, unless there is a good reason not to. In the event that they do not approve your application, your Victim Liaison Officer will tell you why.

If the Tribunal agrees to your application, you will attend remotely for the beginning of the hearing for the purpose of reading your Statement. The rest of the hearing will be held in private as it concerns details of the patient's health and treatment.

Your Victim Liaison Officer will help you to pre-record your Statement or share instructions on how to join the hearing remotely, either from your house or from your local probation office. Your Victim Liaison Officer will usually be with you in either location for support. You can also have a family member, friend or advocate sit with you to support you while you read your Statement to the hearing.