



NHS

**Greater Manchester
Mental Health**
NHS Foundation Trust

Carers Information: Understanding Mental Health
Treatment - Book 1

Including Community Treatment Orders, Mental Health Tribunals and Hospital Managers



Improving Lives

A community treatment order (CTO) is part 17A of the Mental Health Act. A CTO allows the service user to leave hospital and be treated safely in the community.

To be on a CTO means that certain conditions need to be adhered to. An example of a condition could be where they are asked to take medication. The responsible clinician (RC) will write down the conditions for the service user. The RC can make the service user come back to hospital if they do not follow the conditions of the CTO. The RC can also make the service user go back to hospital if they feel they have become unwell. The RC is in charge of the CTO so it is important that both service user and carers know who the responsible clinician is.

If the mental health of the service user starts to deteriorate, as a carer, you can tell your concerns to anyone involved in providing care and treatment (community psychiatric nurse [CPN] and/or the responsible clinician). They should take you/your family's worries seriously, and act on them where needed.

The decision to be on a CTO can be challenged if you or the service user do not agree with it. This can be done in 2 ways:

- By applying to the Mental Health Tribunal (this acts like a 'roving court')
- By requesting a Mental Health Act Hospital Manager's review



Mental Health Tribunal Service (MHTS)

The Mental Health Review Tribunal is an independent panel that can discharge the service user from the Mental Health Act. The tribunal hearings will take place at the hospital. The tribunal has to decide if the service user fits the criteria for being under a section of the Mental Health Act or not.

You can apply to the MHTS once in the first six months of the CTO. After this, you can apply once each time the CTO is renewed. The same rules apply if you want to appeal the CTO being revoked.

If you appeal to the tribunal, you are entitled to free legal support through the Legal Aid scheme, although you will need to arrange a solicitor for yourself. A solicitor who understands the Mental Health Act will then come to the MHTS with you and you can get a list of mental health solicitors from the ward staff or care co-ordinator. You can also look on the law society website, where a database of solicitors to search is available: **www.solicitors.lawsociety.org.uk**

You can get help from an Independent Mental Health Advocate (IMHA). They can tell you about your rights under the Mental Health Act and help you to put your views across. For example, they could help you apply to the tribunal or find a solicitor. Staff on the hospital ward/working with the service user in the community should be able to give you details of an advocacy service. There will be posters on wards and further information available via CPN. Advocates may come from various services.

The Mental Health Act Office (within the designated hospital) are able to send a carers/nearest-relative report to the MHTS on your behalf. Ultimately, it is always the service users' choice if other evidence either in report form or verbally is submitted.

Before the tribunal

Before the tribunal starts, the panel and the solicitor will read the reports written about the service user by the care team. There will be a medical report, a nursing report and a report from the care coordinator. The service user and you should be able to see these documents prior to the tribunal. Please ask that this information be shared with you well before the tribunal date. The report will be lengthy and can take time to absorb.

With the service users consent, carers/nearest relatives can provide their thoughts in the form of a report. This can be either written or verbal and will ensure that your views are heard as part of the process. This should be given to the local Mental Health Act office in good time as will be sent together with the professionals reports.

Can the service user represent themselves?

Yes, the tribunal will ask the service users doctor whether they “have capacity” to do this properly. It is generally not recommended - it is a legal meeting and the service users’ solicitor will be familiar with the issues the tribunal will be interested in. He or she will know how best to put the case.

Will the service user see the tribunal doctors before the hearing?

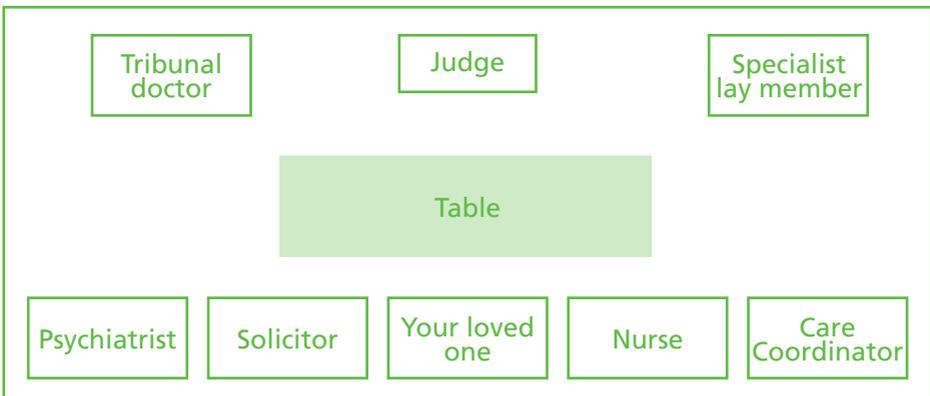
If they are on a Section 2, the tribunal doctor will always come to see them before the hearing. This is called a ‘pre-hearing examination’. The interview is usually just them and the tribunal doctor. They can choose if they want someone else with them, such as a nurse. If they are upset or agitated, the clinical team may advise that someone does sit in with them.

If they are not on a Section 2, then either they or the solicitor must

ask for the interview with the tribunal doctor. This needs to be requested in writing at least 14 days before the day of the tribunal hearing. They will need to use a form (T129) that the Mental Health Act administrator can pass on.

What happens at the tribunal?

You can ask to see the room where the tribunal hearing will be held so that you know what to expect - this is the seating plan:



The service user will sit opposite the judge, next to their solicitor. Generally, the carer or nearest relative will sit behind the nurse, service user, RC and solicitor. If the service user is an in-patient the nurse and CPN would always be there together along with the RC. If the service user is on a CTO or a section 41 they would not have a nurse but would have a CPN and RC there.

The judge will begin by introducing the panel to the service user/you, then confirming that the correct witnesses have come.

The members of the panel will then, one by one, put questions to the psychiatrist, the ward nurse and the care coordinator. The solicitor will then put questions to the psychiatrist, the ward nurse and the care coordinator.

When Can My Loved One Speak?

The solicitor will advise the service user how and when they can ask questions. For example, even if they disagree strongly with what is being said, they must not interrupt the psychiatrist, nurse or care coordinator when they are answering questions from the panel or from the solicitor. In addition, the service user cannot be interrupted when they are speaking or answering a question.

The solicitor will advise how the service user can best make their views clear to the tribunal. They will be very aware that they may not be used to speaking to a group of strangers in this way.

The solicitor will ask the service user questions before the panel members ask them anything. They may want to speak to the tribunal panel early in the hearing, so that they are sure the panel knows what they want. They should ask the solicitor about this. They may also be invited to have the last word at the end of the hearing.

What does the panel ask the clinical team?

The tribunal is a legal meeting and some of the questions sound complicated as they are about the legal basis for detention. These are the sort of questions and words you will hear. You will see that the panel member and solicitor write notes of the answers to their questions.



Questions to the care coordinator

If the service user has a care coordinator, this will be someone from the community mental health team. They will know more about the social situation and any follow-up arrangements for service users after they leave hospital.

The care coordinator may be asked similar questions to the doctor and nurse, but will also be asked about the service user's accommodation, finances, and what your views as a carer/family member are.

Questions to the ward nurse

If the service user has been an in-patient on the ward, they will ask the ward nurse about things such as behaviour on the ward, how the service user gets on with staff and other patients, and how they seem to have responded to any treatment.

When do the panel decide?

At the end of the presentation of evidence, everyone apart from the panel is asked to leave the room. Sometimes, however, tribunals do not proceed (the panel adjourns) if there is missing information that would mean that the case cannot be properly heard.

The panel stay in the hearing room and decide whether the legal criteria for detention are met. They consider the information in the reports, the care team's evidence and what the service user and the lawyer have said. This takes about 15-30 minutes. In total, the tribunal may last for approx. 90 minutes, plus waiting time prior to the meeting.

What decisions can the panel make?

- Immediate discharge from the section if the panel feels that the criteria have not been met. The service user can agree to stay voluntarily in hospital and/or to leave hospital immediately. They can then stop any treatment if they wish to.
- Deferred discharge: this means the section will be lifted at a particular date in the future - usually a few days. This is usually to allow time for follow-up arrangements to be made.
- To continue the section - but the panel will make recommendations to the care team about continuing care.
- To continue the section with the current treatment plan.
- To continue the section, but to suggest that the care team consider a Community Treatment Order (CTO) or revoke the CTO. Please ask the team for more information about this.
- If a 'restriction order' is in place, the Secretary of State's opinion has to be taken into account. The solicitor will advise regarding this.

How will we be told the decision?

You will either come back to the room with the solicitor and be told, or be told separately by the solicitor. A written version of the decision will be sent to the hospital and to the solicitor in the next few days.

What if the service user is not discharged from the section/CTO?

If they wanted to be discharged from Section/CTO but that does not happen, the solicitor will advise on when they can apply again for a tribunal.

Some people may feel that the tribunal was helpful even though the section/CTO wasn't lifted as they heard why the clinical team were detaining them, and felt they had had a fair hearing. One question that may be useful to ask the care team is: "What would need to happen for the team to lift the section/CTO?"



Hospital managers

You can apply to the hospital managers of the responsible hospital at any time. Hospital managers make sure that the Mental Health Act is properly used. The responsible hospital is the hospital that is in charge of the CTO. The hospital managers can discharge the service user from their CTO.

Carers/nearest relatives are able to send a report to the Hospital Managers also. It is often useful for professionals to know your thoughts in relation to the person you support. This can be a verbal update given to the professional(s) working with your loved one or in written form. If you wish to send a written report in, it must be received at least 4 weeks before the hearing to ensure it can be read as part of the process. This would only be with the agreement of the service user.

Not all carers/nearest relatives are aware of any application/referral to the MHTS or Hospital Managers as the service user may choose not to give permission for any information to be.

For details of your local Mental Health Act Offices, please contact:

Kelly Ward, MHA Manager Bolton and Salford Division	0120 448 3190
Amanda Thompson, MHA Manager Specialist Services	0161 271 0456
Chris Thompson, MHA Manager Manchester and Trafford Division	0161 271 0237

Useful Terms

- Approved mental health professional (AMHP): An AMHP is part of social services. They have a good understanding of mental illness and knowledge of mental health legislation. An AMHP could be a social worker, nurse or therapist. They can help to decide if the service user should be detained under the Mental Health Act. The role of the AMHP is to give a non-medical opinion when detention is being considered.
- Responsible Clinician (RC): The RC is the professional who has overall responsibility for the care and treatment of the service user. Usually the responsible clinician will be a psychiatrist. The RC can also be a nurse, psychologist, social worker or occupational therapist.
- Section 2 (s2) of the Mental Health Act: S2 means that service user can be admitted to hospital for an assessment of their mental health. They can also get treatment. S2 lasts up to 28 days and cannot be renewed. If a longer stay in hospital (after 28 days) is required, they will be transferred to a section 3.
- Section 3 (s3) of the Mental Health Act: S3 means that service user can be admitted to hospital for treatment. It lasts up to 6 months and can be renewed.
- Section 37 (s37) of the Mental Health Act: The criminal courts can use section 37 if they think the service user should be in hospital instead of prison. They must need treatment in hospital. This must be the best thing for their health or safety or to protect other people.
- Second Opinion Appointed Doctor (SOAD): A Second Opinion Appointed Doctor (SOAD) is a doctor who protects the rights of the service user if they are refusing treatment, or cannot consent, whilst under a CTO. The SOAD is asked to decide if the treatment being refused is clinically correct. The SOAD will decide which treatment to approve if recalled back to hospital under a CTO.

Greater Manchester Mental Health NHS Foundation Trust

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Email: Carers@gmmh.nhs.uk

Website: www.gmmh.nhs.uk/Carer-family-and-friends

This information can be provided in different languages, Braille, large print, interpretations, text only, and audio formats on request, please telephone 0161 358 1644.