

INDEPENDENT MENTAL HEALTH ADVOCACY - FIRST TIER TRIBUNAL

WHAT IS INDEPENDENT MENTAL HEALTH ADVOCACY?

If you are restricted or being detained under the Mental Health Act, you are legally entitled to help and support from an Independent Mental Health Advocate (IMHA).

An advocate is someone who will speak up for you, or support you to speak up for yourself, if you don't understand what's happening to you, want to challenge a decision about your care or support, express your preferences or assert your rights.

This applies to hospital patients and those who are on a Supervised Community Treatment Order (CTO) or under Guardianship.

What is a tribunal?




The "First Tier Tribunal" is an independent panel with a range of powers, including the power to discharge patients from their detention under some sections of the Mental Health Act.

The tribunal hearings take place at the hospital, although some panel members might join the tribunal remotely, on a screen, via a computer link.



A First Tier Tribunal is an opportunity for you and your solicitor to appeal that you do not want to be detained. You do not have to pay your solicitor for their support with your tribunal, their fees are paid by legal aid.



What can the tribunal do?

The Tribunal has other powers that might be helpful to you. These include:

-  The panel can recommend that you get leave from the hospital.
-  The panel can recommend supervised community treatment, rather than remaining in hospital.
-  The panel can decide about delayed discharge or conditional discharge.

Also eligible for an IMHA includes:

-  Those being considered for Section 57 treatment
-  Those under 18 and being considered for Electroconvulsive Therapy (ECT)

-  They can agree to transfer you to another hospital, and
-  The panel can meet again if their recommendations are not being followed.

The hospital is not legally obliged to follow the panel's recommendations.

Who can have a tribunal?

If you are detained under Sections 2, 3 or 37, you can apply to a tribunal to make an appeal.

If you are detained under Section 2 and you want to appeal, you should appeal within 14 days from the start of your section. The tribunal should take place within seven days of your application.

If you are detained under Section 3, you can appeal to a tribunal once in the first six months of your section. If your Section 3 is renewed, you can apply again. A Section 3 can be renewed after six months, after that, it can be renewed every 12 months. The tribunal hearing should take place within 8 weeks of your application.

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If you are detained under Section 37, you can only apply to a tribunal after the first six months of detention, and then once in each renewal period. A Section 37 can be renewed for six months and then 12 months thereafter. The tribunal hearing should take place within seven days of your application.

If you are detained under Section 3, you can appeal to a tribunal once in the first six months of your section. If your Section 3 is renewed, you can apply again.

A Section 3 can be renewed after six months, after that, it can be renewed every 12 months. The tribunal hearing should take place within 8 weeks of your application.

If you are detained under Section 37, you can only apply to a tribunal after the first six months of detention, and then once in each renewal period. A Section 37 can be renewed for six months and then 12 months thereafter. The tribunal hearing should take place within 8 weeks after you apply.

Delays to tribunals

If you have to wait longer for a tribunal hearing, you may be able to progress a case for compensation for a breach of your human rights, under the Human Rights Act 1998.




How do I ask for a tribunal?

You apply for a tribunal using a "T110 form". The form is usually available on your ward and you can ask staff about this. Alternatively, your Independent Mental Health Advocate can help you with this.

If you find it difficult to fill in the form yourself, you can ask the staff or an advocate to help you.

Who will be at the tribunal?

Each tribunal has a:

-  Tribunal judge, a legal member who is usually a solicitor or a barrister,
-  Doctor (usually a psychiatrist), and
-  Lay member. This is usually a person who is not medically or legally trained, but who has mental health experience.

Your Responsible Clinician will attend and your Social Worker/CPN will also be invited. The legal member is in charge of the tribunal.

Your nearest relative or carer can go to the tribunal hearing if you want them to. You can also have a solicitor to represent you if you want one. Your solicitor will also meet you in advance of the tribunal hearing.

If you do not want to go to the hearing, the tribunal will check that you have decided this yourself. If you have decided for yourself, the tribunal may hold the hearing without you being there.



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Evidence for the tribunal

The panel members are given reports before the tribunal takes place. The reports usually include a medical report, a nursing report and a social circumstances report.

Before the tribunal, the medical member of the tribunal will meet you and look at your medical notes. You have a right to refuse this.

Your solicitor may ask for you to see an independent psychiatrist, who will do a report. This gives the tribunal more information to make their decision.

You and your solicitor should be able to get copies of reports that go to the panel members. Sometimes you will not see some of the information in the reports, if the tribunal thinks that seeing the information would cause you harm.

What happens at a tribunal?

The tribunal is a legal hearing, but it takes place in an informal setting at the hospital.

At the hearing your Responsible Clinician and social worker give evidence and the tribunal members usually ask them questions about their evidence. You may also be able to ask them questions at certain times and your solicitor can guide you when to ask. You can also give evidence, if you want to, and the tribunal members might also ask you questions.







You can ask for breaks at any point, if you are finding the situation difficult. The tribunal members might not agree to stop the hearing, but you can leave the room and have a break.

Your doctor or social worker may think that some of the information you hear at the hearing might adversely affect your health and wellbeing, if this is the case they can ask you to leave the room for that part of the hearing. The tribunal will decide whether to allow this or not.




At the end of the hearing the panel usually take time to deliberate in private, after their deliberation the panel chair usually states the panel's recommendations to the rest of the hearing.

What do Independent Mental Health Advocates (IMHAs) do?

An IMHA can support you to:

-  Be fully involved in your care planning
-  Access Mental Health Reviews and Tribunals, prepare for them and understand decisions made
-  Access other support or services
-  Discuss appropriate aftercare
-  Understand how to raise concerns about your experience/care
-  Exercise your rights

An IMHA will:

-  Listen carefully to what you tell them about your views and feelings
-  Support you to speak up or speak up on your behalf if needed
-  Make sure you are fully involved in decisions being made about you



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What is the Mental Health Act?

The Mental Health Act is a law which tells people with a mental health disorder what their rights are and how they can be treated.

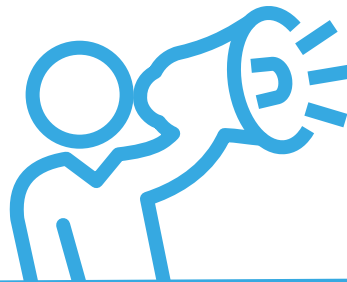
'Mental health disorder' means any disorder or disability of the mind.

It is important that you know what happens to you when you are detained, what your rights are and where you can seek help. The Mental Health Act Code of Practice tells everyone how to use this law and what they must do.

How can I make a referral?

Mental Health professionals have a duty to inform patients in their care and their nearest relative about the IMHA services available to them. These measures ensure that each patient who is entitled to receive IMHA support is aware of their right to approach the service.

Referrals to the IMHA service are usually made by Health or Social Care professionals, however, n-compass will accept IMHA referrals from the person themselves or their family.



**TO LEARN HOW ADVOCACY
CAN HELP PLEASE GET IN TOUCH**

The n-compass Digital Advocacy Hub provides free and impartial information on a range of common advocacy issues. n-compass delivers several advocacy services across the north of England.

To find out if we deliver in your locality:-

Website: <https://www.n-compass.org.uk/our-services/advocacy>

Sign video: <https://ncompass.signvideo.net>