

## What can I do if I don't agree with a CTO?

If you do not agree with the CTO you can apply to the Mental Health Review Tribunal to have your status reviewed by an independent panel who will decide whether the CTO should continue. This application can only be made after the CTO is three months old. District Inspectors, or your lawyer, can help with this application.

## District Inspectors

District Inspectors are lawyers appointed by the Ministry of Health for the purpose of providing you with information and supporting you to ensure your rights are upheld. They can assist you with complaints, section 16 reviews and Mental Health Review Tribunal applications. District Inspectors are independent from the hospital. If you would like to get in touch with a District Inspector, speak to a staff member.

### Some further information and advice:

#### Health and Disability Advocates

offer support and advocacy particularly if you feel your rights have been breached.

PH: 0800 11 22 33

For other information including information on Advanced Directives visit the website of the

#### Health and Disability Commission.

[www.hdc.org.nz](http://www.hdc.org.nz)

#### Supporting Families

offer information and support for your family/whānau

[www.supportingfamilies.org.nz](http://www.supportingfamilies.org.nz)

PH: 0800 732 825

#### Changing Minds

supports individuals to get access to information about mental health services, community activities, networking, and support opportunities.

PH: 09 623 1762

[www.changingminds.org.nz](http://www.changingminds.org.nz)

## Initial Assessment

You must have the purpose of the assessment explained in the presence of a support person.

### 1st Period of Assessment

Can be for up to 5 days.

### 2nd Period of Assessment

Can be for up to 14 days.

*You have the right to a lawyer; you have the right to apply for a s.16 review.*

*If your responsible clinician considers a CTO necessary they apply for a CTO and there will be a hearing before a judge.*

*You have the right to a lawyer to represent you. The Judge will decide if a CTO is granted.*

*If granted, the CTO lasts 6 months.*

*If you do not agree with the order, after 3 months you can apply to the Mental Health Review Tribunal to have your status reviewed.*

*If your responsible clinician considers the CTO should be extended past 6 months, they apply to the Court.*

*You have the right to a lawyer to represent you. A Judge will decide if an extension is granted.*

*If granted, the CTO extension lasts another six months. If your responsible clinician considers the CTO should be extended again they apply for an indefinite extension.*

*If required, a hearing is held for an indefinite CTO.*

*You have the right to a lawyer to represent you.*

*A Judge will decide if the indefinite CTO is granted.*

*If an indefinite CTO is granted, this does not mean it lasts forever.*

*You can apply to the Mental Health Review Tribunal to have your status reviewed if you do not agree with the order.*

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# The Mental Health Act and You

Information for you about the Mental Health (Compulsory Assessment and Treatment) Act 1992.

This Brochure has been developed collaboratively by Affinity Services Consumer Leadership Team, Changing Minds Reference Advisory Group and Auckland District Health Board.



## Introduction

When we experience mental unwellness we can usually decide for ourselves about our treatment.

But sometimes we can be assessed and treated compulsorily under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MHA).

Being treated compulsorily can mean being treated against our will. This can be a distressing experience for many of us and our family/ whānau.

This pamphlet is designed to provide some information about what the process is when you are treated compulsorily under the MHA. Information is provided about:

1. The Initial Assessment Period
2. Compulsory Assessment
3. Compulsory Treatment Order

## Support

It is important to draw on supports during this time. Having good support is beneficial for wellbeing and recovery and can also assist you to have a voice during the process. Support can include, friends, family/whānau, cultural support, spiritual support, peer support, legal advocacy and other advocacy services.

## Self Advocacy

A good way to self advocate is to have plans in place about how we prefer our treatment when we are unwell. Advanced Directives or a crisis care plan can help ensure our preferences about treatment are respected and upheld.

## Rights

We have rights. In the MHA these rights are contained in Part 6 of the Act, sections 63 (a) to 75. These rights come into effect once an application for an initial assessment is made. In addition, the Health and Disability Code of Rights are relevant to us as well.

## Initial Assessment Period

At the beginning of the process there is an application to be assessed for treatment under the MHA. This means that there will be an appointment for an initial assessment with a psychiatrist.

The Act requires that you receive information about this appointment including the date, time, place and the psychiatrist who will be assessing you. You are also entitled to have the support of someone known to you at the assessment; this can be a friend and/or family/whānau member. This support person should not be involved in your assessment and treatment.

At the assessment if the psychiatrist thinks that you need to be further assessed and treated, you will be notified that you will begin being compulsorily assessed under the MHA.

## Compulsory Assessment

When you begin being compulsorily assessed; your GP, a District Inspector and those you nominate from your family/whānau will receive certain MHA certificates.

There are two periods of compulsory assessment. The first period lasts up to five days and the second period lasts up to a further fourteen days.

### Can I refuse medication?

During the assessment period you can be required to accept treatment even if you do not consent to it.

### What can I do if I do not want to be compulsorily assessed?

At any time during these two assessment periods, you can apply for a review under section 16 of the MHA. A review consists of a hearing in front of a Judge, who will decide whether you should continue to be compulsorily assessed. If you would like a review, talk to staff or a District Inspector. If you decide to apply for a review a lawyer will be assigned to you free of charge.

## Compulsory Treatment Order (CTO)

### How is a CTO made?

If after being assessed your responsible clinician (usually your psychiatrist) considers that you need to be treated compulsorily, they can apply to the Court for a Compulsory Treatment Order (CTO). A hearing is held in front of a Judge who decides if a CTO should apply to you. These hearings are quite informal and your family/ whānau are welcome to attend and express their views.

You have the right to a lawyer at this hearing. Your lawyer should meet with you before the hearing to discuss your needs. Lawyers are assigned to you free of charge and you have the right to change your lawyer if required.

### What happens if a CTO is granted?

If you have a CTO it means that you are required by law to follow the instructions of your responsible clinician and the care team regarding your medication and treatment.

Although you cannot choose who is in charge of your treatment you have the right to a second opinion from an independent psychiatrist.

A CTO is most often in the community but can apply if you are in hospital as well. If you are in hospital under a CTO it can easily be converted to a community CTO. If you would like to change your CTO from hospital to the community, talk about this with your family/ whānau and your responsible clinician.

### How long does a CTO last?

CTOs are initially made for 6 months. If your responsible clinician considers it should be extended they must apply to the Court. This means another hearing in front of a Judge. If the Judge grants the extension the order lasts for up to another six months.

If your responsible clinician thinks it should be extended again, they have to apply to the Court for an indefinite extension. An indefinite extension does not mean that the CTO is permanent; it just means that you do not need to see a Judge again for the duration of the CTO.