

Non-custodial supervision orders


About your rights

In summary

When you are on a non-custodial supervision order, you:

- must comply with the conditions of the order
- must receive treatment for your mental disorder
- will have a treatment plan and can be involved in planning your treatment
- have a right to obtain a second opinion from a psychiatrist about your treatment
- have a right to obtain legal advice and have a lawyer represent you
- can apply to the court to have the order varied or revoked
- can have a friend or family member represent you
- can complain about your treatment.

You can ask a member of the treating team, a friend, a family member, a lawyer or an advocate to help you do these things.



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Non-custodial supervision orders

About your rights

This booklet provides information about being on a non-custodial supervision order and your rights and responsibilities while you remain on the order. A member of the treating team will talk to you about this information and answer your questions.

The information must be explained in a language or way that you can understand. This booklet may be translated into other languages. You can ask a member of the treating team if it is available in your preferred language. Copies of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* and the *Mental Health Act 1986* are available at the mental health service.

If at any time you have questions about this information or your rights and responsibilities, ask someone to explain. You can ask a member of the treating team, a friend, a family member, a lawyer or an advocate.

Non-custodial supervision orders

A non-custodial supervision order is an order made by a court under the Crimes (Mental Impairment and Unfitness to be Tried) Act. They are made where a person is found to have committed an offence, but the court decides the person is not guilty because of mental impairment or is unfit to stand trial.

A non-custodial supervision order allows the person to live in the community while receiving treatment for their mental disorder.

A court has placed you are on a non-custodial supervision order so that you can receive treatment and rehabilitation services for your mental disorder. The court has also appointed a supervisor to monitor the treatment you receive.

There are three ways you might have been placed on the order. A member of the treating team will tell you which of the following applies to you and tick the correct box:

- You were found not guilty of an offence because of mental impairment.
- You were found to be unfit to stand trial.
- The court changed your custodial supervision order to a non-custodial supervision order.

Your treating psychiatrist or doctor will give you a copy of the order.

Treatment

You must receive treatment for your mental disorder as a condition of the non-custodial supervision order. Your psychiatrist or doctor will prepare a treatment plan that is designed to meet your specific needs. You can be involved in planning your treatment and the psychiatrist or doctor will consider your preferences and concerns. You will be given a copy of the treatment plan.

Your psychiatrist and other members of the treating team will regularly discuss with you your diagnosis, medication, methods of treatment, alternative treatments and available services. They will review and update your treatment plan on a regular basis.

You can have a friend, family member or advocate with you when you are discussing your treatment with your psychiatrist or other members of the treating team.

Second opinions

It is your right to get a second opinion about your mental disorder and treatment. Your case manager, psychiatrist or doctor can arrange this from within the mental health service or they can help you choose your own psychiatrist. If you choose a private psychiatrist you may have to pay a fee.

Involuntary treatment

If your psychiatrist or another doctor believes you are unable to consent to treatment or you have refused necessary treatment and the criteria for involuntary treatment in the Mental Health Act apply to you, you might be placed on an involuntary treatment order. If this happens, you should be told the reasons for the decision and you will be given a copy of the booklet *Involuntary patients – About your rights* and the information explained.

If you are placed on an involuntary treatment order, you can be given psychiatric treatment, even if you refuse. You might be admitted to hospital as an inpatient or allowed to live in the community on a community treatment order.

The involuntary treatment order does not change your non-custodial supervision order.

Access to information

It is your right to request access to documents about your personal information that the treating service holds. If a public mental health service holds the information, then the application is made under the *Freedom of Information Act 1982*. If a private doctor holds the information, then the application is made under the *Health Records Act 2001*.

If you wish to access the information, you can ask a member of the treating team or the mental health service's freedom of information officer to help you make an application.

Organisations that might be able to help you with an application are described at the end of this booklet.

Monitoring by the court

The supervisor of your non-custodial supervision order will send a report about your treatment and progress to the court at least every 12 months.

The court might also set a date to review your non-custodial supervision order when it makes the order.

Conditions of the order

The court will put conditions on your order. These will often require you to:

- Receive treatment from a mental health service.
- Comply with the directions of the supervisor, your treating psychiatrist or doctor and members of the treating team.
- Have urine or blood tests when told.
- Tell the supervisor or your treating psychiatrist or doctor if you want to change address.

Changing a condition

If you want to have a condition changed, you must make an application to the court that made the order. You will need a lawyer to help you make the application because the procedures are complex and you will need a legal representative at the court. Organisations that may be able to help with your application are described at the end of this booklet.

Your psychiatrist will send a clinical report to the court for the hearing. Copies will be given to you or your representative. It is your right to attend the court hearing and to have a lawyer represent you. Your psychiatrist and other members of the treating team will give evidence at the court hearing. You and your representative will also be able to give evidence.

The court will make the final decision.

The supervisor of the order, the Director of Public Prosecutions or the Victorian Attorney-General can also apply to have your order varied.

Complying with the conditions

You must comply with the conditions of the order. If you are having trouble complying with a condition, you should talk to your psychiatrist, doctor or other members of the treating team. They will try to help you to comply with the conditions of the order.

What happens if I do not comply with the conditions of my order?

If you do not comply with the conditions of your order, the supervisor or the Secretary to the Department of Human Services may apply to the court to vary the order to a custodial supervision order.

You will be sent a notice advising the date, time and place of the court hearing. You must attend the hearing, unless the court decides it would be bad for your health, and it is your right to have a lawyer represent you. If you do not attend the court on the day of the hearing, the court may issue a warrant for your arrest.

Your psychiatrist and other members of the treating team will give evidence at the court hearing, for example, how you failed to comply with your non-custodial supervision order. You and your representative will also be able to give evidence and explain your side of the case.

The court will make its decision and will:

- confirm your non-custodial supervision order. It might also change the conditions of the order
or
- change your order to a custodial supervision order. If the court places you on a custodial supervision, you will be taken to a mental health service and detained as a forensic patient.

What happens if I do not comply with my order and I am a danger to others or myself?

If you do not comply with your order and you are a serious danger to yourself or other people, you will be apprehended and taken to and detained in a mental health service.

Once you are detained, an application will be made to the court within 48 hours to vary your order to a custodial supervision order. The court must hear the application as soon as possible. It is your right to attend the court hearing and to have a lawyer represent you. Your psychiatrist and other members of the treating team will give evidence at the court hearing, for example, how you failed to comply with your non-custodial supervision order. You and your representative will also be able to give evidence and explain your side of the case.

The court will make its decision and will:

- release you from the mental health service back onto your non-custodial supervision order. It might also change the conditions of the order
- or
- change your order to a custodial supervision order. If the court places you on a custodial supervision, you must stay in the mental health service as a forensic patient.

Travel interstate or overseas

If you want to travel interstate or overseas, for example, to go on a holiday, to attend a special event like a wedding or to keep contact with family and friends, you must apply to the supervisor for permission. You should be given permission if the travel is only for a short time and arrangements can be made for you to receive treatment and support at your destination.

You should apply early because it may take time to decide your application and make the necessary arrangements at your destination.

If you go interstate or overseas without permission, you will be in breach of the non-custodial supervision order and liable to arrest by police. When you are arrested, you will be returned to Victoria and detained in a mental health service. The supervisor or the Secretary

to the Department of Human Services will then apply to the court to vary the order to a custodial supervision order (see ‘Complying with the conditions’ above).

Ending the order

A non-custodial supervision order is not like a court sentence; it does not have a fixed time. The court will release you from the order when it is satisfied that you are no longer a danger to yourself or other people. The court might set a date to review your progress or you can apply to the court to be taken off the order.

Application to revoke the order

If you want to be released from the order, you must make an application to the court that made the order. You will need a lawyer to help you make the application because the procedures are complex and you will need a legal representative at the court. Organisations that may be able to help with your application are described at the end of this booklet.

If the court revokes the non-custodial supervision order, you will be free of any further obligations or restrictions under the Crimes (Mental Impairment and Unfitness to be Tried) Act.

If the court refuses your application, it is your right to appeal against the court’s decision to the Court of Appeal.

Major review

When the court made your supervision order, it set a time called the nominal term. If you are still on a supervision order at the end of the nominal term, the court must conduct a major review of your progress.

The purpose of the major review is to decide whether you can be released from the non-custodial supervision order.

It is your right to attend the court hearing and to have a lawyer represent you. Your psychiatrist and other members of the treating team will give evidence at the court hearing. You and your representative will also be able to give evidence.

If the court does not release you from the non-custodial supervision order, you have the right to appeal to the Court of Appeal.

If you are not released at the major review, the court will automatically review you at least every five years while you remain on a supervision order.

Complaints

You should be treated with dignity and respect when you receive treatment and care from the mental health service. If you are unhappy about any part of your treatment or care, you can complain. A good place to start is with your psychiatrist or doctor, your case manager, a member of the treating team, the complaints liaison officer or the Director of Psychiatry at the mental health service.

You can also complain directly to the Health Services Commissioner on 8601 5200 or to the Chief Psychiatrist on 1300 767 299.

If you need help with your complaint, you can ask someone you trust to assist you. This might be your psychiatrist or a member of the treating team, a friend, a family member, a lawyer or an advocate.

Important contacts

The organisations you can contact for assistance and more information are listed below.

- **Victoria Legal Aid** provides free legal advice about a range of issues. It may also provide legal assistance if you cannot afford a private solicitor and might be able to assist with legal representation at court hearings.
350 Queen Street, Melbourne 3000
Telephone: 9269 0234 Toll free: 1800 677 402
- The **Mental Health Legal Centre** is an independent legal service which specialises in mental health legal issues. It might be able to arrange representation for you at court hearings or about other legal matters.
4th Floor, 520 Collins Street, Melbourne 3000
Telephone: 9629 4422 Toll free: 1800 555 887
- The **Public Advocate** assists, advises and advocates for people with serious complaints about mental health and disability services and treatment.
5th Floor, 436 Lonsdale Street, Melbourne 3000
Telephone: 9603 9500 Toll free: 1300 309 337
- The **Chief Psychiatrist** is a senior Department of Human Services official appointed under the Mental Health Act, with special responsibilities in relation to people receiving mental health services. These include the power to investigate complaints and other matters and to take necessary action.
50 Lonsdale Street, Melbourne 3000
Telephone: 9096 7571 Toll free: 1300 767 299

- The **Health Services Commissioner** is an independent commissioner who investigates and helps to resolve complaints by health care consumers about health services, including mental health services. The Commissioner can help patients access their health information.

30th Floor, 570 Bourke Street, Melbourne 3000

Telephone: 8601 5200 Toll free: 1800 136 066

- **Community Visitors** are people who visit mental health services at least once a month to inquire into the adequacy of services and facilities for the treatment and care of patients, to investigate complaints and to report on their inquiries and investigations.

5th Floor, 436 Lonsdale Street, Melbourne 3000

Telephone: 9603 9500 Toll free: 1300 309 337

- The **Ombudsman** investigates complaints about government departments.

3rd Floor, 459 Collins Street, Melbourne 3000

Telephone: 9613 6222 Toll free: 1800 806 314

You can also ask your psychiatrist or doctor, case manager or any member of staff about other local organisations and support groups which might be able to help you. They can write down the details for you in the notes pages.

Printed booklets in the *About your rights* series:

- Involuntary patients
- Restricted involuntary treatment orders
- Security patients
- Forensic patients
- Electroconvulsive therapy
- Major non-psychiatric treatment
- Non-custodial supervision orders

Other booklets in the *About your rights* series:

- Hospital orders
- Forensic (remand and interim disposition order) patients
- Continuing treatment (section 12A-12D) involuntary patients
- Assessment orders and diagnosis, assessment and treatment orders
- Psychosurgery

These and other booklets are available online at www.health.vic.gov.au/mentalhealth, including booklets in other languages.

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