

Information for service users/tangata whai ora on Mental Health Act compulsory assessment and treatment processes during COVID-19 Alert Level 1

Updated 18 June 2020

On Monday 8 June 2020, the Government announced that New Zealand would move from COVID-19 Alert Level 2 to Alert Level 1, effective 11:59pm Monday 8 June 2020. This information is about Mental Health Act compulsory assessments and treatment during the COVID-19 epidemic while at Alert Level 1. Alert Level 1 means that the COVID-19 virus is contained in New Zealand. Health and disability services will mostly return to normal with some precautions in place to protect people who are more at risk of exposure to COVID-19.

Although there are no restrictions on personal movement and gatherings, people are encouraged to maintain a record of where they have been by using the NZ COVID-19 Tracker app on your phone or by keeping your own personal record (i.e. contact tracing). The [covid19.govt.nz](https://www.covid19.govt.nz) website offers advice about Government requirements and measures to ensure yours and your loved ones' safety.

Some radio stations are also giving official COVID-19 messages from the Government. If you have specific questions about COVID-19, you can call Healthline on 0800 358 5453. It is free and you can call 24 hours a day, 7 days a week. Interpreters are available for calls to Healthline.

As a person undergoing compulsory assessment or treatment under the Mental Health Act, it is important that you know how the COVID-19 Alert Levels might affect you. Health professionals and district inspectors will be able to explain what this means for you and your family/whānau. If you don't get the information you need, please ask for it.

During COVID-19, it is important that services provide safe and effective assessment and treatment that respects your rights. Because of COVID-19, some changes were made in the way that treatment and support is given. Where it is not possible to follow the usual processes and policies, mental health and addiction services were asked to think about other approaches. When considering options, services should question whether the action:

- is in your best interests
- is necessary to protect your and other people's health and safety
- meets legislative requirements and aligns with the intent of the legislation
- upholds your rights and the rights of others to the maximum extent possible in the circumstances
- complies with COVID-19 Alert Level requirements.

Mental Health Act assessments and reviews

Under COVID-19 Alert Level 1, health and disability services will generally return to normal, with precautions in place to prevent the spread of infection. This is different from Alert Level 2, where services were required to operate 'as normally as possible' with physical distancing as the risk of community transmission continued.

At Alert Level 1, assessments and reviews are generally expected to take place in-person, however these can still be done via audio-visual link (AVL; video and audio contact) when it is considered not practicable for you to be physically present. When deciding if an assessment or review is to be done by AVL providers must consider:

- your preference and best interests
- the least restrictive manner of providing assessment and treatment
- whether barriers to in-person attendance would prevent your timely access to assessment and treatment (such as transport and financial cost)
- the ability to maintain safety and adhere to the COVID-19 alert level requirements (such as where a person has suspected or confirmed COVID-19 infection)
- whether you or the provider are in the high-risk group for COVID-19 (and arranging an alternative provider would cause undue delays to the assessment)
- the effective facilitation of engagement for your family/whānau.

If you would prefer an in-person appointment rather than an AVL appointment, raise your preferences with your health worker. If an AVL appointment is required, your health worker will explain why and how AVL will work and ensure that you have access to the technology for this.

Using audio-visual link technology in mental health consultations is supported by the Royal Australian and New Zealand College of Psychiatrists. However, if you feel that AVL is being used inappropriately (or any other process in response to COVID-19), you can make a complaint to a district inspector.

The contact details for district inspectors are on the Ministry of Health website, at www.health.govt.nz under 'district inspectors', or you could ask your service to provide you the contact details for your local district inspector.

[Discharge of patients from inpatient units while at Alert Level 1](#)

When you are discharged from hospital you will be advised of specific guidance and procedures from your local district health board (DHB) about discharge during COVID-19. As with all New Zealanders, you will need to comply with all legal requirements that are established in relation to COVID-19.

[Court hearings under the Mental Health Act](#)

The Courts will operate Mental Health Act proceedings as normal during Alert Level 1 where it is practicable and safe to do so. Proceedings may occur in person or through virtual means (e.g. AVL) or a combination of these (for example, some people attending in person, and others attending by AVL). Services will have to follow the instructions of Judges in respect of this.

If you need to attend a court hearing by video, services should help you access the technology to allow you to attend by AVL. If you live in the community, your health worker or other member of your care team may ask to come to your home to set up AVL. Speak with your lawyer or a district inspector if you have any concerns or questions about the use of AVL.

[Access to district inspectors and lawyers](#)

In Alert Level 1, you will have access to the services of a district inspector or lawyer as normal. If you prefer to talk to a district inspector by AVL, you can let the district inspector know how you would like to talk to them.

Your contact with a district inspector or lawyer may, at times, need to be by AVL if it is not possible to meet in person because of COVID-19 reasons. Your service provider will enable private and confidential conversations by AVL between a district inspector or lawyer and yourself.

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Contact with family and whānau

The Mental Health Act (section 72) entitles patients and proposed patients to receive visitors and make telephone calls (unless the responsible clinician considers this detrimental to the patient's interests or treatment).

If you are in hospital in Alert Level 1, your family/whānau should be able to visit you in person. However, inpatient units may still need to take precautions and manage visiting in a controlled way. When it is not possible to visit in person, your contact with family/whānau and friends may be arranged through AVL.

Talk to the staff in the inpatient unit about keeping in touch with your loved ones. If you are concerned that you are not able to contact people while you are in hospital, you can talk to a district inspector.

Respect for cultural identity

The Mental Health Act (sections 5 and 65) requires Mental Health Services to use the powers of the Act in a way that is respecting of a patient or proposed patient's cultural identity. During Alert Level 1, you should be able to access cultural support workers or kaumātua as per normal. Talk to the staff in the inpatient unit or a district inspector if you have concerns about your right to respect for your cultural identity.

Mental Health Review Tribunal hearings

The Mental Health Review Tribunal has issued guidance regarding the hearing of applications to the tribunal under COVID-19 restrictions. The Tribunal notes that they seek to return to its more usual way of conducting reviews, involving hearings in person, but it will not always be practicable for this to occur. Their guidance is available on the Ministry of Health website at https://www.health.govt.nz/system/files/documents/pages/mhrtltr.covid_.04.06.20.fn-signed.pdf

Your feedback

The Ministry is interested to hear your feedback on the change of processes during COVID-19. For example, what is your opinion on the use of AVL? How was the level of communication from staff at mental health and addiction services during COVID-19? Were you satisfied with the level of support offered (such as cultural support, and contact with family and whānau)? If you have any advice or thoughts you would like to share, please email mentalhealthadmin@health.govt.nz.

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