

# Review of Insanity and Fitness to Plead Laws

Tasmania Law Reform Institute



Easy English

TASMANIA  
LAW REFORM  
INSTITUTE



## Hard words

This book has some hard words.

The first time we write a hard word

- the word is in **blue**
  
- we write what the hard word means.

## You can get help with this book



You can get someone to help you

- read this book
  
- know what this book is about



- find more information.

## About this book

The **Tasmania Law Reform Institute** wrote this book.



The Tasmania Law Reform Institute or TLRI is an organisation that

- looks at the laws in Tasmania

and



- makes sure laws are
  - up to date
  - needed
  - fair
  - working well.

This book is about a review of 2 laws.



You can read the full review on this website

[www.utas.edu.au/law-reform](http://www.utas.edu.au/law-reform)

We have done a review on laws about

- **insanity**

and

- if a person has the **mental capacity** to know why they are in court.



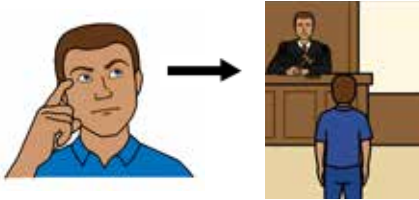
Insanity is when a person has a mental problem and

- does **not** know what they are doing
- does **not** know that what they are doing is wrong
- can **not** stop themselves from doing the wrong thing.



Mental capacity means how much information a person can understand.

The laws about mental capacity help the courts decide if a person is mentally **fit to go to court**



This means they can

- understand what will happen in court
- understand what the police said they did



- tell their lawyer what they want.

The laws about insanity help the courts decide if a person is **criminally responsible** for what they did wrong.



Criminally responsible means a person

- is to blame for a crime

and

- can understand what they did.

These laws are about different people.

For example

- people with a mental problem who the police say have **committed a crime**.



Committed a crime means a person has done something that the law says is wrong.

- family or carers of people who the police say have committed a crime.



- **victims of crime**.

Victims of crime means a crime has happened to them.



These laws also make sure people

- are treated fairly
- are only **punished** if they are criminally responsible.



Punished might mean a person

- goes to jail
- does a service for the community



- pays some money.

## About mental capacity and the law

There are a lot of people with mental problems who



- use the courts

or



- are punished because they committed a crime.



Mental problems might be

- a mental illness

For example, schizophrenia.

- an intellectual disability

For example, Down syndrome.



- a brain injury.

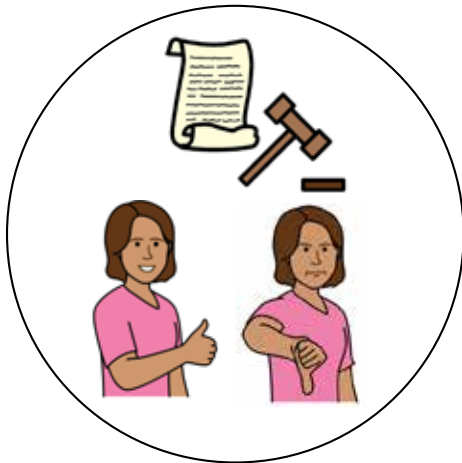




Mental problems can make it hard for a person to understand what happens in court.



The laws should make sure that people with mental problems are treated fairly.



The TLRI want to find out

- if these laws work well
- what is good about these laws
- if these laws need to change.

The TLRI want to find out about how these laws have worked for people.

## About the law



The law says everyone has the right to a fair **trial**.

A trial is when the court hears about a crime and decides if a person is criminally responsible.



To have a fair trial a person that police say committed a crime must be able to

- understand what the police say they did

and



- tell a lawyer what they want them to do.



People should **not** be punished if they do **not** understand what they did wrong.



The court must decide if a person

- has a mental problem

and

- is **not** criminally responsible.



The court will say a person is **not** criminally responsible if they

- did **not** know what they were doing

or

- could **not** stop themselves from doing the wrong thing

or



- did know what they were doing but did **not** know that it was wrong.



A person can tell the court that they

- are **not** fit to go to trial

or



- are **not** criminally responsible because of insanity.



The court can make a **forensic order** if they think a person

- is **not** fit to go to trial

and

- did do what the police say they did

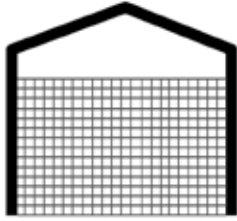
or



- is not criminally responsible because of insanity.

A court might make a forensic order if they think it will help keep the community safe.

There are 2 types of forensic orders.



1. A **restriction order**.

This means that a person must stay in a Secure Mental Health Unit. This means the Wilfred Lopes Centre.



2. A **supervision order**.

This means the person

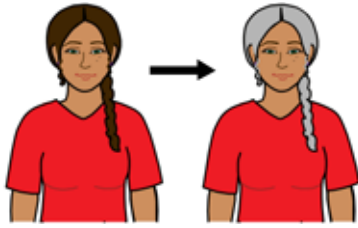
- can stay at home in the community



- will be supervised



- might be told that they must
  - take medicine
  - see a counsellor or doctor.

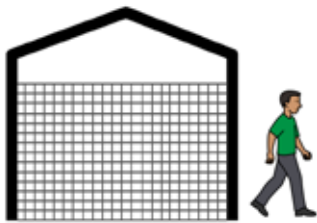


A forensic order can be

- for the rest of the persons life

and

- affect a persons life in many ways.



A person with a restriction order can ask to leave the secure mental health unit for a short time.

For example, to see a doctor or go to a family funeral.



When the court decides if a person is put on a forensic order they look at

- mental problems

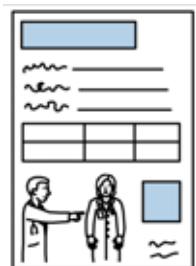


- how to keep the community safe

- if there are treatments or supports



- how victims or family might feel.



The court will get reports to help them decide.  
For example, a doctor or psychiatrist report.

The Mental Health Tribunal will review the forensic order every 12 months.

The Supreme Court is the only court that can end or change a forensic order.

## Have your say

The TLRI want to hear from people who have had experience with these laws.

You can tell the TLRI your ideas about

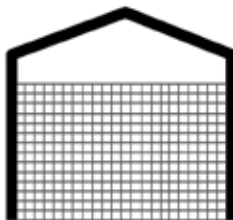
- when a person is fit to go to trial
- if a person is **not** criminally responsible because of insanity



- how to tell the courts about a persons mental problem



- forensic orders and how to change them



- when a person asks for leave from a restriction order.



## How to tell the TLRI your ideas

When you tell the TLRI your ideas we might write the things you tell us



- on our website

or



- in a report.



You can tell the TLRI if you do **not** want us to do this.



Then we will keep information about you private.

You can tell the TLRI your ideas in different ways.



Write to

Tasmania Law Reform Institute

Private Bag 89

Hobart, Tasmania 7001.



Email [law.reform@utas.edu.au](mailto:law.reform@utas.edu.au)



Call Dr Rebecca Bradfield 03 6226 2069



Use the form on our website

[www.utas.edu.au/law-reform](http://www.utas.edu.au/law-reform)

You should tell us your ideas **before**  
24 May 2019.



## More information

For more information contact the  
Tasmania Law Reform Institute.



Call 03 6226 2069



Website [www.utas.edu.au/law-reform](http://www.utas.edu.au/law-reform)



Email [law.reform@utas.edu.au](mailto:law.reform@utas.edu.au)



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