

Purpose, principles and definitions

Fact sheet 1

Chapter 1 of the *Mental Health Act 2000* (the Act) sets out the Act's purpose and the principles that guide its application. It also defines key terms used in the Act, including 'mental illness'.

What is the purpose of the *Mental Health Act 2000*?

The Act provides for the involuntary assessment and treatment, and the protection, of persons with mental illness. At the same time, the Act aims to safeguard and balance the rights and freedoms of people who have a mental illness and those of others.

The Act focuses on aspects of mental illness that cannot be dealt with in other mainstream legislation. It does not specifically provide for voluntary treatment of mental illness. Voluntary treatment for mental illness is regarded in the same way as treatment for any other illness, with safeguards provided in other mainstream legislation.

The Act also establishes special processes in relation to people with mental illness charged with a criminal offence. These processes enable expert examination of the person, as well as their detention in a mental health service if necessary.

Why have principles?

The principles are intended to underpin any decisions made, or actions carried out, under the Act. Anyone who exercises powers or functions under the Act must do so having regard to the principles.

The principles are consistent with national and international policy and protocols, as well as other Queensland legislation (for example, *Powers of Attorney Act 1998* and *Guardianship and Administration Act 2000*).

What are some of the key principles?

- ⦿ A person's basic human rights, including respect for human worth and dignity, must be recognised and taken into account.
- ⦿ A person should be encouraged and supported to participate in decisions affecting their life, especially decisions about treatment.
- ⦿ The particular needs and circumstances of the person are to be taken into account, including cultural, religious and language needs.
- ⦿ The importance of a person's continued participation in community life and maintenance of supportive relationships should be recognised.
- ⦿ Treatment can only be provided if it is appropriate to promote and maintain the person's mental health and wellbeing.
- ⦿ A person's right to confidentiality must be recognised and taken into account.

- ⦿ Any power or function exercised under the Act must be exercised so that a person's liberty and rights are affected only if there is no less restrictive way to protect the person's health and safety or to protect others.
- ⦿ Any adverse effect on the person's liberty or rights must be the minimum necessary in the circumstances.

How is mental illness defined?

Mental illness is defined as 'a condition characterised by a clinically significant disturbance of thought, mood, perception or memory'.

A decision that a person has a mental illness must be made in accordance with internationally accepted medical standards.

The Act also sets out 11 exclusions for determining whether a person has a mental illness. These exclusions are behaviours, conditions or circumstances that cannot, on their own, be considered to constitute mental illness.

For example, a person must not be considered to have a mental illness on the basis of:

- ⦿ previous treatment for mental illness
- ⦿ an intellectual disability
- ⦿ alcohol or drug use
- ⦿ antisocial or illegal behaviour.

However, the presence of one or more of the exclusions does not prevent a determination that the person has a mental illness. For example:

- ⦿ a person may have a mental illness that is caused by drugs or alcohol
- ⦿ a person with an intellectual disability may also have a mental illness.

If a person is deemed to have a mental illness, can involuntary assessment or treatment be given?

A person cannot be assessed or treated for mental illness without their consent just because they are deemed to have a mental illness. The person must also meet the assessment or treatment criteria as provided under the Act. Fact sheets 2 and 3 provide more information about involuntary assessment and treatment.

Further information

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