

Transfer of responsibility for patients

The *Mental Health Act 2016* provides for the transfer of responsibility for patients between authorised mental health services, the Forensic Disability Service or to or from an interstate service. A person may also receive approval for transfer to another country. It is a requirement for the Mental Health Review Tribunal to approve the transfer of patients subject to a Treatment Support Order or Forensic Order or equivalent interstate order.

Transfers between authorised mental health services

Authorised mental health service (AMHS) administrators may agree to transfer the responsibility for an involuntary patient or a classified patient (voluntary) between the services.

In considering a transfer, the administrator must have regard to the transfer considerations for the person—that is:

- the person's mental state and psychiatric history
- the person's treatment and care needs
- if relevant, security requirements for the person, and
- without limiting the above considerations, whether the transfer is appropriate in the circumstances (for example, to allow them to be closer to their family, carers or other support persons).

To the greatest extent practicable, the administrators must also have regard to the views, wishes and preferences of the person.

However, the transfer must be approved by the Chief Psychiatrist if the following apply:

- the person is subject to a Forensic Order or Judicial Order
- the person is subject to a Treatment Authority, is not a classified patient, and the transfer is to a high security unit, or
- the person is a minor, and the transfer is to a high security unit.

The Chief Psychiatrist must also be notified of the transfer of all classified patients.

In addition, the Chief Psychiatrist may direct the transfer of an involuntary patient or a classified patient (voluntary) between services.

Transfers between an AMHS and the Forensic Disability Service

The Chief Psychiatrist and the Director of Forensic Disability may agree to transfer the responsibility for a person subject to a Forensic Order (disability) between an AMHS and the Forensic Disability Service (FDS).



Agreement for transfers between these services is determined on a case by case basis, taking account of:

- the transfer considerations,
- the person's intellectual disability,
- legislative authority,
- individual clinical needs,
- the views, wishes and preferences of the person, and
- local arrangements and supports available for the person.

Interstate transfers for patients subject to a Treatment Authority

An AMHS administrator and a person authorised in another state to approve an interstate transfer may agree to transfer the responsibility for a person on a Treatment Authority to the other State. They may also agree to transfer a person on the equivalent of a Treatment Authority in another State ('interstate authority') into Queensland.

Transfers from an AMHS to interstate service

In agreeing to the transfer, an AMHS administrator must be satisfied that:

- appropriate treatment and care is available for the person, and
- the transfer is otherwise appropriate in the circumstances (for example, to allow them to be closer to their family, carers or other support persons).

However, an AMHS administrator cannot agree to the transfer of a patient on a Treatment Authority out of Queensland if the person is also a classified patient or a person subject to a Forensic Order (disability).

Transfers to an AMHS from interstate

For a person on an interstate authority being transferred into Queensland, the administrator must be satisfied, having regard to the person's views, wishes and preferences, that an authorised doctor is likely to consider, on the person's admission to the AMHS, that:

- the treatment criteria apply to the person, and
- there is no less restrictive way for the person to receive treatment and care for the person's mental illness.

On arrival in Queensland, an authorised doctor must assess the person to decide whether the treatment criteria apply and whether there is a less restrictive way for the person to receive treatment and care for their mental illness. The person may be detained in the AMHS for up to six hours for this to occur.

If the authorised doctor is satisfied that the treatment criteria apply and that there is no less restrictive way for the person to receive treatment and care for their mental illness, a Treatment Authority is made for the person.

Interstate and international transfers for patients subject to a Forensic Order or Treatment Support Order

A transfer application may be approved by the MHRT for a transfer:

- interstate – into or out of Queensland
- international – out of Queensland.

A person on a Treatment Support Order or Forensic Order (including Forensic Order (Disability)), or someone on the person's behalf, may apply to the Mental Health Review Tribunal for transfer from an AMHS or the Forensic Disability Service to an interstate mental health service or stated country. This does not apply to classified patients or patients who have been found temporarily unfit for trial.

Similarly, a person on an interstate equivalent of a Forensic Order (or someone on the person's behalf) may apply to the MHRT to transfer a person from an interstate mental health service to an AMHS or the Forensic Disability Service in Queensland.

Before approving a transfer, the Tribunal must be satisfied that:

- the transfer is appropriate in the circumstances (for example, to allow them to be closer to their family, carers or other support persons)
- appropriate treatment and care is available at the relevant AMHS, forensic disability service or interstate mental health service (that the person is being transferred to)
- the arrangements for the transfer are adequate to protect the safety of the community, and
- for a transfer out of Queensland—the transfer is, or may be, permitted under a law of the State in which the interstate mental health service (that the person is being transferred to) is located.

Transfers out of Queensland

If the MHRT approves the transfer of the patient out of Queensland, the order is

suspended and periodic reviews of the order by the MHRT are not required.

The order ends three years after the transfer takes place, provided the person remains interstate.

However, if the person is on a Forensic Order subject to a non-revocation period, the order ends at the end of the non-revocation period if it is longer than three years from when the person is transferred.

The order is automatically reinstated if the person returns to Queensland within three years.

Transfers to an AMHS from interstate

If the MHRT approves the transfer of the patient into Queensland, the patient must be placed on a Forensic Order (mental health) or Forensic Order (disability).

The MHRT must also decide the category of the order, any limited community treatment and the conditions on the order.

More information:

Mental Health Act 2016

www.health.qld.gov.au/mental-health-act

Mental Health Review Tribunal

www.mhrt.qld.gov.au

Contact your local mental health service

1300 MH CALL (1300 642255)

www.qld.gov.au/health/mental-health/help-lines/services

Resources:

Factsheet: [Forensic Orders](#)

Factsheet: [Treatment Support Orders](#)