

Notification to Chief Psychiatrist of Critical Incidents and Non-Compliance with the Act

1. Purpose

This Policy outlines the relevant provisions of the *Mental Health Act 2016*, and the Chief Psychiatrist Policy, regarding the information to be notified to the Chief Psychiatrist about critical incidents and non-compliance with the *Mental Health Act 2016* relating to patients.

The Chief Psychiatrist reviews notifications with a view to identifying systemic, clinical governance and management issues that require attention, which can lead to improved patient outcomes. Notification of critical incidents and legislative non-compliance or suspected non-compliance by authorised mental health services (AMHSs) also strengthens the accountability of AMHSs and their staff.

2. Scope

This Policy is mandatory for all AMHSs. An authorised doctor, authorised mental health practitioner, AMHS administrator, or other person performing a function or exercising a power under the Act must comply with this Policy.

This Policy must be implemented in a way that is consistent with the Objects and Principles of the Act.

3. Authorising Legislation

Section 305(2)(l) of the *Mental Health Act 2016*.

4. Background

The Chief Psychiatrist's functions under the Act (section 301) include, among other things, protecting the rights of patients and, to the extent practicable, ensuring the involuntary examination, assessment, treatment, care and detention of patients complies with the Act. The Chief Psychiatrist is also responsible for facilitating the proper administration of the Act, and monitoring and auditing compliance with the Act. These functions require the Chief Psychiatrist to oversee clinical governance of the safety and quality of care provided by services.

A 'patient' is defined in the Act (section 297) as:

- an involuntary patient, or
- a person receiving treatment and care for a mental illness in an AMHS, other than as an involuntary patient, including a person receiving treatment and care under an advance health directive or with the consent of a personal guardian or attorney.

Receiving and reviewing notifications of critical incidents and legislative non-compliance or suspected non-compliance is an important oversight mechanism for the Chief Psychiatrist to facilitate high standards of service delivery and promote the proper governance and administration of AMHSs.

For public sector AMHSs, notifying the Chief Psychiatrist of the events specified in this Policy is in addition to any requirements under other legislation such as the *Hospital and Health Boards Act 2011*.

For private sector AMHSs, notifying the Chief Psychiatrist of the events specified in this Policy is in addition to the requirements specified in any other legislation such as the *Private Health Facilities Act 1999*.

5. Policy

5.1 Notification to the Chief Psychiatrist

AMHS administrators must ensure notification to the Chief Psychiatrist of a 'critical incident' or incident involving significant non-compliance or suspected non-compliance with the Act, involving a patient of the service. The administrator must ensure notification to the Chief Psychiatrist as soon as practicable¹ after becoming aware of the incident and in the way outlined in the Practice Guidelines approved by the Chief Psychiatrist.

AMHS staff must notify the AMHS administrator of a critical incident or incident involving significant non-compliance or suspected non-compliance with the Act as soon as practicable.

A 'critical incident' means:

- the death, or an injury suffered resulting in likely permanent harm², of a person receiving treatment or care for a mental illness as a patient of an AMHS
- the death, or an injury resulting in likely permanent harm, of a person who, within 30 days preceding their death, received treatment or care for a mental illness as a patient of an AMHS, if the AMHS becomes aware of the person's death
- an incident resulting in significant mental or physical harm to an inpatient
- allegations of sexual assault, or sexual safety incidents resulting in significant mental or physical harm involving an inpatient
- a serious adverse clinical incident such as the incorrect administration of medication to a patient which could have resulted in serious harm, and
- any incident (clinical or non-clinical) affecting the health, safety or well-being of a patient or another person which could attract public attention or adversely affect the organisational reputation of the AMHS.

For the purposes of this Policy, significant non-compliance with the Act includes:

- the detention of a person other than in accordance with the Act
- the provision of a regulated treatment (e.g. electroconvulsive therapy) other than in accordance with the Act
- the use of seclusion, mechanical restraint, physical restraint or administration of medications other than in accordance with the Act, or
- a breach of any other offence provision of the Act (e.g. ill-treatment of patients, contravention of the confidentiality obligations, assisting a patient to unlawfully absent themselves, giving false or misleading information to an official, and obstructing of an official).

For the purposes of this Policy, suspected non-compliance means any matter involving possible non-compliance which has yet to be determined as non-compliance with the Act, and may require formal investigation at service level or by the Chief Psychiatrist.

¹ Under the *Chief Psychiatrist Policies for Seclusion, Physical Restraint and Mechanical Restraint*, the Chief Psychiatrist must be notified **immediately** if seclusion, physical restraint or mechanical restraint results in, or is associated with, the death of a patient, or significant harm to a patient or other person, during the seclusion or restraint or within 24 hours of the seclusion or restraint.

² Death or likely permanent harm which is not reasonably expected as an outcome of healthcare. (QH-HSD-032:2014)

Administrators must ensure the Chief Psychiatrist is provided with a copy of the clinical incident analysis within 90 days of the notification of the incident.

Administrators must notify the Chief Psychiatrist of significant non-compliance or suspected non-compliance with the Act, whether or not it results in harm to the patient.

'Critical incidents' must be recorded in the patient's clinical record (wherever possible, as a clinical note in the Consumer Integrated Mental Health Application (CIMHA) and the local clinical incident reporting system).

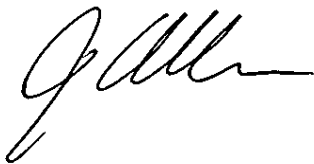
5.2 Chief Psychiatrist actions

As a consequence of a notification, the Chief Psychiatrist may, by written notice, require the administrator of an AMHS to provide specific information about the treatment and care of a patient or patients of the service. An administrator must comply with the notice. The Chief Psychiatrist may also undertake an investigation into an incident, suspected legislative breach, or legislative breach notified under this Policy.

6. Supporting Documents

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Issued under section 305 of the Mental Health Act 2016



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Chief Psychiatrist, Queensland Health
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