

Mental Health Act 2016
Chief Psychiatrist Policy

Independent Patient Rights Advisers

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General

The *Mental Health Act 2016* (Act) establishes the positions of Independent Patient Rights Advisers (IPRAs). A key function of these positions is to advise patients and their appointed nominated support persons, family, carers and other support persons of their rights under the Act. IPRAs play a very important role in liaising between clinical teams, patients and support persons.

The Act contains many important patient rights. For these rights to be effectively accessed, patients and their support persons must be aware of these rights.

The *Mental Health Act 2016* (the Act), provides that a Chief Executive of a Hospital and Health Service (HHS) **must** appoint one or more Independent Patient Rights Advisers (IPRAs).

While Independent Patient Rights Advisers play a key role in advising patients of their rights under the Act, this does not affect the obligation of other persons in authorised mental health services to advise patients of their rights and to provide information to patients about their treatment and care.

Scope

This policy is mandatory for all public sector authorised AMHSs. An authorised doctor, AMHP, AMHS administrator or other person performing a function under the Act in a public sector AMHS **must** comply with this policy.

This policy **must** be read in conjunction with the relevant provisions of the Act.

Clinicians should work collaboratively with and in partnership with patients to ensure their unique age-related, cultural and spiritual, gender-related, religious and communication needs are recognised, respected and followed to the greatest extent practicable. Clinicians should consider the timely involvement of appropriate local supports and provide treatment and care with a recovery-oriented focus.

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

Policy

1 Statewide Coordinator

The IPRA Statewide Coordinator is employed within the Mental Health Alcohol and Other Drugs Branch in the Department of Health. The Statewide Coordinator reports directly to the Chief Psychiatrist.

The Statewide Coordinator's responsibilities include:

- providing advice to IPRA's on the interpretation and application of complex provisions of the Act that relate to patient rights,
- establishing and coordinating a statewide network of IPRA's,
- identifying and resolving major concerns in relation to patient rights identified by IPRA's, as reported to the Statewide Coordinator including through regular reporting processes,
- liaising with a broad range of mental health stakeholders, including mental health consumer and carer groups, advocacy organisations, non-government organisations, and staff of HHSs and AMHSs,
- advising and consulting with IPRA's in relation to performing their functions under the Act, and
- assisting the Chief Psychiatrist in ensuring compliance with the Act and protecting the rights of patients and nominated support persons, family, carers and other support persons.

2 HHS and external agency requirements

Each HHS is required to comply with this policy as a condition of the funding provided under service agreements with the Department of Health.

Key points

Where a HHS elects to perform the IPRA functions through a contract or agreement with an external agency (such as a non-government organisation), the HHS is responsible for:

- ensuring the entity and the services it provides are compliant with the service agreement and this policy.

Without limiting this, the relevant agreement **must**:

- attach this policy, and
- require compliance with the policy as part of the agreement, including, but not limited to:
 - employment under the role description,
 - remunerating staff at the level that meets the functional requirements of the position (recognising the relevant awards and organisational structures of the non-government sector),
 - working co-operatively with other IPRA's and the Statewide Coordinator,
 - complying with the record-keeping requirements,
 - participation in training and professional development sessions arranged by the Statewide Coordinator,

- providing information requested by the Chief Psychiatrist or Statewide Coordinator relevant to IPRA functions or outcomes, and
- the filling of vacancies.

3 Employment and function of IPRA's

An IPRA may be either:

- an employee of an entity that a HHS has engaged to provide services (such as a non-government organisation), or
- an employee of a HHS but not employed in the HHS's mental health service.

IPRA's are to be employed in accordance with a standard role description – [Attachment 2](#).

IPRA's employed within HHSs are to be remunerated at a level equivalent to 'Administration Stream classification level AO7' in the 'District Health Services wage rates table'.

IPRA's employed in an external entity, such as a non-government organisation, are to be remunerated at a level commensurate with the required competencies for the position.

3.1 Performance management

IPRA's are accountable either to a HHS or external entity.

HHSs are to ensure that IPRA's are subject to usual HHS performance management processes and have plans developed with clear and measurable performance indicators and associated record keeping requirements.

For IPRA's employed in external entities, these performance measures are to be included in the agreement with the external entity.

The performance management process is not to interfere with or limit the independence of IPRA's.

Where the IPRA is employed in an external entity, HHSs **must** establish a point of contact within the

HHS to discuss any operational management issues, such as access to patients.

4 Coverage

HHSs **must**, as a minimum, appoint the number of IPRA's stated in [Attachment 3](#).

In cases where HHSs are not large enough to warrant at least one full time position, arrangements **must** be made with another HHS to provide support, for example, through a joint appointment of IPRA's. These arrangements are to be negotiated locally between HHSs.

5 Functions

IPRA functions under s294 of the Act

- Ensure that patients and NSPs, family, carers and other support persons are advised of their rights and responsibilities under the Act,
- Help patients and NSPs, family, carers and other support persons to communicate to health practitioners the patient's views, wishes and preferences about the patient's treatment and care,
- Work cooperatively with community visitors under the *Public Guardian Act 2014*,
- Consult with AMHPs, authorised doctors, administrators and the Chief Psychiatrist on the rights of patients under the Act, the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*,
- Advise patients and NSPs, family, carers and other support persons of the patient's rights at Mental Health Review Tribunal hearings,
- If requested, help patients engage a representative for a Mental Health Review Tribunal hearing,
- Work cooperatively with any personal guardian or attorney to further the patient's interests, and
- Advise patients of the benefits of an advance health directive (AHD) or enduring power of attorney (EPOA) for a personal matter.

In performing their functions under the Act, an IPRA:

- **must** act independently and impartially, and
- is **not subject** to direction by any person in relation to the advice given to a patient or a patient's NSPs, family, carers and other support persons.

IPRAs **must** work co-operatively with the Statewide Coordinator and other IPRAs.

IPRAs may liaise as required with the Statewide Coordinator.

- For example, if an IPRA is of the opinion that an AMHS is not being sufficiently responsive to a complaint or to concerns raised about a patient's rights, or to ensure statewide consideration of patient rights issues that have been identified locally within a HHS.

In circumstances where the immediate attention of the Chief Psychiatrist may be required, IPRAs **must** contact the Statewide Coordinator for assistance.

6 Complaints management

IPRAs **must** ensure that any concerns or complaints regarding patients' rights or treatment and care, raised by a patient, their NSP, family, carers or other support person, are managed in accordance with the [Chief Psychiatrist Policy - Management of Complaints and Right to a Second Opinion](#).

7 Assessing patient needs and prioritising provision of advice

IPRAs will need to prioritise interaction with patients, having regard to their needs and circumstances, including:

- the patient's mental condition
- the patient's social circumstances, including family and social support
- whether the patient is a child or adolescent
- whether the patient is a newly-admitted patient, involuntary or voluntary patient, inpatient or community-based patient, and
- information about the patient received from clinicians and NSPs, family, carers and other support persons.

IPRAs will also need to prioritise the provision of advice to NSPs, family, carers and other support persons, having regard to the needs and circumstances of the support person and the relevant patient.

8 Recordkeeping, communication information, disclosure and accessing records and notes

8.1 Confidentiality provisions

Key points

The requirement for 'designated persons', such as health service employees, to keep patient information confidential is outlined in the *Hospital and Health Boards Act 2011* (HHB Act).

The Act creates exceptions to this, namely:

- designated persons can disclose confidential information about a patient, including the patient's health records and written notices given under the Act, to an IPRA to enable the IPRA to perform functions under the Act, and
- an IPRA may use or disclose personal information to perform their functions.

8.2 Communicating information and disclosure

IPRAs **must** ensure proper communication of any high-risk information, such as suicidal ideation or an allegation of assault or mistreatment by a staff member, in accordance with hospital procedures.

IPRAs may use and disclose personal information to perform a function under the Act.

8.3 Recordkeeping

IPRAs **must**:

- keep a detailed record of patient interactions, including:
 - patient name,
 - date, time, duration and location of interaction,
 - nature of interaction (e.g. face-to-face, audio-visual),
 - other persons present (e.g. NSPs, family, carers or other support persons),
 - whether an interpreter was required and provided,
 - for inpatients, how long after admission the patient was seen,
 - concerns raised by the patient about their rights or their treatment and care, and whether further action is required, and
 - where follow up action is required, all action taken must be clearly documented.

These detailed notes are generally to be kept confidential from the patient's treating team.

To help ensure continuous improvement of IPRA services and to enhance patient outcomes, IPRAs **must** keep a record of common issues raised by patients or their NSPs, family, carers and other support persons in relation to patient rights.

- This information is to be provided to the Statewide Coordinator upon request.

8.4 Accessing records and notes

Key points

IPRA records **must** be accessible for the proper management of complaints about treatment and care in accordance with established HHS procedures.

- The [Chief Psychiatrist Policy - Management of Complaints and Right to a Second Opinion](#) **must** also be followed.

IPRA notes are to be accessible:

- to other IPRAs operating within the HHS, or

- if a patient is being treated in another HHS, by the IPRA working in that HHS.

The Chief Psychiatrist and the Statewide Coordinator may request access to IPRA notes at any time, for example, to investigate a serious complaint in relation to patients' rights.

An AMHS administrator may also request access to IPRA notes at any time, for example, if a patient is absent from an AMHS and there are concerns about the patient's health and well-being.

9 Skills, knowledge and training

9.1 Provision and quality of advice

IPRAs must provide advice to patients and their NSPs, family, carers and other support persons, which is consistent with the information contained in the [Guide to Patient Rights under the L dafakGdaisg Abis 5349](#).

HHSs **must** ensure that IPRAs have sufficient skills and knowledge to allow them to capably and confidently perform their roles, prior to commencement of their employment.

9.2 Justices of the Peace and Commissioners for Declarations

One of the functions of IPRAs is to advise patients of the benefits of making an AHD or EPOA for a personal matter. AHDs and EPOAs **must** be witnessed by a person who is a Justice of the Peace, a Commissioner for Declarations, or a lawyer.

While this policy does not make it mandatory for IPRAs to be Justices of the Peace or Commissioners for Declarations, there are operational benefits in this. HHSs should consider whether to endorse IPRAs to undertake training as a Justice of the Peace or Commissioner for Declarations.

9.3 Training materials

The Statewide Coordinator is responsible for developing and disseminating training and other reference materials to the IPRA network.

IPRAs are responsible for understanding these materials and relaying relevant information to patients and NSPs, family, carers and other support persons.

9.4 Participation in the IPRA network and training

IPRAs **must** engage regularly with other IPRAs on the statewide network, and participate in any training, professional development sessions or information activities arranged by the Statewide Coordinator.

10 Coordination of statewide resources

10.1 Monitoring IPRA positions

Monitoring of IPRA positions and maintaining the network of IPRAs is the responsibility of the Statewide Coordinator.

- HHSs **must** advise the Statewide Coordinator of IPRA appointments before employment commences.
- Any subsequent changes to IPRAs **must** also be advised to the Statewide Coordinator at the earliest opportunity.

10.2 Information and assistance upon request

IPRAs and HHS representatives **must** provide any information requested by the Chief Psychiatrist or the Statewide Coordinator relevant to IPRA functions or outcomes.

IPRAs and HHS representatives **must** make every effort to assist the Chief Psychiatrist and the Statewide Coordinator to carry out their functions as they relate to IPRAs.

10.3 Filling vacancies and handovers

HHSs **must** advise the Statewide Coordinator within **five (5) business** days of an IPRA role becoming vacant, including on resignation of an IPRA.

- The HHS **must** immediately make arrangements to fill the IPRA role, ensuring uninterrupted continuity of the position.

When an IPRA is on annual leave, arrangements **must** be made to fill the position, before the period of leave commences.

If an IPRA resigns or takes annual leave for any period of time, arrangements must be made to ensure a comprehensive handover is delivered, to ensure continuity of patient care.



Policy issued under section 305 of the *Mental Health Act 2016*.

Dr John Reilly
Chief Psychiatrist, Queensland Health
15 April 2020

Definitions and abbreviations

Term	Definition
AMHS	Authorised Mental Health Service - a health service, or part of a health service, declared by the Chief Psychiatrist to be an authorised mental health service. AMHSs include both public and private sector health services. While treatment and care is provided to both voluntary and involuntary patients, additional regulation applies under the Act for persons subject to involuntary treatment and care.
HHS	Hospital and Health Service
IPRA	Independent Patient Rights Adviser as defined under Chapter 9 Part 5 of the Act.
NSP	Nominated support person - a family member, carer or other support person formally appointed by a patient to be their nominated support person. NSP rights include: <ul style="list-style-type: none"> • must be given all notices about the patient that are required under the Act • may discuss confidential information about the patient's treatment and care • may represent, or support the person, in any hearings of the Mental Health Review Tribunal, and • may request a psychiatrist report if the person is charged with a serious offence.
Patient	<ul style="list-style-type: none"> • 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 and advance health directive or with the consent of a personal guardian or attorney.
Support person/s	Includes, a nominated support person or, if the person does not have a nominated support person, a family member, carer or other support person.

Referenced documents and sources

[Statewide IPRA contact list](#)

[IPRA role description](#)

[Allocation of IPRA's across Hospital and Health Services](#)

[Chief Psychiatrist Policy – Management of Complaints about the Treatment and Care of Patients](#)

[Guide to Patient Rights under the *Mental Health Act 2016*](#)

[Hospital and Health Boards Act 2011](#)

Referenced documents and sources

[Public Guardian Act 2014](#)

[Guardian and Administration Act 2000](#)

[Powers of Attorney Act 1998](#)

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Attachment 1: Key contacts

Key contacts

Office of the Chief Psychiatrist

Phone: 07 3328 9899 / 1800 989 451
Email: MHA2016@health.qld.gov.au

Statewide Coordinator Independent Patient Rights Advisers

Phone: 07 3328 9243 / 0472 846 365
Email: IPRA-Network@health.qld.gov.au

Statewide Independent Patient Rights Adviser Contact List

[Available on the Act website](#)

Local Independent Patient Rights Adviser

Phone:
Email:

Phone:
Email:

Phone:
Email:

Phone:
Email:

Phone:
Email:

Phone:
Email:

Attachment 2: IPRA role description

Position details			
Title	Independent Patient Rights Adviser	Location	Statewide
Salary range		Classification	A07*
Division	N/A	Branch/work unit	N/A
Reports to	Depends on employment arrangement	Direct reports	Nil
Status	Full time and/or part time	Success factor profile	Supervisor

* IPRA's employed in an external entity such as a non-government organisation are to be remunerated at a level commensurate with the required competencies for the position.

Insert details of HHS

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About the role

The purpose of this role is to advise patients and their nominated support persons, family, carers and other support persons of their rights under the *Mental Health Act 2016*.

The functions of Independent Patient Rights Advisers are set out in section 294 of the Act, namely:

- Ensure that a patient, and the patient's nominated support persons, family, carers and other support persons are advised of their rights and responsibilities under the Act,
- Help the patient, and the patient's nominated support persons, family, carers and other support persons to communicate to health practitioners the patient's views, wishes and preferences about the patient's treatment and care,
- Work cooperatively with community visitors performing functions under the *Public Guardian Act 2014*,
- Consult with authorised mental health practitioners, authorised doctors, administrators of authorised mental health services, and the chief psychiatrist on the rights of patients under the Act, the *Guardianship and Administration Act 2000*, the *Powers of Attorney Act 1998* and other laws,
- In relation to hearings of the Mental Health Review Tribunal:
 - advise the patient, and the patient's nominated support persons, family, carers and other support persons of the patient's rights at the hearings,
 - if requested, help the patient engage a representative for the hearings,

- Identify whether the patient has a personal guardian or attorney and, if the patient has a personal guardian or attorney, work cooperatively with the personal guardian or attorney to further the patient’s interests, and
- If appropriate, advise the patient of the benefits of an advance health directive or enduring power of attorney for a personal matter.

An Independent Patient Rights Adviser, in performing the adviser’s functions:

- a) must act independently and impartially, and
- b) is not subject to direction or control by any person in relation to advice given, or help provided, to a patient or a patient’s nominated support persons, family, carers or other support persons,
- c) work in accordance with the *Mental Health Act 2016* and the [Chief Psychiatrist Policy Independent Patient Rights Advisers](#).

An Independent Patient Rights Adviser may be:

- a) an employee of an entity that a Hospital and Health Service has engaged to provide services; or
- b) an employee of a Hospital and Health Service but not employed in the Service’s mental health service.

An Independent Patient Rights Adviser must have a commitment to patient rights, demonstrate professional integrity, and be committed to achieving results for the benefit of patients, family, carers and other support persons.

Role fit

The essential requirements for this role are:

- Demonstrated knowledge of the application and requirements of the *Mental Health Act 2016* or ability to rapidly acquire such knowledge,
- Demonstrated ability to consult with a broad range of mental health stakeholders, including mental health consumers, support persons, carers, authorised doctors and administrators of authorised mental health services,
- Demonstrated high level oral and written communications skills and ability to support people from vulnerable population groups, such as persons with a mental illness, and
- High level negotiation and conflict resolution skills.

Specific working conditions

Intra-state travel may be required.

Independent Patient Rights Advisers may be required to witness Advance Health Directives for patients. Advance Health Directives may be witnessed by a justice of the peace, a commissioner for declarations, a lawyer or a notary public.

Employee obligations – insert HHS details

Attachment 3: Allocation of IPRAs across HHSs

HHS	FTE	Comments
Cairns and Hinterland	2	Includes extra capacity to support Torres and Cape HHS
Central Queensland	2	Includes extra capacity to support Central West HHS
Central West	0	Service to be provided by Central Queensland HHS
Darling Downs	2	Includes extra capacity to support South West HHS
Gold Coast	3	
Mackay	1	
Metro North	5	
Metro South	5	
North West	0	Service to be provided by Townsville HHS
South West	0	Service to be provided by Darling Downs HHS
Sunshine Coast	2	
Torres and Cape	0	Service to be provided by Cairns and Hinterland HHS
Townsville	2	Includes extra capacity to support North West HHS
West Moreton	2	
Wide Bay	1	
Children's Health Queensland	1	
Statewide Coordinator (within the Office of the Chief Psychiatrist)	1	
Total	29	