

## Independent Patient Rights Advisers

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## General

The *Mental Health Act 2016* establishes the positions of Independent Patient Rights Advisers (IPRAs). A key function of these positions is to advise patients (involuntary and voluntary patients - see definitions p14) and their appointed nominated support persons (NSPs), family, carers and other support persons of their rights under the *Mental Health Act 2016*. IPRAs play an important role in liaising between clinical teams, patients and support persons. IPRAs also have a responsibility to link consumers with local supports where appropriate and available to ensure safe, recovery focussed, and culturally appropriate patient focussed outcomes.

The *Mental Health Act 2016* contains many important patient rights. For these rights to be effectively accessed, patients and their support persons **must** be aware of these rights.

While IPRAs play a key role in advising patients of their rights under the *Mental Health Act 2016*, this does not affect the obligation of other persons in AMHSs to advise patients of their rights and to provide information to patients about their treatment and care.

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

In addition, any private hospital with authorised mental health service (AMHS) beds for public patients **must** ensure those patients have access to advice and supports from an IPRA.

It is not a requirement under the *Mental Health Act 2016* for private AMHSs to engage IPRAs, however, all AMHSs **must** have systems in place to ensure that patients are advised of their rights under the *Mental Health Act 2016*.

## Human Rights

Respect for human rights is fundamental to supporting the recovery of people living with mental illness. The *Human Rights Act 2019* requires proper consideration be given to human rights factors when contemplating a decision that may affect or limit a human right. To ensure the safety and wellbeing of all individuals, there are provisions in the *Mental Health Act 2016* that may impact or be considered a limitation on an individuals human rights. Adhering to the *Mental Health Act 2016* requirements (including its principles), and documenting the rationale for decisions and actions, is critical in demonstrating that a decision is reasonable and justified under the *Human Right Act 2019*.

## 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 *Mental Health Act 2016* **must** comply with this policy.

Staff should work collaboratively and in partnership with individuals in their care to ensure unique-age related, cultural and spiritual, gender-related and religious, needs are recognised, respected and followed to the greatest extent practicable. Staff should also discuss a consumer's individual complexities, diagnosis, functional capacity and support needs that may be relevant or impact treatment and care. This should include the timely involvement of appropriate local supports and a recovery-oriented focus.

This policy **must** be implemented in a way that is consistent with the objects and principles of the *Mental Health Act 2016*.

**This policy is issued under section 305 of the *Mental Health Act 2016***

**Dr John Reilly**

**Chief Psychiatrist, Queensland Health**

**1 May 2024**

# Policy

## 1 Statewide Coordinator

The IPRA Statewide Coordinator is employed within the Mental Health Alcohol and Other Drugs Branch, Queensland 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 *Mental Health Act 2016* 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 *Mental Health Act 2016*, and,
- assisting the Chief Psychiatrist in ensuring compliance with the *Mental Health Act 2016* and protecting the rights of patients and NSPs, family, carers and other support persons.

## 2 Health Service and external agency requirements

For the purpose of this policy, a Health Service includes a:

- public sector HHS, or
- private hospital with AMHS beds for public patients.

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

Where a Health Service elects to perform the IPRA functions through a contract or agreement with an external agency (such as a non-government organisation), the Health Service 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 IPRAs and the Statewide Coordinator,
  - enabling access to relevant patient information systems (e.g. the Consumer Integrated Mental Health and Addiction (CIMHA) application),
  - 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 IPRAs

An IPRA may be either:

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

IPRAs are to be employed in accordance with a standard role description.

IPRAs 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'.

IPRAs employed in an external entity, such as a non-government organisation or private hospital, are to be remunerated at a level commensurate with the required competencies for the position.

## 3.1 Performance management

IPRAs are accountable either to a health service or external entity.

Health services are to ensure that IPRAs are subject to usual performance management processes and have plans developed with clear and measurable performance indicators and associated record keeping requirements.

For IPRAs 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 IPRAs.

Where the IPRA is employed in an external entity, Health Services **must** establish a point of contact within the Health Service to discuss any operational management issues, such as access to patients.

## 4 Coverage

Health Services **must**, as a minimum, appoint the number of IPRAs stated in Attachment 1.

In cases where Health Services are not large enough to warrant at least one full time position, arrangements **must** be made with another Health Service to provide support, for example, through a joint appointment of IPRAs. These arrangements are to be negotiated locally between the Health Services.

## 5 Functions

The *Mental Health Act 2016* outlines various roles and responsibilities for people performing functions under the Act. This includes, for example, specifying when a nominated clinician, authorised doctor or AMHS administrator needs to provide and explain information to the patient and their support persons.

Specific IPRA functions are outlined in s294 of the *Mental Health Act 2016* and include:

- ensuring that patients and NSPs, family, carers and other support persons have been advised of their rights and responsibilities under the *Mental Health Act 2016*,
- helping 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,
- working cooperatively with community visitors under the *Public Guardian Act 2014*,

- consulting with authorised mental health practitioners, authorised doctors, AMHS administrators and the Chief Psychiatrist on the rights of patients under the *Mental Health Act 2016*, the *Guardianship and Administration Act 2000*, *Powers of Attorney Act 1998* and other laws,
- advising patients and NSPs, family, carers and other support persons of the patient's rights at Mental Health Review Tribunal hearings,
- if requested, helping patients engage a representative for a Mental Health Review Tribunal hearing,
- working cooperatively with any personal guardian or attorney to further the patient's interests, and
- advising 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 *Mental Health Act 2016*, 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.

The independence and impartiality of an IPRA does not preclude the IPRA from working with the treating team. All staff are expected to work in a respectful and collaborative manner which is focused towards supporting patients having access to and understanding their rights. This may include for example, a nominated clinician and an IPRA talking with a patient together to explain their rights under the *Mental Health Act 2016*.

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 Health Service.

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

## 6 Complaints management

IPRAs and staff of AMHSs **must** provide assistance to patients and their support persons in making a complaint, if requested.

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

#### Disclosure of information to IPRAs

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*.

However, the *Hospital and Health Boards Act 2011* creates exceptions to this, including that designated persons can disclose confidential information about a patient, including

the patient's health records and written notices given under the *Hospital and Health Boards Act 2011* to a person performing functions under the *Mental Health Act 2016*.

Wherever possible, information should be shared with the consent of the person to whom the information relates.

## IPRA use and disclosure of information

Under the *Mental Health Act 2016*, IPRA's are defined as 'relevant persons' (see definitions) and are subject to the *Mental Health Act 2016* duty of confidentiality provisions. An IPRA may only use or disclose personal information about a patient:

- if the patient consents to the use or disclosure of their information, or
- to the extent necessary to allow IPRA's to perform their functions under the *Mental Health Act 2016*, or
- to allow another 'relevant person' to perform their functions under the *Mental Health Act 2016*, or
- if the use or disclosure is otherwise permitted or required by law.

Where disclosure of information is required and does not meet the above criteria, the *Hospital and Health Boards Act 2011* also allows for disclosure of confidential information in particular circumstances. Prior to disclosure of this type of information, IPRA's may consider seeking advice from the Statewide Coordinator and/or from their relevant point of contact within the Health Service.

Refer to the Queensland Health Guideline *Information Sharing between mental health staff, consumers, family, carers, nominated support persons and others* for further information.

## 8.2 Communicating information and disclosure

IPRA's **must** ensure proper communication of any serious risk information, such as thoughts of harm to others, suicidal thoughts or an allegation of assault or mistreatment by a staff member, in accordance with health service procedures.

## 8.3 Recordkeeping

IPRA's **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, other support persons or members of the treating team),
- 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 where it is identified that further action is required, the decision making relevant to this,
- serious risks issues, and
- where follow up action is required, all action taken **must** be clearly documented, including information disclosed under a legislative authority (refer to the Queensland Health Guideline *Information Sharing between mental health staff, consumers, family, carers, nominated support persons and others*)

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, IPRA's **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 Health Service procedures.

The *Chief Psychiatrist Policy Management of Complaints and Right to a Second Opinion* **must** also be followed.

IPRA notes are to be accessible at all times:

- to other IPRA's operating within the Health Service, or
- if a patient is being treated in another Health Service, by the IPRA working in that Health Service, to and AMHS administrator, for example if a patient is absent from an AMHS and there are concerns about the patient's health and well-being,
- to the Chief Psychiatrist and Statewide Coordinator upon request, for example to support an investigation into a serious complaint in relation to a patient's rights.

## 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 Mental Health Act 2016*.

Health Services **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 Making an advance health directive or enduring power of attorney

One of the functions of IPRAs is to advise patients of the benefits of making an AHD or EPOA for a personal matter. The IPRA can also assist the patient to work with their treating team to initiate the development of an AHD or EPOA. AHDs and EPOAs **must** be witnessed by a person who is a Justice of the Peace, a Commissioner for Declarations, or a lawyer.

### 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, by participating in the statewide network, and 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 IPRA is the responsibility of the Statewide Coordinator.

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

### 10.2 Information and assistance upon request

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

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

### 10.3 Filling vacancies and handovers

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

- The Health Service **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.

# Further information

## 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 <i>Mental Health Act 2016</i> for individuals subject to involuntary treatment and care.
Health Service	For the purpose of this policy, a Health Service includes: <ul style="list-style-type: none"><li>• public sector Hospital and Health Services</li><li>• private hospitals with authorised mental health service beds for public patients.</li></ul>
IPRA	Independent Patient Rights Adviser as defined under Chapter 9 Part 5 of the <i>Mental Health Act 2016</i> .
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"><li>• <b>must</b> be given all notices about the patient that are required under the <i>Mental Health Act 2016</i></li><li>• may discuss confidential information about the patient's treatment and care</li><li>• may represent, or support the person, in any hearings of the Mental Health Review Tribunal, and</li><li>• may request a psychiatrist report if the person is charged with a serious offence.</li></ul>
Patient	<ul style="list-style-type: none"><li>• An involuntary patient, or</li><li>• a voluntary patient receiving treatment and care for a mental illness in an AMHS, including a person receiving treatment and care under an advance health directive or with the consent of a personal guardian or attorney.</li></ul>
Support person/s	Includes, a NSP (a family member, carer or other support person formally appointed by a patient to be their NSP) or, if the person does not have a nominated support person, a family member, carer or other support person.

Term	Definition
Relevant Person	<p>A relevant person under ch17 of the <i>Mental Health Act 2016</i> means each of the following individuals:</p> <ul style="list-style-type: none"> <li>(a) the chief psychiatrist</li> <li>(b) the administrator of an authorised mental health service</li> <li>(c) the director of forensic disability</li> <li>(d) the administrator of the forensic disability service</li> <li>(e) an authorised doctor</li> <li>(f) an authorised mental health practitioner</li> <li>(g) a member of the Mental Health Review Tribunal</li> <li>(h) a member of the staff of the Mental Health Review Tribunal or Mental Health Court Registry</li> <li>(i) an assisting clinician</li> <li>(j) a person representing another person at the hearing of a proceeding in the Mental Health Review Tribunal</li> <li>(k) a member of a person’s support network accompanying the person under section 739 at the hearing of a proceeding in the Mental Health Review Tribunal</li> <li>(l) an examining practitioner conducting an examination under a court examination order or an order mentioned in section 721(1)</li> <li>(m) a designated person performing a function under this Act</li> <li>(n) an independent patient rights adviser</li> <li>(o) an inspector</li> <li>(p) an authorised person.</li> </ul>

## Referenced policies and resources

This policy and other related resources can be found on the Queensland Health Mental Health Act 2016 website at: [www.health.qld.gov.au/mental-health-act](http://www.health.qld.gov.au/mental-health-act)

### Chief Psychiatrist policies

[Management of complaints and right to a second opinion](#)

### Mental Health Act 2016 forms and other resources

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

[Statewide independent patient rights adviser contact list](#)

[Queensland Health Information Sharing Between mental health staff, consumers, family, carers, nominated support persons and others health guidelines](#)

[Independent Patient Rights Advisers Service Model Guidelines](#)

[Justices of the Peace and Commissioners for Declarations Code of Conduct](#)

### Legislation

[Mental Health Act 2016](#)

[Guardianship and Administration Act 2000](#)

[Hospital and Health Boards Act 2011](#)

[Human Rights Act 2019](#)

[Public Guardian Act 2014](#)

[Powers of Attorney Act 1998](#)

### Document status summary

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## Attachment 1: Allocation of IPRA program funding

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	
Mater Hospital (authorised mental health service beds for public patients)	0*	Service to be provided by Children's Health Queensland IPRA
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*	*Children's Health Queensland IPRA providing outreach support to Mater Hospital (Catherine's House)
Statewide Coordinator (within the Office of the Chief Psychiatrist)	1	
<b>Total</b>	<b>29</b>	