

Mental Health Act 2016
Chief Psychiatrist Policy

Management of complaints and right to a second opinion

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General

A complaint is any expression of dissatisfaction or concern, by or on behalf of a patient or group of patients, regarding the provision of a health service.

Complaints and feedback mechanisms allow authorised mental health services (AMHSs) to identify areas for improvement, with the goal being to improve patient outcomes. Complaints and feedback processes also strengthen the accountability of staff, and provide oversight in the administration of AMHSs, which increases patient and public confidence.

Scope

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

This Policy applies if a patient or someone on the patient's behalf, such as a nominated support person, family, carer or other support person, wishes to make a complaint about any aspect of the patient's treatment or care. This may include a complaint about the quality or standard of mental health treatment or care, or an alleged failure to provide appropriate treatment and care by an AMHS or particular staff member.

Section 2.5 of this policy only applies to public sector AMHSs.

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. Management of complaints

Key points

Complaints **must** be received, acknowledged and assessed in accordance with established Hospital and Health Service (HHS) procedures or, for a private sector AMHS, in accordance with the hospital's complaints management procedures.

Independent Patient Rights Advisers (IPRAs) and staff of AMHSs **must** provide assistance to patients and their support persons in making a complaint, if requested.

- Where a patient requires specific help to make a complaint, such as with the assistance of an interpreter, personal guardian, support person or community visitor, every reasonable effort must be made by the AMHS to organise the appropriate support.

In assessing any complaint, regard must be given to section 2 of this policy in relation to the right of a patient or interested person to request a second opinion. This section only applies if an AMHS has not been able to resolve a complaint made by a patient, or an interested person for the patient, about the patient's treatment and care.

The [Hospital and Health Boards Act 2011](#) (HHBA) provides that there should be openness to complaints from users of the public sector health services and a focus on dealing with the complaints quickly and transparently. This legislated principle applies only to public authorised mental health services. However, the National Safety and Quality Health Service Standards Clinical Governance Standard requires that all health services have complaint management systems which encourage and support reporting of complaints and timely resolution.

1.1. Notifying the Chief Psychiatrist

Key points

A primary function of the Chief Psychiatrist is to protect the rights of patients and ensure compliance with the Act.

The AMHS administrator **must** notify the Chief Psychiatrist of complaints relating to significant non-compliance with the Act and for specified critical incidents.

The Chief Psychiatrist has powers under the Act to investigate these matters.

- Investigative powers also exist under the [Hospital and Health Boards Act 2011](#) and [Private Health Facilities Act 1999](#).

Further information is provided in the [Chief Psychiatrist Policy - Notification to Chief Psychiatrist of Critical Incidents and Non-Compliance with Act](#).

This Policy applies whether or not a complaint has been made about a matter.

2. Right to request a second opinion

The Act provides patients and ‘interested persons’ a right to request a second opinion about a patient’s treatment and care. This ensures there is accountability and oversight for the clinical decision-making by authorised doctors.

The right to request a second opinion also aims to strengthen the confidence that patients and patients’ support persons have in the quality of mental health services

2.1. Application of the provision to request a second opinion

The right to request a second opinion applies where an AMHS has been unable to resolve a complaint made by a patient or an ‘interested person’ for the patient, about the patient’s treatment and care. See section 1 Management of Complaints.

A health practitioner may separately request a second opinion about a particular patient, on their own initiative or at the request of the patient or an interested person for the patient.

For example, this may apply where a patient wishes to confirm a clinical diagnosis.

The patient, or ‘interested person’ for the patient, **must** be kept informed of steps taken to arrange a second opinion.

Key points

The patient, or an 'interested person' for the patient, may request the administrator of the AMHS to obtain a second opinion from another health practitioner about the patient's treatment and care.

- A health practitioner also includes another psychiatrist.

An interested person for a patient includes:

- the patient's nominated support person; or
- another person or individual who has a sufficient interest in the patient.

The administrator **must** make arrangements to obtain the second opinion:

- from a health practitioner who is independent of the patient's treating team, and
- in the way required under this policy.

Wherever possible, discussion **must** have occurred between the patient and/or their interested person, and the treating team. The AMHS administrator or clinical director must also have attempted to resolve any complaint about a person's treatment and care.

The [Process for obtaining a second opinion](#) flowchart outlines how a request for a second opinion should be managed to ensure compliance with this Policy.

Any complaint about a patient's treatment and care must first be dealt with in accordance with the relevant HHS's complaints management processes and this policy.

- For private sector AMHS, action must be taken in accordance with the hospital's complaint management procedures.

2.2. Documentation

A request for second opinion **must** be documented in the patient's health records and include:

- any specific concerns about treatment and care provided to the patient, or
- any other matter expressed by the patient or interested person for the patient.

2.3. Administrator obligations and timeframe

The administrator **must** ensure that necessary arrangements are made for a second opinion to be obtained.

Timeframes for obtaining a second opinion will vary on a case-by-case basis (due to factors such as AMHS size and availability of clinicians). However good practice is for a second opinion to be obtained within **seven (7) days**.

2.4. Credentialing and expenses

Key points

A second opinion may be obtained from another health practitioner who is either within the AMHS or external to it.

The health practitioner **must** be independent of the patient's treating team.

If a health practitioner external to the AMHS is engaged:

- the credentialing process for the practitioner (where required) must be expedited by the AMHS, and
- the AMHS requesting the second opinion must pay all reasonable expenses incurred by the health practitioner engaged to provide the second opinion.
 - e.g. travel and accommodation costs.

Arrangements for obtaining a second opinion in a private sector AMHS should be made according to local processes and procedures.

2.5. Health Practitioner Obligations

The request for a second opinion about a patient's treatment and care **must** be sufficiently clear on the particulars of the request.

Key points

The health practitioner providing the second opinion must:

- Respond to the concerns outlined in the request,
- Consider any other matters they believe relevant to the patient's treatment and care, and
- After examining the patient, provide an independent and professional opinion on these matters.

The health practitioner providing the second opinion **must** document the opinion in the patient's health records and advise the treating team, and the patient or interested person, of the opinion.

The patient's treating team **must** consider the opinion and discuss it with the patient or interested person for the patient.

2.6. Outcomes following second opinion

The patient's authorised doctor **must**, to the extent practicable, provide the patient with appropriate information about the outcome of any second opinion.

If a second opinion suggests that a patient should be receiving different treatment or care, the health practitioner who prepared the second opinion **must** consult with the patient's treating team, to resolve the appropriate course of action.

If a resolution cannot be reached, the relevant clinical director of the AMHS **must** be contacted for advice.

Administrators and Clinical Directors may also contact the Chief Psychiatrist for advice as necessary.

2.7. Escalation to the Chief Psychiatrist

If provision of a second opinion and the AMHS response to it does not resolve the patient's or interested person's concerns, the matter may be escalated to the Chief Psychiatrist for consideration.

Escalation to the Chief Psychiatrist can only occur with endorsement of the relevant clinical director and where all other avenues for resolution are exhausted.



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.
CIMHA	Consumer Integrated Mental Health Application – the statewide mental health database which is the designated patient record for the purposes of the Act.
Clinical Director	A senior authorised psychiatrist who has been nominated by the administrator of the AMHS to fulfil the clinical director functions and responsibilities
HHBA	<i>Hospital and Health Boards Act 2011</i>
HHS	Hospital and Health Service
IPRA	Independent Patient Rights Adviser as defined under s293 of the Act
MHRT	Mental Health Review Tribunal
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 (a family member, carer or other support person formally appointed by a patient to be their nominated support person) or, if the person does not have a Nominated Support Person, a family member, carer or other support person

Term	Definition
The Act	<i>Mental Health Act 2016</i>

Referenced documents and sources

[Chief Psychiatrist Policy – Patient Records](#)

[Chief Psychiatrist Policy – Notification to Chief Psychiatrist of Critical Incidents and Non-Compliance with Act](#)

Flowchart – Process for obtaining second opinion

[The Hospital and Health Boards Act 2011](#)

[Private Health Facilities Act 1999.](#)

Document status summary

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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

Office of the Health Ombudsman

Ph: 133 OHO (133 646)
Email: info@oho.qld.gov.au

Local Clinical Director

Ph:
Email:

Local Independent Patient Rights Adviser

Ph:
Email:

Local complaints liaison officer

Ph:
Email:

Ph:
Email:

Ph:
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