

Searches

Under the *Mental Health Act 2016*, particular persons are authorised to conduct searches of postal articles, involuntary patients, classified patients (voluntary) and visitors to specific services. Searches ensure the protection of patients, and the security of authorised mental health services (AMHS) and, where relevant, public sector health service facilities.

Can a patient's mail be searched?

The power to search mail received by a patient applies in any AMHS for mail received by an involuntary patient or a voluntary patient.

Administrators and persons authorised by administrators may open and search anything received at a service for a patient.

The patient must be given the opportunity to be present during the search.

The search may include using an electronic scanning device or a physical examination.

When can a patient be searched for harmful things?

The power to search patients for 'harmful things' applies in any AMHS or public sector health service facility for involuntary patients and classified patients (voluntary).

A doctor or health practitioner may carry out a search if they believe the patient may possess a harmful thing (see below).

A search may be a 'general search', 'personal search' or 'scanning search' or search of the patient's possessions. If the administrator or person in charge of the public sector health service facility approves, the search may be a 'search requiring the removal of clothing'. (See below for an explanation of these types of searches).

When can searches be undertaken of patients entering an AMHS?

The power to search patients when they are admitted to, or entering, an AMHS only applies to involuntary

patients entering the high security unit or another AMHS approved by the chief psychiatrist.

In these circumstances, an authorised security officer may undertake a search.

The same type of searches can be undertaken that apply to searches for harmful things.

Can visitors be searched?

The power to search visitors also applies to the high security unit or another AMHS approved by the chief psychiatrist. The searches are also undertaken by authorised security officers.

The same type of searches can be undertaken, other than a search requiring the removal of clothing.

If the visitor does not wish to be searched, the authorised security officer may refuse entry to the person.

A visitor may also be asked to submit their possessions to be searched. If the visitor does not wish their possessions to be searched, they may leave their possessions with the security officer until they leave.

What is a harmful thing?

A harmful thing is anything:

- that may be used to threaten the security or good order of an AMHS or public sector health service facility, or threaten a person's safety, or
- that is likely to adversely affect a patient's treatment or care.

Examples of a 'harmful thing' are a dangerous drug, alcohol, medication, sharps and provocative or offensive documents.

What are the different types of searches?

There are four types of searches of a person.

- A *general search*, to reveal the content of the person's outer garments, general clothes or hand luggage. Neither the person nor their luggage may be touched. The person may also be required to open their hands or mouth for visual inspection, or shake their hair vigorously.
- A *personal search*, during which light pressure is momentarily applied to the person over their clothes without direct contact being made with the person's genital or anal areas. If the person is female, contact cannot be made with the person's breasts.
- A *scanning search*, where electronic or other means are used to search a person. The person is not required to remove their clothes, or be touched by another person.
- A *search requiring the removal of clothing*, where the person removes all garments during the search. Direct contact cannot be made with the person.

Is consent required for searches of patients?

Consent is not required to search involuntary patients and classified patients (voluntary) under the Act.

Before carrying out a search, the doctor, health practitioner or authorised security officer must tell the patient the reasons for the search and how it will be carried out.

The doctor, health practitioner or authorised security officer may carry out the search with the help, and using the force, that is necessary and reasonable in the circumstances.

What protections apply for personal searches?

For personal searches, the person undertaking the search must be the same gender as the person.

The search must be carried out in a part of the building that ensures the person's privacy and in a way that respects the person's dignity to the greatest possible extent, and with as little inconvenience to the person as practicable.

What protections apply for searches requiring the removal of clothing?

For searches requiring the removal of clothing, the search must be carried out by at least two persons of the same gender as the person.

The searchers must ensure that the search is carried out in a part of the building that ensures the person's privacy, and in a way that causes minimal embarrassment.

The person should be allowed to remain partially clothed, if reasonably practicable, during the search.

The search must be carried out as quickly as practicable and the person allowed to dress as soon as the search is finished.

Summary of searches under the *Mental Health Act 2016*

Chapter 11, Part 7

Under what circumstances may a search be performed?	Which services does it apply to?	Who can perform the search?	Who does the search apply to?	What type of search may be performed?
Postal article or other thing received at a service for a patient	Authorised mental health service (AMHS)	AMHS administrator or person authorised by the administrator	<ul style="list-style-type: none"> Involuntary patient Voluntary patient 	<ul style="list-style-type: none"> Search using an electronic scanning device Physical examination
Belief that a patient may possess a harmful thing	<ul style="list-style-type: none"> AMHS Public sector health service facility (PSHSF) 	<ul style="list-style-type: none"> Doctor Health practitioner 	<ul style="list-style-type: none"> Involuntary patient Classified patient (voluntary) 	<ul style="list-style-type: none"> General search Scanning search Personal search Search requiring the removal of clothing (with approval of AMHS administrator or person-in-charge of PSHSF) Search of possessions
On admission or entry to a service	<ul style="list-style-type: none"> High security unit AMHS, or part of an AMHS, approved by the chief psychiatrist 	Authorised security officer	Involuntary patient	<ul style="list-style-type: none"> General search Scanning search Personal search Search requiring the removal of clothing (with approval of AMHS administrator) Search of the patient's possessions
On a visit to a service	<ul style="list-style-type: none"> High security unit AMHS, or part of an AMHS, approved by the chief psychiatrist 	Authorised security officer	Visitor	<ul style="list-style-type: none"> General search Scanning search Personal search Search of the visitor's possessions <p><i>Note: a visitor may not agree to a search; if so, can be refused entry</i></p>

Harmful thing, means anything:

- that may be used to threaten the security or good order of an authorised mental health service or public sector health service facility or threaten a person's health or safety, or
- that, if used by a patient in an authorised mental health service or public sector health service facility, is likely to adversely affect the patient's treatment or care.

Examples: a dangerous drug, alcohol, medication and provocative or offensive documents.

General search, means a search:

- to reveal the contents of the person's outer garments, general clothes or hand luggage without touching the person or the luggage, or
- in which the person may be required to open his or her hands or mouth for visual inspection or shake his or her hair vigorously.

Scanning search, means a search of the person by electronic or other means that does not require the person to remove the person's general clothes or to be touched by another person.

Examples:

- *using a portable electronic apparatus or another portable apparatus that can be passed over the person, or*
- *using an electronic apparatus through which the person is required to pass.*

Personal search, means a search in which light pressure is momentarily applied to the person over the person's general clothes without direct contact being made with the person's genital or anal area or, for a female, the person's breasts.

Search requiring the removal of clothing, means a search in which the person removes all garments during the course of the search, but in which direct contact is not made with the person.

Authorised security officer means a person employed or engaged by an AMHS to provide security services or an appropriately qualified health service employee authorised by the AMHS administrator to provide security services.