

Treatment and Care of Forensic Order, Treatment Support Order and High Risk Patients

1. Purpose

This Policy outlines the Chief Psychiatrist Policy regarding the treatment and care of patients who are subject to a forensic order, treatment support order or patients whose risk profile is assessed as high by the treating team.

This includes those patients whose forensic order was made on a reference in relation to a 'prescribed offence' allegedly committed by the person.

This Policy establishes a clinical governance framework for the management of patients subject to a forensic order, treatment support order and patients whose risk profile is assessed as high by their treating team. The framework operates as a clinical peer review that strengthens the assessment and risk management of these patients.

The monitoring and review of forensic order, treatment support order and high risk patients is the responsibility of the authorised mental health service (AMHS). This Policy sets out the responsibility of the administrator and clinical director (as nominated by the administrator) at each AMHS. Clinical directors are to ensure they have appropriate knowledge of all forensic, treatment support order and high risk patients in the service and make appropriate recommendations or decisions for the person's treatment and care.

2. Scope

This Policy is mandatory for all AMHSs. An authorised doctor, authorised mental health practitioner, administrator of an AMHS, 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(1)(e), (f), (g) and 2(b) of the *Mental Health Act 2016*.

4. Background

The Act promotes the recovery of a person who has a mental illness and the person's ability to live in the community without the need for involuntary treatment and care. Where any rights and liberties of a patient are restricted, these restrictions should only be to the extent required to protect the patient's safety and welfare or the safety of others.

Under Chapter 5 part 4 of the Act, the Mental Health Court may make a:

- forensic order (mental health)
- forensic order (disability), or
- treatment support order.

In making a decision in relation to an order; the Court must have regard to:

- the relevant circumstances of the person
- the nature of the offence to which the reference relates and the period of time that has passed since the offence was allegedly committed
- any victim impact statement, and
- this Chief Psychiatrist Policy.

The consideration of this Policy is important in the Court deciding whether to make a forensic order or treatment support order for a person.

Examples of the types of decisions to be made include:

- whether a forensic order or a treatment support order is necessary
- the category of the order
- whether the person is to receive any treatment in the community, and
- deciding the conditions, if any, to impose on the order.

The general expectation is that when a person is made subject to a treatment support order the category of the order is community.

A 'prescribed offence' means an offence against the Criminal Code of: murder, punishment of murder, manslaughter, punishment of manslaughter, attempt to murder, acts intended to cause grievous bodily harm and other malicious acts, grievous bodily harm, rape, attempt to commit rape, and assault with intent to commit rape.

5. Policy

5.1 Definition

'Clinical director' means a senior authorised psychiatrist who has been nominated by the administrator of the AMHS to fulfil the clinical director functions and responsibilities outlined in this Policy.

5.2 Monitoring and review

5.2.1 Forensic patients

A psychiatrist must assess and determine the person's treatment and care as soon as practicable, but within 7 days, of the patient becoming subject to a forensic order.

The Assessment and Risk Management Committee (ARMC – see section 5.3.1 of this Policy) must review the treatment and care of a patient within 30 days of a patient being made subject to a forensic order.

Consideration must be given at the first ARMC after a patient becoming a forensic patient as to the appropriateness of a referral to Community Forensic Outreach Service (CFOS). However, in accordance with section 5.2.2 of this Policy, CFOS must review all forensic patients charged with a prescribed offence.

The ARMC must review the treatment and care of a forensic patient at a minimum of twice per year.

The ARMC, informed by the advice from the treating team, must determine the monitoring and review frequency of the patient by the:

- case manager (or equivalent)
- forensic liaison officer, and
- an authorised psychiatrist.

Outside of the above monitoring and review timeframes, the clinical director is to be notified and briefed with any information the clinical director requires in the following circumstances:

- a patient's matter has been escalated to the Chief Psychiatrist (in accordance with the Chief Psychiatrist immediate reporting requirements – see section 5.4.1 of this Policy)
- the patient's risk profile is assessed by the treating team to have changed from low/moderate to high, or
- there is a material change to the patient's circumstance, or
- limited community treatment (LCT) is breached, suspended or cancelled.

On notification of the relevant circumstance, the clinical director may determine that an ARMC should be held to review the person's treatment and care. This is at the clinical director's discretion.

The Chief Psychiatrist may determine and advise the administrator or clinical director that an ARMC must be held to discuss the circumstance and review a person's treatment and care.

5.2.2 Person's charged with a Prescribed Offence

Except for persons detained as an inpatient to The Park Centre for Mental Health – High Security Program, patients charged with a prescribed offence must be reviewed and assessed by CFOS within 60 days of the forensic order being made by the Court.

The CFOS assessment is for the purposes of assisting in the determination of the patient's current risk profile, formulation of risk mitigation and management strategies, and making recommendations to a patient's Care Plan.

5.2.3 Person subject to a treatment support order

A patient subject to a treatment support order must have their treatment and care reviewed by the ARMC when:

- a patient who was subject to a forensic order has their order 'stepped down' by the MHRT or Court (on appeal), the ARMC must review the person's treatment and care within 90 days of the treatment support order being made,
- a patient subject to a treatment support order has a change to their risk profile and is assessed as high by their treating team,
- at any other time, the clinical director, administrator or Chief Psychiatrist determines that a review should occur.

At all other times the monitoring and review timeframes are to be determined by the patient's treating psychiatrist.

5.2.4 Photographs

All forensic patients must be photographed. The photograph must be uploaded to CIMHA annually or as changes to appearance are noted.

A patient subject to treatment support order may be photographed if determined by the treating team, clinical director or administrator as appropriate to do so. The photograph must be uploaded to CIMHA annually or as changes to appearance are noted.

5.3 Risk mitigation and clinical governance

5.3.1 Assessment and Risk Management Committee

AMHS administrators must establish an ARMC at the AMHS in accordance with the Assessment and Risk Management Committee - Terms of Reference (see Attachment 1).

The clinical director is responsible for facilitating the operation and function of the ARMC.

The ARMC's role is of a clinical nature and functions as a peer review of the treatment and care of patients subject to a forensic order, treatment support order and patients (including those subject to a treatment authority or voluntary) whose risk profile is assessed as high by their treating team.

The review by the ARMC does not affect the assessment and review of the person's treatment, care and recovery plan which must occur at least every three months as required by the Australian Government's National Standards for Mental Health Services. However, an ARMC may be facilitated in and as part of one of these reviews.

ARMC minutes for each individual patient, in accordance with the ARMC terms of reference, must be uploaded onto CIMHA as an ARMC attachment summary.

5.3.2 Risk assessment and management

A patient subject to a forensic order, treatment support order or whose risk profile is considered high by their treating team must have a Care Plan. Interventions to manage identified risks must be documented in the person's Care Plan.

It is acknowledged that there are various domains of risk that require assessments and management. All identified risks must have documented interventions to manage identified risks. However, this Policy is focussed on risk of harm to others.

5.3.3 Community Forensic Outreach Service (CFOS)

• Referral to CFOS

Liaison with or referral to CFOS must occur when:

- a patient's risk of violence is escalating, to enable determination of the most appropriate response to manage that risk. Indicators of escalating risk may include: mental state deterioration, where there is a material change in a person's circumstance and non-compliance with the treatment plan (e.g. using substances, if absent without approval, involvement in violent incidents or re-offending), or
- a patient is an inpatient at The Park Centre for Mental Health – High Security Program or the Extended Treatment and Rehabilitation Service, within a reasonable time to support community transition in collaboration with the receiving AMHS, or
- revocation of a forensic order is being considered to determine whether there is a need for CFOS opinion, and
- at all other times, referrals are to be made on CFOS referral criteria.

• Reviews and assessments by CFOS

After the review and assessment of the patient's treatment and care, CFOS may issue a written document (i.e. a report, letter or case note) and/or discuss the assessment with the treating team.

Any recommendations about a patient's treatment and care must be provided to the AMHS in writing.

• Recommendations about a patient's care plan

Prior to releasing any recommendations to the AMHS, the CFOS psychiatrist or the CFOS clinician who undertook the assessment of the patient must discuss the recommendations with the patient's treating psychiatrist. This discussion must occur as soon as practicable after recommendations are determined.

Within 14 days of receipt of the recommendations from CFOS, the treating psychiatrist must:

- implement the recommendations into the patient's Care Plan
- document in the patient's Care Plan when and how the recommendations will be implemented, or

- when the treating psychiatrist does not intend to implement the recommendations into the patient's Care Plan:
 - the treating psychiatrist is to discuss the recommendations and the rationale behind why they will not be implemented with the clinical director
 - at the clinical director's discretion, an ARMC (which may invite the CFOS report writer/s) may be called to discuss and consider the recommendations and rationale
 - if after the discussion with the treating psychiatrist and/or the ARMC, the clinical director is satisfied the recommendations will not be implemented into the patient's Care Plan, the clinical director is to have a discussion with the clinical director of CFOS outlining the rationale; this discussion must occur as soon as practicable, and
 - if after discussion between clinical directors, the recommendations will not be implemented into the patient's Care Plan, a written rationale is to be provided to the Chief Psychiatrist and State-wide director, Queensland Forensic Mental Health Service (Director QFMHS).

As part of their recommendations, CFOS may recommend when the person should again be reviewed and assessed by CFOS. This recommendation must be implemented into the patient's Care Plan.

5.3.4 Involuntary Patient and Voluntary High Risk Patient Summary

The administrator is to ensure patients subject to a forensic order, treatment support order and patients whose risk profile is assessed as high by their treating team must have an Involuntary Patient and Voluntary High Risk Patient Summary with current information and circumstances completed and kept on CIMHA at all times.

5.3.5 Clinical director responsibilities

The clinical director must ensure:

- he or she is well informed of the current treatment and care plans required to be reviewed by the ARMC within that service
- he or she is clinically satisfied with the person's treatment and care (e.g. current access to LCT or future LCT arrangements are considered clinically appropriate at any given time)
- that any recommendations or changes made by the ARMC to the person's treatment and care
- are documented in the person's Care Plan, and
- that any identified issues requiring escalation are escalated in accordance with the escalation pathway in section 5.5 of this Policy.

The clinical director must consider the information that is provided to them from the treating team, forensic liaison officer, CFOS representative or other clinicians in making recommendations or decisions about a person's treatment and care. If they are not satisfied with the information provided or require further information, the clinical director may seek any information or conduct investigations in order to fulfil their role

5.4 Reporting to the Chief Psychiatrist

5.4.1 Immediate reporting

Patient matters must be reported to the chief psychiatrist immediately when the patient is subject to a forensic order or their risk profile is assessed as high by the treating team and the matter has resulted in:

- media attention
- controversial events or situations
- serious and/or continued breaches of LCT, or
- any matter the administrator or clinical director considers is of such importance that it should be reported to the Chief Psychiatrist.

5.4.2 Reporting

Administrators will be required to report to the Chief Psychiatrist on a quarterly basis, or at other times as directed by the Chief Psychiatrist, in regards to the treatment and care of patients subject to this Policy.

The Chief Psychiatrist may request an administrator to provide a report in regards to any ARMC meeting.

5.5 Escalation Pathways

When concerns or disputes within the treating team arise in relation to a patient's treatment and care subject to this Policy, the following escalation pathway must be followed:

- a member of the treating team, other than the psychiatrist, are to raise their concerns with the psychiatrist
- if, after speaking with the psychiatrist, the member of the treating team still has concerns they are to escalate the matter to the clinical director
- if after speaking with the clinical director, the member of the treating team still has concerns, they are to escalate the matter to the administrator of the authorised mental health service
- if after speaking with the administrator, the member still has concerns or if the administrator is the clinical director for that particular patient, the member of the treating team is to escalate the matter to the Chief Psychiatrist.

When concern or dispute arises between services:

- the matter is to be escalated to the administrators of each service;
- if the concern or dispute is not resolved, the matter is to be escalated to the executive director of the service and the Chief Psychiatrist.

6. Supporting documents

- Attachment: Terms of Reference for Assessment and Risk Management Committee

Issued under section 305 of the Mental Health Act 2016

Assoc. Prof John Allan
Chief Psychiatrist, Queensland Health
5 March 2017

Terms of Reference for Assessment and Risk Management Committee

Purpose

The Assessment and Risk Management Committee (ARMC) provides a forum for clinical discussion and case review. The ARMC's role is of a clinical nature and functions as a peer review of the treatment and care of patients subject to a forensic order, treatment support order and patients whose risk profile is assessed as high by their treating team.

Function

The ARMC will:

- review the treatment and care of required patients under the Chief Psychiatrist Policy – Treatment and care of forensic order, treatment support order and high risk patients
- make recommendations or decisions about a patient's treatment and care
- identify systematic issues in relation to the management of forensic and high risk patients, and
- determine the frequency of monitoring and assessment of forensic and high risk patients by the case manager (or equivalent), forensic liaison officer and an authorised psychiatrist.

Membership

The ARMC must include at least:

- the clinical director (must be a psychiatrist who has been nominated by the administrator)
- the treating psychiatrist and other members of the person's treating team
- the forensic liaison officer, and
- a representative from the community forensic outreach service (CFOS).

The Chief Psychiatrist (or proxy) may attend any ARMC meeting.

The ARMC may invite others to be part of the meeting. Others may include, but not limited to, the patient, a representative from a relevant non-government organisation or disability services, or the person's attorney or nominated support person.

Member responsibilities

It is expected that all members will:

- attend and contribute to meetings or nominate a proxy
- ensure any nominated proxy is briefed about the content of the ARMC, and
- ensure that all members have an opportunity to contribute to the discussion.

Proxy

Members may nominate a proxy to attend the meeting on their behalf. The proxy for the clinical director must be a psychiatrist who is not the current treating psychiatrist for the patient; for the treating psychiatrist the nominated proxy must be a psychiatrist.

Governance

The ARMC will be chaired by the clinical director or nominated proxy.

A Secretariat should be nominated by the AMHS. The secretariat will be responsible for:

- compiling and sending an agenda and minutes
- coordinating and preparing background information, and
- coordinating and facilitating meeting requirements.

Minutes

Minutes of each ARMC must be documented and at minimum note:

- who attended the committee
- what information and evidence was before the committee
- any of the concerns raised by members of the committee
- any recommendations or changes made by the ARMC to the person's treatment and care after review and the rationale for the recommendation or change, and
- the actions to be taken, and by whom, to ensure the recommendations or changes are actioned.

Frequency of meetings

Meetings are to be held in accordance with the Chief Psychiatrist Policy – Treatment and care of forensic order, treatment support order and high risk patients.

Quorum

Meetings will proceed on the basis that the clinical director, treating psychiatrist, forensic liaison officer and a representative from CFOS are represented.

Review of Terms of Reference

The terms of reference may be amended at any time by the Chief Psychiatrist.