

*Mental Health Act 2016*  
Chief Psychiatrist Policy

# Treatment and care of patients subject to a Forensic Order, Treatment Support Order or other identified higher risk patients

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## General

This policy establishes a clinical governance framework for the management of patients subject to a Forensic Order (FO) or, Treatment Support Order (TSO), and a systematic approach for the identification, assessment and management of other patients identified as a higher risk toward others or to property (higher risk patients). This includes those patients whose FO was made on a reference in relation to a 'prescribed offence' allegedly committed by the person (see section 3.2).

Various domains of risk require assessment and management. All identified risks must have documented interventions to manage them however this policy is focused on risk of harm to others and property.

The monitoring and review of FO, TSO and identified higher risk patients is the responsibility of the authorised mental health service (AMHS).

- This policy sets out the responsibility of the administrator and clinical directors (as nominated by the administrator) at each AMHS.
- Clinical directors are to ensure they have appropriate knowledge of all FO, TSO and identified higher risk patients in the service and make appropriate recommendations or decisions for the person's treatment and care.
- Clinical directors should establish local processes for the identification of higher risk patients.

While it is not possible to identify and eliminate risk entirely, the objective of good clinical risk management is to minimise the likelihood of an adverse outcome. To this end, various mechanisms for assessment and review within the service outside of the consumers treating team are outlined within this policy in section 2.

## Scope

This policy should be read in conjunction with the [Chief Psychiatrist Policy – Forensic Orders and Treatment Support Orders: Amending category, conditions and Limited Community Treatment](#).

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 *Mental Health Act 2016* (the Act) **must** comply with this Policy.

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

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.

## 1 Decisions of the Court

Under the Act, the Mental Health Court (the 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 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.

When a Treatment Support Order is made, the Court may only decide the category of the order is inpatient if the person's treatment and care needs or the safety or welfare of the person or others cannot reasonably be met in the community. The general expectation is that when a person is made subject to a Treatment Support Order the category of the order is community.

## 2 Framework and mechanisms for risk management and review

### 2.1 Risk mitigation and clinical governance

#### 2.1.1 Assessment and Risk Management Committee

AMHS administrators **must** establish an ARMC at the AMHS in accordance with the [Attachment 2 - Terms of Reference for Assessment](#) and Risk Management Committee (Attachment 2).

The ARMC framework established **must** be consistent with the three-tier risk assessment approach in the Violence and Risk Management Framework ([VRAM Framework](#)) (Section 2.1.3) and local patient risk assessment protocols for the service.

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 patient's subject to a Forensic Order, Treatment Support Order and other identified patients. To the greatest extent possible ARMC membership should comprise persons from multi-disciplinary backgrounds across medical, nursing and allied health.

[The National Safety and Quality Health Service Standards](#) and the [National Standards for Mental Health Services](#) articulate the need for an integrated risk management approach which is inclusive of assessment and review of the person's treatment, care and recovery plan. ARMC review processes do not replace the need for these additional strategies. A review of a patient's treatment, care and recovery plan **must** occur at least every **three (3) months**, consistent with the [National Standards for Mental Health Services](#).

Whilst the ARMC does not replace existing processes for patient risk assessment and review, it may be facilitated in and as part of one of these reviews.

In accordance with the ARMC Terms of Reference, ARMC minutes for each individual patient **must** be uploaded onto the Consumer Integrated Mental Health Application (CIMHA) as an ARMC attachment summary.

A patient subject to a Forensic Order or 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' to a Treatment Support Order by the MHRT or Court (on appeal), within **ninety (90) days** of the Treatment Support Order being made, or
- there is an increase to the patient's risk requiring further assessment (Tier 2 or Tier 3 of VRAM Framework) that resulted in a change to their Care Plan, or
- at any other time the clinical director, administrator or Chief Psychiatrist determines that a review should occur.

There may be circumstances that exist outside the above requirements where an ARMC review may be appropriate such as where an individual has historically been on either a Forensic Order or Treatment Support Order and a significant change in circumstances or increase in risk is identified.

Examples of when the clinical director, administrator or Chief Psychiatrist determines a review should occur may include:

- if a patient's personal circumstances have changed significantly
- if a patient is being placed on a community category order after an extended inpatient admission, or
- a patient is being considered for revocation of a Treatment Support Order.

### 2.1.1.1 Monitoring compliance with ARMC recommendations

AMHS administrators **must** have a process for reviewing compliance with ARMC recommendations and a process by which decisions not to implement the recommendations from ARMC are escalated within the AMHS.

### 2.1.1.2 Information sharing

AMHS administrators and clinical directors may share or authorise sharing of information about their established ARMC framework and processes with other AMHS.

- This seeks to reduce inconsistencies across different ARMC frameworks in each AMHS and assist services in meeting the minimum requirements of the ARMC Terms of Reference.

The Mental Health Review Tribunal (MHRT) may request documentation, including ARMC minutes, under the request for documentation provisions of the Act. Services **must** comply with these requests.

However, the service may apply to the MHRT for consideration of a confidentiality order to prevent the disclosure of information to the patient, if the information is likely to cause serious harm to the health of the patient or put the safety of someone else at serious risk.

## 2.1.2 Community Forensic Outreach Service (CFOS) and Child and Youth Forensic Outreach Service (CYFOS)

**Note:** If the patient is not an adult, then a reference to CFOS should be taken to refer to CYFOS.

### 2.1.2.1 Referral to CFOS/CYFOS

Liaison with or referral to specialist forensic services such as CFOS or CYFOS **must** occur when:

- a Forensic Order or Treatment Support Order is made for a person charged with a prescribed offence (see 3.2),
- a patient is identified through the VRAM Framework Tier 2 risk assessment and response process as having a significantly elevated risk profile that is unable to be appropriately managed without specialist forensic input,
- a patient is an inpatient at The Park Centre for Mental Health – High Security Program or the Extended Forensic Treatment and Rehabilitation Unit, 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.

At all other times, referrals are to be made using CFOS referral criteria.

### 2.1.2.2 Reviews and assessments by CFOS/CYFOS

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

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

The MHRT may request documentation, including CFOS assessments and reports, under the request for documentation provisions of the Act. Services **must** comply with these requests.

However, the service may apply to the MHRT for consideration of a confidentiality order to prevent the disclosure of information to the patient, if the information is likely to cause serious harm to the health of the patient or put the safety of someone else at serious risk.

### 2.1.2.3 Recommendations about a patient's care plan

Prior to releasing any recommendations to the AMHS, the CFOS psychiatrist or 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.

## Key points

Within **fourteen (14) days** of receipt of the recommendations from CFOS, the treating psychiatrist must either:

- implement the recommendations within the patient's Care Plan, and
  - 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 for not implementing 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 should not be implemented, the clinical director must outline this rationale to the clinical director of CFOS.
    - This discussion must occur as soon as practicable, and
    - a written rationale is to be provided to the Chief Psychiatrist and Statewide Director, Queensland Forensic Mental Health Service outlining the agreed clinical plan which should explicitly address risk mitigation strategies.

CFOS may recommend when a patient should be reviewed and assessed by CFOS again or be reviewed by the ARMC.

- The recommendation for next review by CFOS **must** be implemented into the patient's Care Plan.
- The recommendation of a review occurring by the ARMC **must** occur within the time recommended by CFOS.

### 2.1.3 Violence Risk Assessment and Management Framework

The VRAM Framework provides Queensland Health mental health services with a systematic approach for the identification, assessment and management of consumers who may pose a risk of violence<sup>1</sup> towards others that supports clinical practice and governance.

The VRAM Framework aims to support a structured and standardised approach to risk assessment and management through the provision of a three-tiered approach, principles of good practice, clinical tools to underpin clinical expertise, training, and a quality assurance cycle for continuous improvement.

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<sup>1</sup> Violence is defined as the intentional use of physical force or power, threatened or actual, against oneself, another person or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation (World Health Organisation 1996).

The focus for risk assessment as outlined in the VRAM Framework is not to categorise the person into a risk group (e.g. lower or higher) but rather to identify how best to manage potential harm. A VRAM assessment for a patient subject to a Forensic Order or Treatment Support Order or patients who may pose a risk of violence towards others, should inform care planning, risk management planning and local procedures.

## 2.1.4 Other mechanisms for assessment of risk and review

The [National Standards for Mental Health Services](#) set out additional requirements for review of a consumer's assessment, treatment and care and recovery planning. However, in response to clinical situations, additional ad-hoc reviews to support decision making may be undertaken such as:

- ARMC
- complex case reviews, or
- other locally developed processes.

## 3 Monitoring and review

### 3.1 Person subject to a Forensic Order

A psychiatrist **must** assess and determine the treatment and care needs of a person subject to a Forensic Order as soon as practicable, but within **seven (7) days** of the patient becoming subject to the Forensic Order.

#### Key points

The ARMC **must** review the treatment and care of a patient within **thirty (30) days** of a patient being made subject to a Forensic Order.

- At the first ARMC, consideration **must** be given to whether a referral to CFOS is appropriate.
  - Note: CFOS **must** review all person's subject to a Forensic Order charged with a prescribed offence (see 2.1.2).
- If the person subject to a Forensic Order is not an adult, consideration should be given to the appropriateness of a referral to CYFOS.

The ARMC **must** review the treatment and care of a person subject to a Forensic Order a **minimum of twice per year**, at intervals of no more than **six (6) months**.

**Note:** The frequency of ARMC reviews should be determined according to a patient's risk profile.

Reviews may be scheduled earlier or more frequently than mandated timeframes. The ARMC, informed by advice from the treating team, **must** determine the monitoring and review frequency of the patient by the:

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

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

- a patient's matter has been escalated to the Chief Psychiatrist (see section 7.3),
- the patient has required further violence risk assessment at Tier 2 or 3 of the VRAM Framework which has resulted in a change to their Care Plan,
- there is a material change to the patient's circumstance,
- limited community treatment (LCT) is breached, suspended or cancelled, or
- at any other time the clinical director, administrator or Chief Psychiatrist determines that a review should occur.

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

## 3.2 Persons charged with a prescribed offence

### Key points

Patients charged with a prescribed offence **must** be reviewed and assessed by CFOS/CYFOS within **sixty (60) days** of the FO being made by the Court.

- The treating team is responsible for submitting a timely referral to CFOS/CYFOS, noting the timeframe allowed for completion of the assessment.
- The exceptions are persons detained as an inpatient to The Park Centre for Mental Health – High Security Program.
- If the patient is under 18, review and assessment should be undertaken by CYFOS.

The CFOS/CYFOS assessment is to assist 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.

### 3.3 Person subject to a Treatment Support Order

#### Key points

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' to a Treatment Support Order by the MHRT or Court (on appeal), within **ninety (90) days** of the Treatment Support Order being made, or
- there is an increase to the patient's risk requiring further assessment at Tier 2 or Tier 3 of VRAM Framework that resulted in a change to their Care Plan, or
- 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.

### 3.4 Person identified on the basis of risk of harm to others or property

#### Key points

A patient who has been identified on the basis of risk of harm to others must have their treatment and care reviewed by the ARMC when:

- there is an increase to their risk requiring further assessment at Tier 2 or Tier 3 of the VRAM Framework that resulted in a change to their Care Plan,
- there is a material change to the patient's circumstance, or
- at any other time the clinical director, administrator or Chief Psychiatrist determines that a review should occur.

## 4 Clinical director responsibilities

### Key points

The clinical director must ensure:

- they are 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 the ARMC is well informed of the current treatment and care plans it reviews,
- 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 7.3.

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 Patient Summary

The administrator must ensure patients subject to a Forensic Order or Treatment Support Order and other patients identified as requiring higher level of clinical monitoring on the basis of risk of harm to others, have an [Involuntary Patient and Voluntary High-Risk Patient Summary](#) with current information and circumstances completed and recorded on CIMHA at all times.

## 6 Photographs

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.

All Forensic Order patients **must** be photographed.

Photographs **must** be uploaded to CIMHA **annually** or as changes to appearance are noted.

## 7 Reporting to the Chief Psychiatrist

### 7.1 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 higher 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.

### 7.2 Reporting

Administrators are required to report matters regarding the treatment and care of patients subject to this policy to the Chief Psychiatrist as part of ongoing monitoring and compliance reports, or at other times as directed by the Chief Psychiatrist.

The Chief Psychiatrist may request an administrator to provide a report regarding any ARMC meeting or any aspect of the ARMC framework established.

### 7.3 Escalation Pathways

#### Key points

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, is 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 AMHS,
- 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, or
- if the concern or dispute still cannot be resolved, the matter is to be escalated to the executive director of the service and the Chief Psychiatrist.

**Issued under section 305 of the *Mental Health Act 2016***

**Dr John Reilly**  
**Chief Psychiatrist, Queensland Health**  
**22 May 2020**

## Definitions and abbreviations

| Term   | Definition  |
|--|---|
| AMHP   | Authorised mental health practitioner   |
| 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.  |
| EPOA   | Enduring Power of Attorney  |
| Clinical Director  | A senior authorised psychiatrist who has been nominated by the administrator of the AMHS to fulfil the clinical director functions and responsibilities.  |
| Identified Higher Risk Patients                                | Patients identified as a higher risk toward others, or to property.   |
| Patient  | An involuntary patient, or<br>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.   |
| Prescribed Offence   | 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.   |
| Support person   | An appointed Nominated Support Person or, if the person does not have a Nominated Support Person, a family member, carer or other support person  |
| Violence   | The intentional use of physical force or power, threatened or actual, against oneself, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.   |
| Violence Risk Assessment Management Framework (VRAM Framework) | Refers to the Violence Risk Assessment and Management Framework – Mental health services 2019. This Framework provides Queensland Health mental health services with a systematic approach for the identification, assessment and management of consumers who may pose a risk of violence towards others.   |
| VRAM   | Violence Risk Assessment and Management tool utilised to inform care planning, risk management planning and local procedures in the management of patient's subject to a forensic order, treatment support order or patients who may pose a risk of violence towards others or property.  |

## Referenced documents and sources

[The National Safety and Quality Health Service Standards](#)

[National Standards for Mental Health Services](#)

[VRAM Framework](#)

## Document status summary

Date of Chief Psychiatrist approval: 22 May 2020

Date of effect: 1 June 2020

Supersedes version that took effect on: 5 September 2018

To be reviewed by: 1 June 2023

# Attachment 1 – Key contacts

## Key contacts

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| <b>Office of the Chief Psychiatrist</b> | Phone: 07 3328 9899 / 1800 989 451<br>Email: <a href="mailto:MHA2016@health.qld.gov.au">MHA2016@health.qld.gov.au</a> |
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|----------------------------|------------------|
| <b>Local Administrator</b> | Phone:<br>Email: |
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| <b>Local Independent Patient Rights Adviser</b> | Phone:<br>Email: |
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|                                      |                  |
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| <b>Mental Health Review Tribunal</b> | Phone:<br>Email: |
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| <b>Community Forensic Outreach Service</b> | Phone:<br>Email: |
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| <b>Community Youth Forensic Outreach Service</b> | Phone:<br>Email: |
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# Attachment 2 - 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 patient's subject to a forensic order, or treatment support order, and other patients identified as a higher risk toward others, or to property (higher risk patients).

## Function

The ARMC will:

- review the treatment and care of required patients under the [Chief Psychiatrist Policy – Treatment and care of patients subject to a treatment support or forensic order or other identified higher risk patients](#),
- make recommendations or decisions about a patient's treatment and care,
- identify systemic issues in relation to the management of the forensic and other higher risk patients, and
- determine the frequency of monitoring and assessment of forensic and other higher 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 nominated by the administrator),
- the treating psychiatrist and other members of the persons treating team,
- the forensic liaison officer, and
- a representative from the Community Forensic Outreach Service (CFOS).
  - If the patient is not an adult, then a representative from the Child and Youth Forensic Outreach Service (CYFOS) should be present instead.

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 are 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.

A proxy for the treating psychiatrist **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 ARMC,
- what information and evidence was before the ARMC,
- any of the concerns raised by members of the ARMC,
- any recommendation or changes made by the ARMC to the person's treatment and care after review and any rationale for the recommendation or changes, 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 patients subject to a treatment support or forensic order or other identified higher risk patients](#).

## Quorum

Meetings will proceed on the basis that the clinical director, treating psychiatrist, forensic liaison officer and a representative from CFOS (or CYFOS where relevant) are represented.

## Review of Terms of Reference

The Terms of Reference may be amended at any time by the Chief Psychiatrist.