

Emergency Examination Authorities

Police officers and ambulance officers may detain and transport persons under the emergency examination authority provisions of the *Public Health Act 2005* to a public sector health service facility in emergency circumstances.

When can an emergency examination authority be made?

The emergency examination authority provisions apply if a police officer or ambulance officer reasonably believes that:

- a person's behaviour indicates the person is at immediate risk of serious harm (e.g. by threatening to commit suicide), and
- the risk appears to be the result of major disturbance in the person's mental capacity caused by illness, disability, injury, intoxication or other reason, and
- the person appears to require urgent examination, treatment or care.

If all these criteria are established, an officer may detain and transport a person to a 'treatment or care place'.

A treatment or care place means a public sector health service facility (including an authorised mental health service) or another place such as a person's home, where the person may receive appropriate treatment and care. A watch house is not a 'treatment or care place'.

Why are the provisions located in the Public Health Act 2005?

A disturbance in a person's mental capacity may be caused by illness, disability, injury, intoxication or another reason. Including the provisions in the *Public Health Act 2005* aims to ensure that the *Mental Health Act 2016* captures only those persons that are within its intended scope and that appropriate treatment and care is provided after a person is examined.

What does an emergency examination authority allow?

An emergency examination authority allows a person to be detained and transported by a police officer or ambulance officer without their consent, with the help and using the force that is necessary and reasonable in the circumstances.

What must be explained to a person?

A police officer or ambulance officer must explain to a person that the person is being detained and transported to a treatment or care place, such as a hospital. The officer must take reasonable steps to ensure the person understands this information, including by having regard to the person's culture, mental impairment and communication ability.

Do police officers have any additional powers?

The emergency examination authority provisions may need to be used in conjunction with powers under the *Police Powers and Responsibilities Act 2000*, under which a police officer may enter a place if the officer reasonably suspects there is an imminent risk of injury to a person at the place.

The *Public Health Act 2005* provides that a police officer may consider advice from a health practitioner in forming a view about whether there is an imminent risk of injury to a person. This could occur, for example, if a patient left a hospital and was at risk of self-harm.

What happens when a person arrives at a public sector health service facility?

A police officer or ambulance officer must immediately make an emergency examination authority for the person (in the approved form) and give the completed authority to a health service employee at the facility. The person may be detained at the facility while the emergency examination authority is being made.

The person may be detained for 6 hours for examination. This period may be extended to up to 12 hours if necessary to carry out or finish the examination.

A person may be examined without their consent and using the force and assistance that is necessary and reasonable in the circumstances.

A person who is being detained for an examination may also be searched without their consent if a doctor or health practitioner believes the person may be in possession of a harmful thing.

What decisions are made once a person arrives at a public sector health service facility?

A person will, in the vast majority of cases, be brought to an emergency department of a hospital. The person will then be admitted and assessed in accordance with local emergency department processes and procedures.

The decision made by emergency department staff upon a person's presentation will determine a person's treatment needs.

It is possible that during an examination, a doctor or authorised mental health practitioner may be called upon to examine the person to decide whether there is an underlying mental illness.

As a result, one possible outcome from an emergency examination authority is the making of a recommendation for assessment under the *Mental Health Act 2016*.