

# Classified Patients

The classified patient provisions of the *Mental Health Act 2016* facilitate access to appropriate treatment and care in an authorised mental health service (AMHS) for persons in custody who become acutely unwell.

## Who do the classified patient provisions apply to?

The classified patient provisions apply to persons in custody in a prison, watch-house or youth detention centre who become acutely unwell and require treatment and care in an AMHS.

## In what circumstances may a person be transferred from custody to an AMHS?

The *Mental Health Act 2016* provides that a person may be transferred to an AMHS in three different situations:

- for an involuntary assessment under a recommendation for assessment to decide whether a treatment authority should be made
- if the person is already under a treatment authority, forensic order (mental health) or treatment support order under the Act, or
- if the person voluntarily agrees to be transferred for treatment and care.

## What is the difference between a classified patient (involuntary) and a classified patient (voluntary)?

A classified patient (involuntary) is a person transferred from custody for whom a recommendation for assessment has been made, or who is under an authority or order of the Act.

A classified patient (voluntary) is a person transferred from custody who consents to treatment and care in an AMHS.

## How does the process of a patient being admitted as a classified patient occur?

The transfer and admission of a person from custody as a classified patient requires the following:

1. A *recommendation for assessment* (if the person requires involuntary assessment), or a transfer recommendation (if the person is consenting or is an existing involuntary patient), by an authorised mental health practitioner or doctor
2. An *administrator consent* by the relevant AMHS administrator, which constitutes the AMHS administrator's agreement to the admission of the person to an inpatient unit in the AMHS.
3. A *custodian consent* by the custodian (e.g. the person in charge of a prison), which constitutes the custodian's agreement for the person to be transported and admitted to an inpatient unit of the AMHS.

## What factors are taken into account before a person is admitted as a classified patient?

Before an administrator can consent to the transfer and admission to an AMHS, the administrator must be satisfied the AMHS has the capacity to carry out an assessment or provide treatment and care. The administrator must also be satisfied that the person would not pose an unreasonable risk to the safety of the person or others having regard to:

- the person's mental state and psychiatric history
- the person's treatment and care needs, and
- the security requirements of the person.

The custodian must consent to the person being transported and admitted to an AMHS unless it would pose an unreasonable risk to the safety of the person

or others, having regard to the security needs of the person.

### **How is the person transported from custody to the AMHS?**

A person may be transported from a place of custody to an inpatient unit of an AMHS by an authorised person under the *Mental Health Act 2016*.

For the purposes of transporting a person to an AMHS from a corrective services facility or youth detention centre, corrective services officers or youth detention employees are taken to be authorised persons.

### **What happens if the person is not transported?**

An authorised mental health practitioner or authorised doctor must notify the chief psychiatrist if a person is not transported to an AMHS within 72 hours of a *recommendation for assessment or transfer recommendation* being completed.

In these circumstances, the chief psychiatrist may seek to find a suitable AMHS for the person to be transferred to and, if necessary, direct the transport of the person to an AMHS.

### **Can a classified patient access limited community treatment?**

An authorised doctor may only authorise escorted limited community treatment on the grounds of the AMHS with the written approval of the chief psychiatrist.

### **When will a person cease being a classified patient?**

A person ceases to be a classified patient if:

- the person is returned to custody, or
- the reason for being in custody ends, for example, upon the completion of the person's sentence, or the granting of parole or bail.

### **When is a classified patient returned to custody?**

A classified patient may be returned to custody if:

- the person has ceased to be an involuntary patient and has not given consent to remain at the AMHS as a classified patient (voluntary)
- the person is a classified patient (voluntary) and has withdrawn consent to receive treatment and care, and a treatment authority has not been made for the person, or
- the chief psychiatrist decides it is no longer clinically appropriate for the person to receive treatment and care as an inpatient in an AMHS. This may be on the recommendation of an authorised doctor or on the chief psychiatrist's own initiative.

### **Does a person's classified status have any impact upon court proceedings?**

Upon becoming a classified patient, all criminal proceedings against the person are suspended. However, this does not affect the ability of a court to grant the person bail or have the charges withdrawn.