

Examinations and Assessments

An examination of a person may be undertaken to decide if a recommendation for assessment should be made. A recommendation for assessment authorises an assessment of a person to be undertaken to decide if a treatment authority should be made for the person.

How can an examination be undertaken?

An examination of a person may be undertaken in any way that is clinically appropriate.

There are no restrictions on where an examination may occur. An examination may be undertaken by audio-visual technology if it is considered clinically appropriate in the circumstances.

However, using physical restraint or detention powers for an examination can only occur if an examination authority or an emergency examination authority is in place for the person. This is explained in the *Examination Authority Fact Sheet* and the *Emergency Examination Authority Fact Sheet*.

What is the outcome of an examination?

An examination by a doctor or authorised mental health practitioner may result in a recommendation for assessment being made for the person.

However, a recommendation for assessment may only be made if the doctor or practitioner is satisfied that:

- the treatment criteria *may* apply to the person, and
- there *appears* to be no less restrictive way for the person to receive treatment and care for the person's mental illness.

See Fact Sheet: Advance Health Directives and Less Restrictive Way of Treatment.

A recommendation for assessment is in force for 7 days.

What are the treatment criteria?

The treatment criteria are all of the following:

- the person has a mental illness, and
- the person does not have capacity to consent to be treated for the illness (see below), and

- because of the person's illness, the absence of involuntary treatment, or the absence of continued involuntary treatment, is likely to result in:

- imminent serious harm to the person or others, or
- the person suffering serious mental or physical deterioration.

How is 'capacity' defined?

A person has capacity to consent to be treated if the person is capable of understanding, in general terms:

- that the person has an illness, or symptoms of an illness, that affects the person's mental health and wellbeing
- the nature and purpose of the treatment for the illness
- the benefits and risks of the treatment, and alternatives to the treatment, and
- the consequences of not receiving the treatment

The person must also be capable of making a decision about the treatment and communicating the decision in some way.

The Act promotes supported decision-making by providing that a person may be supported by another person in understanding the matters listed above and in making a decision about treatment.

How can an assessment be undertaken?

An assessment of a person under a recommendation for assessment may be undertaken in any way that is clinically appropriate.

There are no restrictions on where an assessment may occur. An assessment may be undertaken by audio-visual technology if it is considered clinically appropriate in the circumstances.

However, a person can only be detained in an authorised mental health service or a public sector health service facility for an assessment. A person may be detained for up to 72 hours for this purpose.

The assessment by a doctor must not be undertaken by the same doctor who made the recommendation for assessment. However, this does not apply in an authorised mental health service (rural and remote) if there is no other doctor reasonably available to do the assessment, including by audio-visual technology

What is the outcome of an assessment?

An assessment by an authorised doctor may result in a treatment authority being made for the person.

However, a treatment authority may only be made if the authorised doctor is satisfied that:

- the treatment criteria apply to the person, and
- there is no less restrictive way for the person to receive treatment and care for the person's mental illness.

What if a person has capacity?

If a doctor or authorised mental health practitioner reasonably believes that a person appears to have capacity to make decisions about his or her own treatment, a recommendation for assessment cannot be made for the person.

If an authorised doctor reasonably believes that a person has capacity to make decisions about his or her own treatment, a treatment authority cannot be made for the person.

The fact that a person decides not to receive treatment does not mean the person lacks capacity.

If a doctor or authorised mental health practitioner believes the person understands the consequences of receiving or not receiving treatment, their choice is irrelevant in deciding capacity.

What if there is a less restrictive way of treatment?

If a doctor or authorised mental health practitioner reasonably believes that there appears to be a less restrictive way to treat a person, a recommendation for assessment cannot be made for the person.

If an authorised doctor reasonably believes that there is a less restrictive way to treat a person, a treatment authority cannot be made for the person.

A doctor or authorised mental health practitioner must take reasonable steps to see if a less restrictive way to treat a person is available, such as checking the person's health records to see if there is an advance health directive, or asking support persons if an attorney or guardian has been appointed.