

Mental Health Act 2016

Chief Psychiatrist Policy

Court Liaison Service

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General

The *Mental Health Act 2016* (the Act) gives the Magistrates Court powers to dismiss complaints if a person was, or appears to have been, of unsound mind when the alleged offence was committed, or is unfit for trial.

The Queensland Health Court Liaison Service (CLS) supports these provisions by assisting in the identification of mental health treatment needs of a person and facilitating appropriate referral to services, including diversion from the criminal justice system.

The CLS also assists the Magistrates Court in their disposal of simple offences, by undertaking Mental Health Assessments in relation to a person's unsoundness of mind at the time of committing the alleged offence or fitness for trial. These assessments are conducted by accredited senior mental health clinicians with the support of a consultant psychiatrist, to assist Magistrates.

Scope

This policy must be read in conjunction with the relevant provisions in Chapter 6, Part 2 and Chapter 17, Part 3 of the Act and other relevant Chief Psychiatrist Policies.

This policy is mandatory for all authorised mental health service (AMHS) staff exercising a power or function under the Act.

This policy is mandatory for authorised psychiatrists, authorised doctors, health practitioners and other staff of an AMHS who work within the CLS.

Policy

1 Communicating information and disclosure

1.1 Court lists

Each business morning a Court Liaison Service Practitioner (CLSP) **must**:

- process a CIMHA/QWIC match in CIMHA.
- compile a list of all persons currently subject to a Forensic Order, Treatment Support Order or Treatment Authority identified on the court list for that day by completing the *CLS Notification of Involuntary Patients on Court List form* (Available from the Queensland Forensic Mental Health Service).
- provide the *CLS Notification of Involuntary Patients on Court List form* to the CLS administration by email.

1.2 Providing information to a lawyer

A CLSP may disclose personal information about a patient to a lawyer if the disclosure is to enable the lawyer to provide legal services to a person for a court or tribunal proceeding.

Personal information includes the patient's health records and written notices given under the Act.

1.3 Tendering report to Courts

A Mental Health Assessment is tendered to the Magistrates Court by the CLSP emailing the report to the Registrar of the Magistrates Court in which the matter is to be heard.

The Registrar will provide a copy of the report to the person (or the person's lawyer), the prosecutor and the Magistrate.

2 Referrals between services

Referral to Prison Mental Health Service (PMHS) **must** occur when a person is charged with murder, attempt murder, arson and stalking, regardless of whether mental illness has been identified.

Decisions as to whether a referral to PMHS occurs must take into consideration:

- evidence of an acute mental illness based on the person's previous or collateral history, presentation at assessment and whether or not a recommendation for assessment is made, and
- whether the person is currently open to an AMHS, has had recent contact with a mental health service or emergency department for the purposes of mental health treatment and/or assessment or is receiving private treatment for a major mental illness, and
- if the person has a diagnosis of and/or is prescribed medication for treatment of a major mental illness.

CLS referrals to PMHS must be made in accordance with section 2.1 of this document.

Where PMHS become aware that a patient from their service will transition through a watch-house and will require assistance from a CLSP, the steps set out in section 2.2 must be followed.

2.1 Court Liaison Service referral to Prison Mental Health Service

When making a referral to PMHS, CLS **must** provide:

- a copy of the *Forensic Intake form*, including rationale for referral and relevant court and corrective services information, and
- all other collateral obtained by the CLSP (if material not already on CIMHA), and
- if the CLSP has arranged for the administration of depot medication whilst the person is held in the watch-house, a copy of the signed medication chart, including details of the medication given, time given, and name of the person who administered the medication, and

- if the person is prescribed clozapine, the details of the prescription and administration whilst in watch-house and any information the CLSP has regarding details of last blood test and/or when next blood test is due, and
- any other information the CLSP considers relevant.

2.2 Prison Mental Health Service referral to Court Liaison Service

If the PMHS is aware that a current patient of their service is to transition through a watch-house and requires assistance from a CLSP, PMHS **must**:

- advise the CLSP at the local Magistrates Court, and
- provide any collateral material and information relevant to the CLSP assisting the person.

Provision of service to persons open to PMHS exiting custody via court is to be negotiated with the CLSP on a case by case basis.

2.3 Court Liaison Service referrals for children and young persons

Most child and youth mental health services are voluntary facilities, meaning that CLS can only make a referral to the service where the young person has consented to engage with their services.

If the young person has consented to be referred to a service, CLS must complete the referral in accordance with the relevant service's referral policies, guidelines or procedures.

2.4 Liaison with authorised mental health services

The CLSPs **must** provide any relevant and available collateral material and information to assist the AMHS in providing appropriate treatment and care for the person.

In relation to a person subject to an Examination Order, the [Chief Psychiatrist Policy - Judicial Orders](#) **must** be followed.

In relation to a person subject to the classified patient provisions, the [Chief Psychiatrist Policy - Classified Patients](#) **must** be followed.

2.4.1 Assessments outside business hours

The Court Liaison Service is resourced to provide services during business hours (on weekdays, excluding public holidays).

Outside of business hours, authorised mental health services may receive a request for an urgent assessment from either:

- a watch-house calling the local acute care team or 1300 MH CALL (1300 642255), or
- a Magistrates Court making an examination order (to transport a person to the service).

In these instances, authorised mental health services **must** provide any urgent assessments and interventions, as well as liaise with the CLS on the next business day.

3 Court Liaison Service responsibilities

3.1 Governance

Local case review meetings should occur on a **weekly** basis and include, as far as practicable, all CLSPs within that local location.

All CLSPs **must** complete training, in addition to any local service required training, as determined by the Queensland Forensic Mental Health Service and Child and Youth Forensic Outreach Service.

3.2 Mental Health Assessments – Training and accreditation

The CLS has two primary functions:

- to assist in the identification of mental health treatment needs of a person and facilitating appropriate referral to services, including diversion from the criminal justice system, and
- to assist the Magistrates Court in their disposal of simple offences, by undertaking Mental Health Assessments in relation to a person's unsoundness of mind at the time of committing the alleged offence or fitness for trial.

In performing the first function of the CLS all mental health clinicians employed by the CLS may undertake assessments to assist in the identification of mental health treatment needs of a person and facilitating appropriate referral to services, including diversion from the criminal justice system.

In performing the second function, due to the requirements of the Magistrates Court in relation to evidence and witness testimony, Mental Health Assessments¹ can only be undertaken by senior mental health clinicians that have received accreditation from the Chief Psychiatrist.

Accreditation requirements for Mental Health Assessments

Prior to receiving accreditation to provide Mental Health Assessments, senior mental health clinicians **must**:

- be employed within the CLS at a level equal to, or higher than, Nurse Grade 7 or Health Practitioner Level 4, and
- participate in a number of standardised education and training activities provided by the CLS.

Education and training activities provided by the CLS include but may not be limited to:

¹ Means a report relating to a mental health assessment, fitness for trial or unsoundness of mind that is prepared by an accredited senior mental health clinician with the support of a consultant psychiatrist.

- orientation topics detailing specific elements of their role, report writing requirements, and ethical issues and principles in forensic psychiatry, and child and youth specific training (if applicable), and
- three training components based on expert witness testimony, fitness for trial concepts, and soundness of mind concepts.

Accredited senior mental health clinicians **must** also attend regular training and professional events, including regional and statewide CLS meetings and the annual CLS symposium.

3.3 Recordkeeping and recording of data

CLSPs **must**:

- keep records in CIMHA of all persons referred to, offered assessment or assessed by, the CLS, and provide data as required by the Chief Psychiatrist, and
- Complete all relevant fields in the CLS module on CIMHA.

All documents that contain clinical information about a person and the interactions that CLSPs have with persons **must** be uploaded to CIMHA. This includes, but is not limited to:

- feedback or advice provided to a Magistrates Court in relation to a person,
- reports prepared by a CLSP in relation to a Mental Health Assessment,
- referrals made or generated to the CLS where the person declines an examination – even if this requires a new record to be opened for the person in CIMHA, and
- collateral material that is obtained by a CLSP, including QP9s.

All clinical assessments conducted by a CLSP **must** be completed in CIMHA on the Forensic Intake form or the Child and Youth specific report template.

If this is not possible, they **must** be completed in hard copy and uploaded to CIMHA.

3.4 Access to Queensland Wide Interlinked Court system

Key points

Queensland Health requires access to the Queensland Wide Interlinked Court System (QWIC) to achieve an effective and efficient method of identifying individuals who have a mental illness and are in contact with the justice system.

QWIC data is provided to Queensland Health for uploading into CIMHA each business day.

The access and use of data in QWIC or QWIC data uploaded to CIMHA is governed by a Memorandum of Understanding (MOU) between the Queensland Court Service and Queensland Health.

The purpose of the MOU is to provide a protocol for the use of QWIC match module in CIMHA, in accordance with the MOU.

Before a person can be granted access to QWIC, the person will need to sign a *QWIC User Responsibility Agreement*, complete the *QWIC Access Application* form and ensure familiarity with the responsibilities stated below:

- only users granted access to QWIC may access QWIC.
- users can only access and print information on matters relating to their functions.
- users can only access the QWIC screens.
- users will not download or record, either electronically or in hard copy or in any other manner whatsoever, any data on QWIC other than directly relevant to matters relating to their functions.
- users will comply at all times with the *Mental Health Act 2016*, *Information Privacy Act 2009*, the *Queensland Government Information security policy* and the QWIC Security Application Policy and Rules contained in the QWIC Application Security manual.
- users will not disclose any QWIC information to any person or use it for any reason other than to fulfil the person's function.
- users must not disclose their QWIC or CIMHA login information to any other person.

All access to QWIC by users will be logged, and the Queensland Court Service may at any time conduct a random audit of the log to confirm Queensland Health's compliance with its responsibilities under the MOU.

Issued under section 305 of the Mental Health Act 2016.

Dr John Reilly
Chief Psychiatrist, Queensland Health
17 December 2021

Definitions and Abbreviations

Term	Definition
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 and Addiction application – the statewide clinical information system and designated patient record for the <i>Mental Health Act 2016</i>
CLS Administration	Means the administration officers employed by the Queensland Forensic Mental Health Service or Child and Youth Forensic Outreach Service
CLS	Court Liaison Service and Child and Youth Court Liaison Service
CLSP	Court Liaison Service Practitioners
Mental Health Assessment	Means a report relating to a mental health assessment, fitness for trial or unsoundness of mind that is prepared by an accredited senior mental health clinician with the support of a consultant psychiatrist
MOU	Memorandum of Understanding
PMHS	Prison Mental Health Service
Serious offence	Means an indictable offence other than an indictable offence that must be heard by a Magistrate
QFMHS	Queensland Forensic Mental Health Service
QWIC	Queensland Wide Interlinked Court (system)

Referenced forms, clinical notes and templates

CLS Notification of Involuntary Patients on Court List form (available from QFMHS)

CLS Magistrates Court Report – Form 1: Mental Health Assessment Court Liaison Service Report (available from QFMHS)

CLS Magistrates Court Report – Form 2: Mental Health and Fitness for Trial Assessment Court Liaison Service Report (available from QFMHS)

CLS Magistrates Court Report – Form 3: Mental Health, Fitness and Soundness Assessment Court Liaison Service Report (available from QFMHS)

Forensic Intake form (available in CIMHA)

Referral to Forensic CYMHS (MHATODS) form

Referenced documents and sources

[Chief Psychiatrist Policy – Classified Patients](#)

[Chief Psychiatrist Policy – Judicial Orders](#)

[Memorandum of Understanding \(MOU\) between the Queensland Court Service and Queensland Health](#)

[Magistrates Courts Practice Direction No. 1 of 2017 – Mental Health Act 2016 proceedings in the Magistrates Court](#)

[Magistrates Courts Practice Direction No. 7 of 2017 – Mental Health Act 2016 proceedings in the Children’s Court when constituted by a Magistrate](#)

[Mental Health Act 2016](#)

[Information Privacy Act 2009](#)

[Mental Health Amendment Bill 2016 \(Explanatory Notes\)](#)

[Queensland Government Information security policy \(IS18:2018\)](#)

Document Status Summary

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Attachment 1: Key contacts

Key contacts

Office of the Chief Psychiatrist	Phone: 07 3328 9899 / 1800 989 451 Email: MHA2016@health.qld.gov.au
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Statewide Coordinator Court Liaison Service	Phone: Email:
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Local Independent Patient Rights Adviser	Phone: Email:
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