

# Forensic Orders and Treatment Support Orders

## Amending category, conditions and limited community treatment

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## General

The *Mental Health Act 2016* (the Act), outlines a number of factors that an authorised doctor **must** have regard to, in making a decision to amend the category, conditions or the Limited Community Treatment (LCT) of a patient on a Forensic Order or Treatment Support Order.

Decisions about amending the LCT, category or conditions of an order **must** consider, amongst other things, the relevant circumstances of the patient.

LCT for patients' subject to a Forensic Order (Criminal Code) **must** be approved by the Chief Psychiatrist.

### Key points

**Relevant circumstances**, of a person, means each of the following:

- the person's mental state and psychiatric history,
- any intellectual disability of the person,
- the person's social circumstances, including, for example, family and social support,
- the person's response to treatment and care and the person's willingness to receive appropriate treatment and care, and
- if relevant, the person's response to previous treatment in the community.

## Scope

This policy is mandatory for all authorised mental health services (AMHSs). An authorised doctor, authorised mental health practitioner, AMHS administrator, or other person performing a function or exercising a power under the Act **must** comply with this policy.

Staff should work collaboratively and in partnership with individuals in their care 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. This should include the timely involvement of appropriate local supports and a recovery-oriented focus.

This policy should be read in conjunction with the *Chief Psychiatrist Policy Treatment and care of patients subject to a Treatment Support or Forensic Order or other identified higher risk patients*.

This policy **must** be implemented in a way that is consistent with the objects and principles of the Act.

**This policy is issued under section 305 of the *Mental Health Act 2016***

**Dr John Reilly**  
**Chief Psychiatrist, Queensland Health**

# Policy

## 1 Treatment Support Order

A Treatment Support Order can be made by the Mental Health Court following a finding that a person was of unsound mind at the time of an alleged offence or is unfit for trial. The court makes the order if it considers that a Treatment Support Order, not a Forensic Order, is necessary to protect the safety of the community (see section 2 - Forensic Order).

A Treatment Support Order may also be made by the Mental Health Review Tribunal (Tribunal) where the Tribunal has revoked a Forensic Order for the person.

The category of a Treatment Support Order must be a community category, unless it is necessary for the person to be an inpatient as a result of their treatment and care needs or to protect the safety of the person or others.

At the first appointment with the patient after a Treatment Support Order has been made, the authorised doctor **must** complete the *Order/Authority Amendment* form and follow the practices outlined below.

Any amendment by an authorised doctor **must not**:

- change a condition decided by the Mental Health Court (or Tribunal), or
- reduce the extent of treatment in the community contrary to a decision of the Court or Tribunal. Exceptions apply, see section 1.1.1 – Amending the category to inpatient.

Court and Tribunal decisions are recorded in CIMHA and should be checked prior to any amendment.

### Key points

An authorised doctor can only amend a Treatment Support Order if the authorised doctor is satisfied that the amendment is appropriate having regard to:

- the relevant circumstances of the patient, and
- the nature of the relevant unlawful act and the period of time that has passed since the act happened, and
- for an amendment to increase LCT, the purpose of LCT.

Consideration of victim issues should be included when planning amendments to a Treatment Support Order e.g. changing the place at which a patient resides that may bring them into contact with a victim.

The Act supports victims through Information Notice provisions which enable eligible victims to receive specific information about the patient that is relevant to their safety and wellbeing. Information Notices are recorded in CIMHA. In most cases, the existence of an Information Notice and/or the identity of the relevant victim must remain confidential from the patient.

The Queensland Health Victim Support Service (QHVSS) can provide information and advice about management of known victim issues.

### Queensland Health Victim Support Service

Website: [www.health.qld.gov.au/qhvss](http://www.health.qld.gov.au/qhvss)

Email: [victim.support@health.qld.gov.au](mailto:victim.support@health.qld.gov.au) | Phone: 1800 208 005

## 1.1 Amending the category

### 1.1.1 Amending the category to inpatient

The authorised doctor can **only** change the category of a Treatment Support Order from community to inpatient if:

- the Court or Tribunal has decided that an authorised doctor may amend the Treatment Support Order to change the category, and
- the authorised doctor considers, having regard to the relevant circumstances of the patient, that one (1) or more of the following cannot reasonably be met under a community category:
  - the patient's treatment and care needs
  - the safety and welfare of the patient
  - the safety of others.

If the Treatment Support Order is community category and the Court or Tribunal has determined that the extent of treatment in the community **cannot** be reduced, the following additional considerations and requirements apply:

- the category can only be amended if the authorised doctor reasonably believes there has been:
  - a material change in the person's mental state, and
  - the patient requires urgent treatment and care as an inpatient
- if the category is amended to inpatient, the AMHS administrator **must** provide a copy of the *Order/Authority Amendment* to the Tribunal as soon as practicable, and

- the Tribunal **must** conduct a review of the Treatment Support Order within **fourteen (14) days** of receiving the notice.

If the Treatment Support Order is subsequently amended back to a community category before the Tribunal review occurs, the AMHS administrator **must** notify the Tribunal by providing a copy of the *Order/Authority Amendment* as soon as practicable. The Tribunal is then not required to conduct the review.

The authorised doctor **must** tell the patient and their support person/s of their decision and explain its effects.

### 1.1.2 Amending the category to community

The authorised doctor **must** provide the patient and their support person/s with an explanation and written information about the patient's treatment under the community category, in particular:

- any treatment and care to be provided to the patient (e.g. fortnightly home visit, monthly appointment with authorised doctor), and
- the patient's obligations while receiving treatment under the community category (e.g. to take prescribed medication).

### 1.1.3 Amending category for persons in custody

Where a person is in custody and is or becomes subject to a Treatment Support Order, the category of the order **must** be community if the person is to remain in their place of custody. If the category of the order is inpatient, the person must be transferred to an inpatient unit of an AMHS under the classified patient provisions. See *Chief Psychiatrist Policy Classified Patients*.

## 1.2 Amending conditions

An authorised doctor **must not** change a condition decided by the Court or Tribunal.

The authorised doctor **must** tell the person and their support person/s of their decision and explain the effect of the decision.

## 1.3 Authorising and amending Limited Community Treatment

If Limited Community Treatment (LCT) is authorised or amended, the authorised doctor **must** state:

- the type of LCT i.e. on grounds, off grounds or overnight, and whether the patient is to be escorted or supervised.
- the conditions of LCT
- the actions to be taken if the patient does not comply with conditions
- the duration of the LCT (Note that overnight leave cannot be more than **seven (7)** consecutive nights), and
- the duration of the authorisation.

The authorised doctor **must** provide the patient and their support person/s with written explanation and information about the patient's LCT, in particular:

- any treatment and care to be provided to the patient (e.g. fortnightly home visit, monthly appointment with authorised doctor), and
- the patient's obligations while receiving LCT (e.g. to take prescribed medication).

The information only needs to be provided once for each type of LCT (e.g. if the patient is authorised to have day leave for three days in the week, the information is to be given prior to the first day leave and not on each subsequent day leave).

Written information is not required to be given if the patient is only authorised to have escorted LCT, however the authorised doctor should still provide an explanation of the LCT being accessed.

If the patient accesses LCT under the authorisation, the details **must** be recorded on a *Limited Community Treatment (LCT) Access and Return* form. Completed forms **must** be uploaded to CIMHA.

## 2 Forensic Order

If the Mental Health Court finds a person is of unsound mind at the time of an alleged offence or is unfit for trial, the court must make a Forensic Order if it considers the Order is necessary to protect the safety of the community.

The court also determines the Order type:

- a **Forensic Order (Mental Health)** is made if the person's unsoundness of mind or unfitness for trial is due to a mental condition other than an intellectual disability, or if the person has a dual disability (a mental illness and an intellectual disability) and needs involuntary treatment and care for mental illness as well as care for the person's intellectual disability.
- a **Forensic Order (Disability)** is made if the person's unsoundness of mind or unfitness for trial is due to an intellectual disability and the person needs care for the person's intellectual disability but does not need treatment and care for mental illness.

In addition, the court must decide if the patient requires treatment as an inpatient of an authorised mental health service or if the person can reside in the community. The court may decide the category is community only if there is not an unacceptable risk to the safety of the community because of the person's mental condition.

In a small number of cases, a person may be receiving treatment under both a Forensic Order (disability) and a Forensic Order (mental health) to ensure their needs are met for each condition.

The following requirements apply to both Forensic Order (Disability) and Forensic Order (Mental Health). Special requirements apply to a patient subject to a Forensic Order (Criminal Code) (see section 3).

At the first appointment with the patient after a Forensic Order has been made, the authorised doctor **must** complete the *Order/Authority Amendment* and follow the practices outlined below.

Any amendment by an authorised doctor **must not**:

- Change a condition decided by the Mental Health Court or Tribunal; or
- Reduce the extent of treatment in the community contrary to a decision of the Court or Tribunal. Exceptions apply, see section 2.1.1 – Amending the category to inpatient.

Court and Tribunal decisions are recorded in CIMHA and should be checked prior to any amendment.

## Key points

An authorised doctor can only increase the extent of community treatment by way of amendment to a Forensic Order if the authorised doctor is satisfied that there is not an unacceptable risk to the safety of the community, because of the person's mental condition, having regard to:

- the relevant circumstances of the patient, and
- the nature of the relevant unlawful act and the period of time that has passed since the act happened, and
- for an amendment to increase LCT, the purpose of LCT, and
- potential impacts for victims.

Consideration of victim issues should be included when planning amendments to a Forensic Order. For example, changing the place at which a patient resides that may bring them into contact with the victim.

The Act supports victims through Information Notice provisions which enable eligible victims to receive specific information about the patient that is relevant to their safety and wellbeing. Information Notices are recorded in CIMHA. In most cases, the existence of an Information Notice and/or the identity of the relevant victim **must** remain confidential from the patient.

The Queensland Health Victim Support Service can provide information and advice about management of known victim issues.

### Queensland Health Victim Support Service

Website: [www.health.qld.gov.au/qhvss](http://www.health.qld.gov.au/qhvss)

Email: [victim.support@health.qld.gov.au](mailto:victim.support@health.qld.gov.au) | Phone: 1800 208 005

## 2.1 Amending the category

### 2.1.1 Amending the category to inpatient

The authorised doctor can **only** change the category of a Forensic Order from community to inpatient if:

- the Court or Tribunal has decided that an authorised doctor may amend the Forensic Order to change the category.

If the Forensic Order is community category and the Court or Tribunal has determined that the extent of treatment in the community **cannot** be reduced, the following **additional** considerations and requirements apply:

- the category can **only** be amended if the authorised doctor reasonably believes there has been:
  - a material change in the person's mental state, and
  - the patient requires urgent treatment and care as an inpatient
- If the category is amended to inpatient, the AMHS administrator **must** provide a copy of the *Order/Authority Amendment* to the Tribunal as soon as practicable, and
- the Tribunal **must** conduct a review of the Forensic Order within **twenty-one (21) days** of receiving the notice.

If the Forensic Order is subsequently amended back to a community category before the Tribunal review occurs, the AMHS Administrator **must** notify the Tribunal by providing a copy of the *Order/Authority Amendment* as soon as practicable. The Tribunal is then not required to conduct the review.

The authorised doctor **must** tell the patient and their support person/s of their decision and explain its effects.

### 2.1.2 Amending category to community

The authorised doctor may change the category of the Forensic Order from inpatient to community only if:

- The authorised doctor is satisfied that there is not an unacceptable risk to the safety of the community because of the patient's mental condition, including the risk of serious harm to other persons and property, and
- The amendment is not contrary to a decision of the Mental Health Court or the Tribunal.

The authorised doctor **must** provide the patient and their support person/s with an explanation and written information about the patient's treatment under the community category, in particular:

- any treatment and care to be provided to the patient (e.g. fortnightly home visit, monthly appointment with authorised doctor) and
- the patient's obligations while receiving treatment in the community (e.g. to take prescribed medication).

### 2.1.3 Amending category for persons in custody

Where a person is in custody and is or becomes subject to a Forensic Order, the category of the order **must** be community if the person is to remain in their place of custody. If the category of the order is inpatient, the person must be transferred to an inpatient unit of an AMHS under the classified patient provisions. See Chief Psychiatrist Policy Classified Patients.

## 2.2 Amending conditions

An authorised doctor **must not** change a condition decided by the Court or Tribunal.

The authorised doctor **must** tell the person and their support person/s of their decision and explain the effect of the decision.

## 2.3 Authorising and amending Limited Community Treatment

An authorised doctor can only authorise LCT if it is approved by the Court or Tribunal.

If LCT is authorised or amended, the authorised doctor **must** state:

- the type of LCT i.e. on grounds, off grounds or overnight, and whether the patient is to be escorted (i.e. with a health service employee) or supervised (i.e. in the company of a person nominated by the authorised doctor),
- the conditions of limited community treatment,
- the actions to be taken if the patient does not comply with conditions,
- the duration of the LCT (Note that overnight leave cannot be more than **seven (7)** consecutive nights), and
- the duration of the authorisation.

The *Order/Authority Amendment* form **must** be verified by someone external to the treating team, as nominated by the AMHS Administrator.

The external person **must** complete **item 8** of the *Order/Authority Amendment* form, to verify that the LCT is consistent with the approval given by the Court or Tribunal.

The authorised doctor **must** provide the patient and their support person/s with written explanation and information about the patient's LCT, in particular:

- any treatment and care to be provided to the patient (e.g. fortnightly home visit, monthly appointment with authorised doctor), and
- the patient's obligations while receiving limited community treatment (e.g. to take prescribed medication).

The information only needs to be provided once for each type of LCT (e.g. if the patient is authorised to have day leave for three days in the week, the information is to be given prior to the first day leave and not on each subsequent day leave).

Written information is not required to be given if the patient is only authorised to have escorted LCT, however the authorised doctor should still provide an explanation of the LCT being accessed.

If the patient accesses LCT under the authorisation, the details must be recorded on a *Limited Community Treatment (LCT) Access and Return* form. Completed forms **must** be uploaded to CIMHA.

### 3 Forensic Order (Criminal Code)

A Forensic Order (Criminal Code) is an order made by the Supreme or District Court that has not yet been reviewed by the Tribunal.

The Tribunal is required to undertake the initial review within **twenty-one (21) days** of being notified of a patient subject to a Forensic Order (Criminal Code). The purpose of the review is to determine if the order will be Forensic Order (mental health) or Forensic Order (disability).

Subject to the Chief Psychiatrist's written approval, an authorised doctor may authorise, revoke or change the nature and extent of limited community treatment for a patient subject to a Forensic Order (Criminal Code).

The Chief Psychiatrist's approval is sought by completing the *Chief Psychiatrist Approval - Temporary Absences and Limited Community Treatment for Particular Patients* form.

This form must be completed electronically in CIMHA or, if this is not possible, completed in hard copy and uploaded to CIMHA.

## Key points

If the Chief Psychiatrist's written approval is received, an authorised doctor may authorise or amend LCT if satisfied that the amendment is appropriate having regard to:

- the relevant circumstances of the patient,
- the nature of the relevant unlawful act and the period of time that has passed since the act happened, and
- the purpose of the LCT.

An authorised doctor can only authorise or change the nature and extent of LCT if satisfied that there is not an unacceptable risk to the safety of the community because of the patient's mental condition, including the risk of serious harm to other persons and property.

If LCT is authorised or amended, the authorised doctor **must** state:

- the type of LCT i.e. on grounds, off grounds or overnight, and whether the patient is to be escorted or supervised,
- the conditions of limited community treatment,
- the actions to be taken if the patient does not comply with conditions,
- the duration of the limited community treatment (Note that overnight leave cannot be more than **seven (7)** consecutive nights), and
- the duration of the authorisation.

The *Order/Authority Amendment* form **must** be verified by someone external to the treating team, as nominated by the AMHS Administrator.

The external person **must** complete **item 8** of the *Order/Authority Amendment* form, to verify that the LCT is consistent with the approval given by the Chief Psychiatrist.

The authorised doctor **must** provide the patient and their support person/s with written explanation and information about the patient's LCT, in particular:

- any treatment and care to be provided to the patient (e.g. fortnightly home visit, monthly appointment with authorised doctor), and
- the patient's obligations while receiving limited community treatment (e.g. to take prescribed medication).

The information only needs to be provided once for each type of LCT (e.g. if the patient is authorised to have day leave for three days in the week, the information is to be given prior to the first day leave and not on each subsequent day leave).

Written information is not required to be given if the patient is only authorised to have escorted LCT, however the authorised doctor should still provide an explanation of the LCT being accessed.

If the patient accesses LCT under the authorisation, the details must be recorded on a *Limited Community Treatment (LCT) Access and Return* form. Completed forms **must** be uploaded to CIMHA.

The LCT under the Forensic Order (Criminal Code) ends on the day the Tribunal determines the making of a Forensic Order (mental health) or Forensic Order (disability).

## 4 Mental Health Court decisions

In circumstances where a person subject to a Treatment Support Order or Forensic Order is charged with new offences and the matter is heard by the Mental Health Court, the Court may:

- amend the existing order to include the new charges, or
- revoke the existing order and make a new order.

The new order may be a Forensic Order or Treatment Support Order regardless of which order the person was on previously. Charges from the previous order may be either dismissed or included on the new order.

If there is an Information Notice relating to the person, the revocation (and replacement with a new order) or amendment of the Treatment Support Order or Forensic Order does not affect the continuation of the Information Notice.

### 4.1 Ending of a Treatment Authority

If the Mental Health Court makes a Forensic Order (Mental Health) or Treatment Support Order for a patient subject to an existing Treatment Authority, the Treatment Authority ends, see *Chief Psychiatrist Policy Treatment Authorities*.

## 5 Mental Health Review Tribunal decisions

If on review of a patient's Forensic Order or Treatment Support Order the Mental Health Review Tribunal considers that neither order is necessary, the Tribunal may:

- revoke the Forensic Order (provided that it is not during any non-revocation period set by the Court for the order) or Treatment Support Order and make no further order for the patient, or
- make a Treatment Authority for the patient, on the recommendation of an authorised psychiatrist.

See *Chief Psychiatrist Policy Treatment Authorities*.

## 6 Documentation requirements

### Key points

Amendments made to the category, conditions or LCT of a Forensic Order or Treatment Support Order must be recorded on an *Order/Authority Amendment* form:

- The form must be completed electronically in CIMHA or, if this is not possible, in hard copy and uploaded to CIMHA.

Each time an amendment is made to an Order, the *Involuntary Patient and Voluntary High Risk Patient Summary* clinical note must be updated in CIMHA.

The authorised doctor is required to explain and provide written information to a patient who is to receive treatment in the community in particular:

- any treatment and care to be provided to the patient (e.g. fortnightly home visit, monthly appointment with authorised doctor), and
- the patient's obligations while receiving treatment under the community category (e.g. to take prescribed medication).

The AMHS Administrator **must** ensure appropriate arrangements are in place to provide patients and their support persons with information about treatment in the community. Written information may be provided in a range of ways. For example:

- for a patient undertaking LCT, providing the patient with a copy of the *Order/Authority Amendment* form which explains conditions and consequences for non-compliance, or
- for a patient whose category is changed to community, providing the patient with a copy of the Care Plan clinical note which makes provision for recording the treatment and care that is to be provided, as well as the patient's obligations in receiving treatment and care in the community.

# Further information

## 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>
Escorted LCT	Leave with a health service employee.
LCT	Limited Community Treatment, including in the grounds and buildings (other than an inpatient unit) of an authorised mental health service, for a period of not more than 7 consecutive days, as authorised under the <i>Mental Health Act, 2016</i> .
Patient	Defined in section 297 of the Act as: <ul style="list-style-type: none"><li>• an involuntary patient, or</li><li>• 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 an advance health directive or with the consent of a personal guardian or attorney.</li></ul>
Supervised LCT	In the company of a person nominated by the authorised doctor

## Referenced policies and resources

### Chief Psychiatrist policies

[Treatment and care of patients subject to a Treatment Support or Forensic Order or other identified higher risk patients](#)

[Classified patients](#)

[Treatment Authorities](#)

### Mental Health Act 2016 forms and resources

[Order/Authority Amendment form](#)

[Limited Community Treatment \(LCT\) Access and Return form](#)

[Chief Psychiatrist Approval-Temporary Absences and Limited Community Treatment for Particular Patients](#)

[Involuntary Patient and Voluntary High Risk Patient Summary](#)

### Legislation

[Mental Health Act 2016](#)

#### Document status summary

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