Chief Psychiatrist Practice Guidelines
Forensic Orders and Treatment Support Orders – Amending Category, Conditions and Limited Community Treatment

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Overview

- These Practice Guidelines:
  - set out procedures for authorised mental health services (AMHS) regarding amendments to the category, conditions and limited community treatment of a Forensic Order or Treatment Support Order under the Mental Health Act 2016 (MHA 2016)
  - are to be read in conjunction with the relevant provisions of the MHA 2016 (Chapter 7, Parts 4, 5, and 7, and Chapter 10, Part 5) of the MHA 2016, and
  - are mandatory for all AMHS staff exercising a power or function under the MHA 2016.

Key information

- An authorised doctor must have regard to a number of factors prior to amending a Forensic Order or Treatment Support Order category, condition or a patient's limited community treatment.
- Limited community treatment for patients subject to a Forensic Order (Criminal Code) must be approved by the Chief Psychiatrist.

Definitions

*Purpose of limited community treatment* - is to support a patient's recovery by transitioning the patient to living in the community with appropriate treatment and care.

*Relevant circumstances* - includes all of the following:

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

In relation to the requirement to explain or discuss a matter with support persons:

*Support person* - means a nominated support person or, if the patient does not have a nominated support person, a family member, carer or other support person.

*Exceptions to informing support person* - means circumstances where:

- the patient requests that communication with the support person not occur, and the authorised doctor considers the patient has capacity to make the request
- the support person is not readily available or is not willing to communicate, or
- communication with the support person is likely to be detrimental to patient's health and wellbeing.
Treatment in the community -

- for a patient subject to a Forensic Order (mental health) or Treatment Support Order:
  - if the category of the Order is inpatient—limited community treatment
  - if the category of the Order is community—treatment and care of the person under the Order while the person is living in the community
- for a person subject to a Forensic Order (disability):  
  - if the category of the Order is inpatient—limited community treatment
  - if the category of the Order is community—care of the person under the Order while the person is living in the community.

Guidelines

1 Documentation requirements

- Amendments made to the category or a condition or limited community treatment of a Forensic Order or Treatment Support Order must be recorded on an Order / Authority Amendment form. The Order / Authority Amendment must be completed electronically in CIMHA or, if this is not possible, completed in hard copy and uploaded to CIMHA.
- Each time an amendment is made to the category or a condition or limited community treatment of an Order, the Involuntary Patient and Voluntary High Risk Patient Summary clinical note must be updated in CIMHA.
- The authorised doctor is required to provide and explain written information to a patient who is to receive treatment in the community.
- 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 limited community treatment, providing the patient with a copy of the Authority / Order Amendment form setting out conditions and consequences for not complying with limited community treatment
  - 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 treatment and care to be provided as well as the patient's obligations in receiving treatment and care in the community.

2 Treatment Support Order

- The following requirements apply to amending the category or a condition or limited community treatment of a Treatment Support Order.
- At the first appointment with the patient after a Treatment Support Order has been made, the authorised doctor must complete the Order / Authority Amendment and follow the practices outlined below.
2.1 Amending the category

- An amendment by an authorised doctor must not be contrary to a decision of the Mental Health Court (the Court) or Mental Health Review Tribunal (MHRT) (the Tribunal). Court and Tribunal decisions are recorded in CIMHA and should be checked prior to making an amendment.

- An authorised doctor can only amend the category of an Order if the 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.

2.1.1 Amending category to inpatient

- The authorised doctor can only change the category 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 (i.e. to reduce the extent of treatment in the community), and
  - the doctor considers, having regard to the relevant circumstances of the patient, that 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 category of the Treatment Support Order is community and the Court or Tribunal has determined that the extent of treatment in the community cannot be reduced, additional considerations and requirements apply. Specifically:
  - 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, as soon as practicable, give written notice to the Tribunal by providing a copy of the Order / Authority Amendment
  - the Tribunal must conduct a review of the Treatment Support Order within 14 days of receiving the notice
  - if the category is amended to community before the Tribunal review, the AMHS Administrator must, as soon as practicable, give written notice to the Tribunal by providing a copy of the Order / Authority Amendment to the Tribunal; the Tribunal is then not required to conduct a review.

- The authorised doctor must tell the patient and their support person/s of their decision and explain the effect of the decision.
2.1.2 Amending 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).

2.2 Amending conditions

- An authorised doctor may amend an Order by imposing or changing a condition of a Treatment Support Order only if it does not change a condition decided by the Court or Tribunal. Court and Tribunal decisions are recorded in CIMHA and should be checked prior to making an amendment.

- An authorised doctor can only amend the category of an Order if the 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.

- 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\(^1\)

- An authorised doctor’s authorisation or amendment cannot reduce the extent of treatment in the community received by the patient contrary to the Court’s or Tribunal’s decision. Court and Tribunal decisions are recorded in CIMHA and should be checked prior to making an amendment.

- An authorised doctor may authorise or amend limited community treatment (including limited community treatment at levels above those approved by the Court or Tribunal) if the authorised doctor is satisfied it is appropriate having regard to the:
  - patient's relevant circumstances, and
  - purpose of limited community treatment, and
  - nature of the relevant unlawful act and the period of time that has passed since the act happened.

- If limited community treatment is authorised or amended, the authorised doctor must state:

\(^1\) Additional requirements and limitations apply if the patient is also subject to a Judicial Order or if the patient is also a classified patient (see Chief Psychiatrist Practice Guidelines – Classified Patients).
- the type of limited community treatment 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 limited community treatment (NB: overnight leave cannot be more than 7 consecutive nights) and
- the duration of the authorisation.

• The authorised doctor must provide the patient and the patient's support persons with an explanation and written information about the patient's limited community treatment, 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 requirement to provide information does not apply if the patient is only authorised to have escorted limited community treatment.

• Also, for limited community treatment, the information only needs to be provided once for each type of limited community treatment (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).

• If the patient accesses limited community treatment 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

• The following requirements apply to amending the category or a condition or limited community treatment of a Forensic Order (disability) or Forensic Order (mental health).

• Special requirements apply to patients subject to a Forensic Order (Criminal Code) i.e. a Forensic Order made by the Supreme or District Court that has not yet been reviewed by the MHRT\(^2\). These are discussed in section 3.4 Forensic Order (Criminal Code).

\(^2\) The Mental Health Review Tribunal is required to undertake a review within 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).
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.

3.1 **Amending the category**

- An amendment by an authorised doctor must not be contrary to a decision of the Mental Health Court (the Court) or MHRT (the Tribunal). Court and Tribunal decisions are recorded in CIMHA and should be checked prior to making an amendment.
- An authorised doctor can only amend the category of an Order if the 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.

3.1.1 **Amending category to inpatient**

- The authorised doctor can only change the category of an 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 (i.e. to reduce the extent of treatment in the community).
- If the Court or Tribunal has determined that the extent of treatment in the community cannot be reduced, additional considerations and requirements apply. Specifically:
  - 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, as soon as practicable, give written notice to the Tribunal by providing a copy of the *Order / Authority Amendment*
  - the Tribunal must conduct a review of the Forensic Order within 21 days of receiving the notice
  - if the category is amended to community before the Tribunal review, the AMHS Administrator must, as soon as practicable, give written notice to the Tribunal by providing a copy of the *Order / Authority Amendment* to the Tribunal; the Tribunal is then not required to conduct a review.
- The authorised doctor must tell the patient and their support person/s of their decision and explain the effect of the decision.

3.1.2 **Amending category to community**

- The authorised doctor may change the category of the Order from inpatient to community only if the doctor is satisfied that there is not an unacceptable risk to the

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safety of the community because of the patient's mental condition including the risk of serious harm to other persons and property.

- If the category is amended 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 in the community (e.g. to take prescribed medication).

### 3.2 Amending conditions

- An authorised doctor may amend an Order by imposing or changing a condition of a Treatment Support Order only if it does not change a condition decided by the Court or Tribunal. Court and Tribunal decisions are recorded in CIMHA and should be checked prior to making an amendment.
- An authorised doctor can only amend the category of an Order if the 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.
- The authorised doctor must tell the person and their support person/s of their decision and explain the effect of the decision.

### 3.3 Authorising and amending limited community treatment

- An authorised doctor can only authorise limited community treatment if it is approved by the Court or Tribunal\(^3\). An authorised doctor's authorisation or amendment cannot be contrary to the Court's or Tribunal's decision. Court and Tribunal decisions are recorded in CIMHA and should be checked prior to making an amendment.
- An authorised doctor may authorise or amend limited community treatment if the authorised doctor is satisfied it is appropriate having regard to the:
  - patient's relevant circumstances, and
  - purpose of limited community treatment, and
  - nature of the relevant unlawful act and the period of time that has passed since the act happened.
- In addition, an authorised doctor can only increase the extent of limited community treatment (e.g. to commence unescorted limited community treatment or to increase

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\(^3\) Additional requirements and limitations apply if the patient is also subject to a Judicial Order or if the patient is also a classified patient (see Chief Psychiatrist Practice Guidelines – Classified Patients).
unescorted day leave from 1 day a week to 3 days a week) if the 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.

- If limited community treatment is authorised or amended, the authorised doctor must state:
  - the type of limited community treatment 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 limited community treatment (NB: overnight leave cannot be more than 7 consecutive nights), and
  - the duration of the authorisation.

- The *Order / Authority Amendment* must be verified by someone external to the treating team, as nominated by the AMHS Administrator. The external person must verify that the limited community treatment authorised by the authorised doctor is consistent with the approval given by the Court or Tribunal i.e. by completing item 7 of the *Order / Authority Amendment*.

- The authorised doctor must provide the patient and the patient's support persons with an explanation and written information about the patient's limited community treatment, 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 requirement to provide information does not apply if the patient is only authorised to have escorted limited community treatment.

- Also, for limited community treatment, the information only needs to be provided once for each type of limited community treatment (e.g. if the patient is authorised to have day leave for 3 days in the week, the information is to be given prior to the first day leave and not on each subsequent day leave).

- If the patient accesses limited community treatment 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.

### 3.4 Forensic Order (Criminal Code)

- An authorised doctor may authorise or revoke, or change the nature and extent of limited community treatment for a patient subject to a Forensic Order (Criminal
Code) if the Chief Psychiatrist has given written approval for the limited community treatment.

- A request for the Chief Psychiatrist’s approval is made 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.

- Once the Chief psychiatrist’s written approval is received, the authorised doctor may authorise or amend limited community treatment if the doctor is satisfied it is appropriate having regard to the:
  - patient’s relevant circumstances, and
  - purpose of limited community treatment, and
  - nature of the relevant unlawful act and the period of time that has passed since the act happened.

- In addition, an authorised doctor can only authorise or change the nature and extent of limited community treatment if the 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.

- If limited community treatment is authorised or amended, the authorised doctor must state:
  - the type of limited community treatment 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 limited community treatment (NB: overnight leave cannot be more than 7 consecutive nights), and
  - the duration of the authorisation.

- The **Order / Authority Amendment** must be verified by someone external to the treating team, as nominated by the AMHS Administrator. The external person must verify that the limited community treatment authorised by the authorised doctor is consistent with the approval given by the Chief Psychiatrist i.e. by completing item 7 of the **Order / Authority Amendment**.

- The authorised doctor must provide the patient and the patient’s support persons with an explanation and written information about the patient’s limited community treatment, 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 requirement to provide information does not apply if the patient is only authorised to have escorted limited community treatment.

• Also, for limited community treatment, the information only needs to be provided once for each type of limited community treatment (e.g. if the patient is authorised to have day leave for 3 days in the week, the information is to be given prior to the first day leave and not on each subsequent day leave).

• If the patient accesses limited community treatment 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).
Glossary of Terms

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<td>Consumer Integrated Mental Health Application</td>
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<td>MHA 2016</td>
<td>Mental Health Act 2016</td>
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<td>MHRT</td>
<td>Mental Health Review Tribunal</td>
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Referenced Forms, Clinical Notes and Templates

- Chief Psychiatrist Approval - Temporary Absences and Limited Community Treatment for Particular Patients form
- Involuntary Patient and Voluntary High Risk Patient Summary clinical note
- Limited Community Treatment (LCT) Access and Return form
- Order / Authority Amendment form

Referenced Documents & Sources

- Chief Psychiatrist Practice Guidelines – Classified Patients
- Mental Health Act 2016

Document Status Summary

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