

# Mental Health Act 2016

## Chief Psychiatrist Policy

## Examination Authorities

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## General

The *Mental Health Act 2016* (the Act) promotes the voluntary engagement of people requiring mental health treatment and care. In circumstances where voluntary engagement is not successful, an Examination Authority may be required to respond to serious concerns about a person's mental health and wellbeing.

An *Application for Examination Authority* may be made by an authorised person from an authorised mental health service (AMHS) or other concerned person (e.g. a family member, friend, colleague, or other member of the person's community who has concerns about the person's wellbeing).

Examination Authorities are issued by the Mental Health Review Tribunal (MHRT).

An Examination Authority authorises a doctor or authorised mental health practitioner to examine a person without the person's consent, to determine whether a Recommendation for Assessment should be made.

## Scope

This policy is mandatory for all 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 **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**  
**15 October 2021**

# Policy

## 1 Alternatives to an Examination Authority – urgent circumstances

An Examination Authority may be appropriate where there is a concern that a person needs to be assessed, but it has not been possible for the person to be examined by a doctor or authorised mental health practitioner.

Where immediate risk of serious harm is indicated an Examination Authority is **inappropriate**. Instead, the Queensland Ambulance Service or Queensland Police Service should be contacted via **triple zero (000)** to arrange an urgent assessment to determine if an Emergency Examination Authority should be enacted under the *Public Health Act 2005*.

If an emergency response is required via **Triple Zero (000)**:

- the Queensland Ambulance Service should be requested in the first instance, or
- the Queensland Police Service if:
  - no less restrictive alternative is available
  - there is an actual or known risk of violence or possession of weapons, or
  - the location of the person is not known.

**Further information:** Queensland Health website - [Emergency Examination Authorities](#)

If the attending Queensland Ambulance Service or Queensland Police Service officers determine the person does not meet the criteria for an Emergency Examination Authority, the concerned person/AMHS should continue their efforts to engage the person with a mental health service, including for example:

- encourage the person to attend their General Practitioner, hospital or local mental health service voluntarily, or
- arrange attendance of a doctor or authorised mental health practitioner from an AMHS to examine the person to decide if a Recommendation for Assessment should be made (refer to Chief Psychiatrist Policy Examination and Assessment).

If urgent assistance is required, this should be escalated back to the Queensland Ambulance Service for a medical emergency or Queensland Police Service for a high risk or compromised safety situation via Triple Zero (000).

Otherwise, an *Application for Examination Authority* may be made to the MHRT in accordance with this policy.

## 2 Examination Authority criteria

### Key points

The MHRT **must** consider that **all of the following apply** to the person the subject of the application:

- the person has, or may have, a mental illness, and
- the person does not, or may not, have capacity to consent to treatment, and
- either:
  - reasonable attempts at voluntary engagement have been unsuccessful, or
  - it is not practicable to engage the person voluntarily, and
- there is, or may be, an imminent risk because of the person's mental illness of either:
  - serious harm to the person or others, or
  - the person suffering serious mental or physical deterioration.

## 3 Voluntary engagement

Attempts **must** be made to engage the person in voluntary assessment or treatment. Every reasonable effort should be made by the AMHS to gather relevant information and try to assess the person in a voluntary capacity.

Examples of where it may not be practicable to engage a person voluntarily include:

- attempts have already been made by the applicant,
- relationships between the applicant and the subject of the application do not support attempts at voluntary engagement,
- a rapid, but not immediate, response is required, or
- entry to premises is required to enable an examination of the person.

If a concerned person contacts an AMHS in relation to making an Examination Authority, the AMHS must provide the concerned person with information about how mental health services can be accessed voluntarily. This information should include:

- contact details and avenues for support in relation to accessing public sector mental health services, and
- where relevant or appropriate, contact details for non-government services that may be appropriate for the person.

## 4 Person the subject of the application is known to AMHS

### Key points

- Before making/supporting an application for Examination Authority, the AMHS should review the Consumer Integrated Mental Health and Addiction (CIMHA) application to check if the person, the subject of the application, is already open to another AMHS to ensure an Examination Authority is not made unnecessarily.
- If the person subject to the application is open to another AMHS:
  - the AMHS that receives the application **must** attempt to contact the patient and, if required, review as soon as possible,
  - the AMHS that receives the application should contact the patient's treating AMHS to provide information about the applicant's concerns, and
  - if the AMHS provides an outreach service to a current patient of another AMHS as a result of the concerned person's application, this **must** be documented in the patient's clinical record on CIMHA.

The fact that a person is already engaged in mental health treatment **must not** be disclosed to the applicant (exceptions apply - see [Section 7 Clinician responsibilities](#)).

## 5 Application for Examination Authority

If voluntary engagement is unsuccessful or not practicable, an *Application for Examination Authority* may be made to the MHRT.

### Key points

- An *Application for Examination Authority* may be made by:
  - the administrator of an AMHS (or delegate),
  - a person authorised in writing by the AMHS administrator to make an application (e.g. the clinical director of an AMHS, an authorised doctor or authorised mental health practitioner), or
  - a concerned person (e.g. a family member, friend, colleague, or other member of the person's community who has concerns about the person's wellbeing).
- A concerned person making an application must seek clinical advice from a doctor or authorised mental health practitioner before an *Application for Examination Authority* may be made.

Clinical advice can be sought from any doctor (e.g. general practitioner, psychiatrist, etc.) or an authorised mental health practitioner at an AMHS.

- Where possible, the applicant should attend in person when seeking advice from a doctor or authorised mental health practitioner to enable the signed, written statement of advice (Part B to the Application for Examination Authority) to be provided with the application.
- If required, advice may be obtained over the phone and the written statement provided electronically by the doctor or authorised mental health practitioner.

The advice of the doctor or authorised mental health practitioner **must** address:

- general information about the treatment criteria under the Act, and how these criteria may apply to the person,
- whether there is a less restrictive way<sup>1</sup> for the person to access mental health services, including through voluntary engagement with services,
- whether the person's behaviours and other factors (e.g. treatment history, attempts already made for voluntary engagement, etc.) as described by the applicant could reasonably be considered to satisfy the Examination Authority criteria,
- options for the treatment and care of the person, and
- how the person may be encouraged to have a voluntary examination.

Any advice provided by the doctor or authorised mental health practitioner **must** be provided in a general manner and **must** not result in the disclosure of any confidential information.

If the concerned person has attended an AMHS to make the application, the AMHS should take responsibility for making an *Application for Examination Authority* if the clinical advice supports the application.

- This allows the AMHS opportunity to further engage the patient voluntarily, without disclosing to the concerned person any actions that may be taken by the AMHS. This is particularly important if the person the subject of the application is already engaged in mental health treatment.

If the concerned person continues to express a desire to make an *Application for an Examination Authority*, they should be supported to make this application.

The application can be emailed to the MHRT at [enquiry@mhrt.qld.gov.au](mailto:enquiry@mhrt.qld.gov.au).

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<sup>1</sup> Examples of Less Restrictive Way include consent provided via an Advance Health Directive or Substitute Decision Maker. For more information see the *Chief Psychiatrist Policy Treatment criteria, assessment of capacity, less restrictive way and advance health directives* and the *Less Restrictive Way guidelines*.

The application **must** be completed in full and **must** indicate:

- whether there are particular concerns by the applicant regarding confidentiality (see [Section 5 Application for Examination Authority](#)) and the reasons for these concerns, and
- whether the applicant agrees to be notified less than **three (3) days** prior to the MHRT hearing, and the time period to which the applicant agrees to be notified (e.g. one to two days prior).

The MHRT **must** hear an *Application for Examination Authority* as soon as practicable. The applicant will be notified in writing of the hearing date and time, **three (3) days** before it is scheduled (or a shorter period if they have agreed).

The MHRT **must** also advise the applicant of the decision of the hearing within **seven (7) days** of the decision being made. The notice will state whether or not the Examination Authority has been made and the applicant's entitlement to request reasons for the MHRT decision.

## 6 Limits to confidentiality

Before examining the person under an Examination Authority, the doctor or authorised mental health practitioner may give a copy of the authority to the person (if appropriate in the circumstances).

Whilst the above requirement applies to the **authority only**, the person examined can also subsequently request access to other relevant documents under Queensland's right to information and information privacy legislation<sup>2</sup>, which may include the:

- Form – *Application for examination authority*
- Form – *Outcome of examination under examination authority*.

The applicant might express concerns about their involvement in an involuntary examination being revealed if they feel that this puts themselves or others at risk. In these circumstances, the applicant or clinicians providing advice should ensure these documents state the reasons for their concern and the need for further consultation (if the person subsequently requests access to them).

This will alert the Right to Information decision-maker to give special consideration when they review the person's request.

More information regarding the right to information process is available at: [www.health.qld.gov.au/system-governance/contact-us/access-info/rti-application](http://www.health.qld.gov.au/system-governance/contact-us/access-info/rti-application)

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<sup>2</sup> The *Right to Information Act 2009* governs applications for non-personal information; the *Information Privacy Act 2009* governs applications for the applicant's own personal information.

## 7 Clinician responsibilities

In completing an *Application for Examination Authority*, the applicant must include clinical advice from a doctor (e.g. general practitioner, psychiatrist, etc.) or an authorised mental health practitioner at an AMHS. This advice must be included on Part B of the application form.

### Key points

- The doctor or authorised mental health practitioner's advice is made solely on information provided by the applicant.
  - Applicants **must** be made aware that providing false or misleading information may result in a penalty.
- A doctor or authorised mental health practitioner who is providing advice to an applicant **must not** disclose any confidential patient information about the person the subject of the application unless an exception to the *Hospital and Health Boards Act 2011* confidentiality provisions applies<sup>3</sup>.
  - This includes, but is not limited to, confirming information provided by the applicant (e.g. the clinician **must not** confirm whether the person is already accessing mental health services).

If the doctor or authorised mental health practitioner completes Part B of the application, they may be contacted by the MHRT at a later time to verify the information made in the statement.

A copy of the application should be attached to a CIMHA clinical note documenting the concerns raised by the applicant. If the subject of the application does not have a CIMHA record, a new consumer record **must** be created to enable the document to be uploaded.

## 8 Examination

If an Examination Authority is issued by the MHRT, the Authority will state the AMHS responsible for carrying out an examination of the person.

A copy of the Examination Authority will be sent to the Administrator of the AMHS by the MHRT. The Authority is in force for **seven (7) days** from the date it is issued.

The Examination Authority **must** be uploaded to CIMHA.

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<sup>3</sup> See *Queensland Health Guideline: Information sharing between mental health staff, consumers, family, carers, nominated support persons and others*

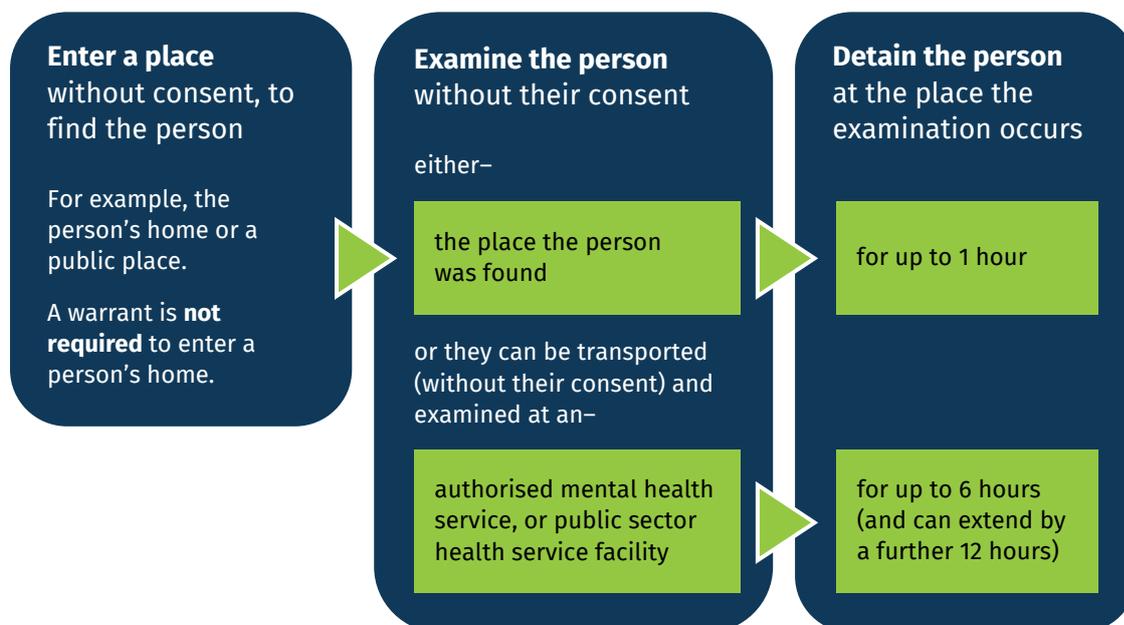
## Key points

- The Administrator **must** make arrangements for a doctor or authorised mental health practitioner to examine the person within **seven (7) days**. The examination can occur without the person's consent.
  - The service should initiate contact with the person as soon as practicable after the Examination Authority is made.
  - In making the Examination Authority, the MHRT has determined imminent risk to self/others. Therefore, if unable to complete the examination within the **seven (7) day** timeframe, the service should consider whether a subsequent application to the MHRT is required to ensure the examination is completed.
  - All attempts at contacting the person should be recorded within the patient's clinical record in CIMHA.

If the examination is not completed by the AMHS, the service should consider whether it is appropriate to notify the applicant (e.g. if the concerned person is a family member or support person), including the reasons why the examination was not completed and that the Examination Authority has expired. The service should discuss with the applicant whether a subsequent application is to be made, whether by applicant or by the AMHS.

## 8.1 Powers under Examination Authority

A doctor or authorised mental health practitioner can with necessary and reasonable help and use of force:



As far as practicable, the use of force under an Examination Authority should be avoided. Force should not be used to enter premises unless the person has first been given an opportunity to provide consent.

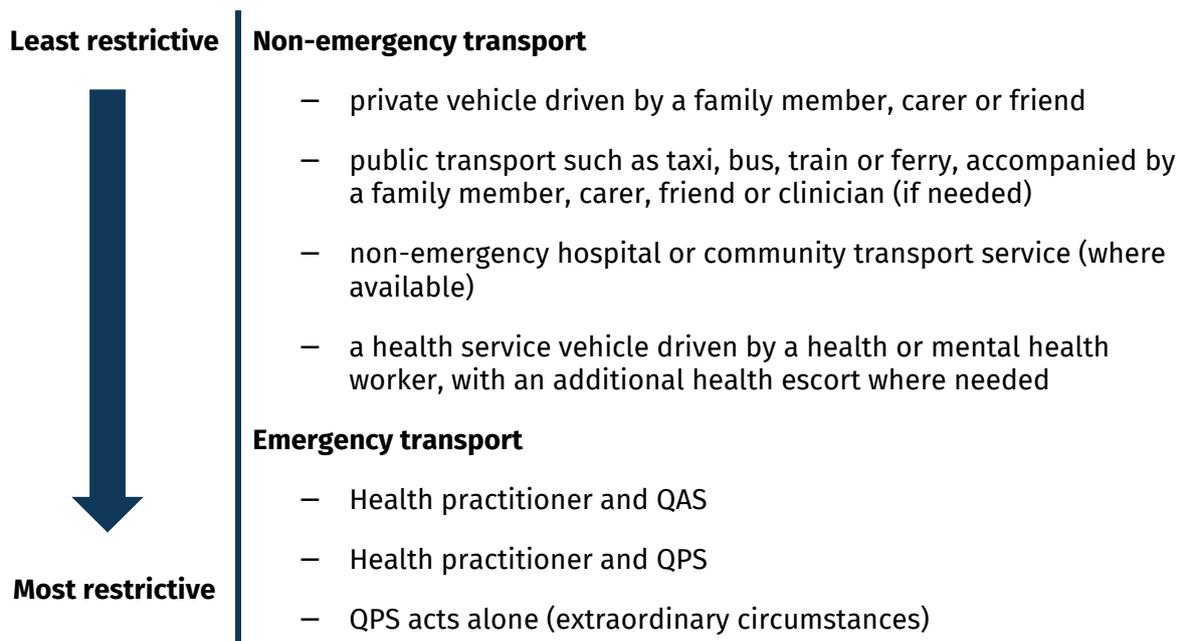
## 8.2 Transporting a person to an AMHS or PSHSF

If the examination of the person needs to take place in an AMHS or PSHSF, an authorised person may transport the person under the Examination Authority without their consent. An authorised person includes:

- AMHS administrator
- health practitioner
- ambulance officer
- police officer.

Transport of a person subject to an Examination Authority must comply with the *Chief Psychiatrist Policy Transfers and transport*.

Transport considerations must start from the least restrictive approach and only utilise more restrictive approaches if necessary.



The doctor or authorised mental health practitioner should remain in attendance for the duration of the transport (i.e. from the community to the inpatient unit) to provide clinical expertise and advice to the officers facilitating the safe transport of the person.

**In emergency circumstances police or ambulance assistance should be requested via Triple Zero (000).**

## 8.3 Patient rights under an Examination Authority

The doctor or authorised mental health practitioner **must** explain in general terms, the nature and effect of the Examination Authority and provide a copy of the authority to the person if requested.

Reasonable steps **must** be taken to ensure the patient understands the information. This may include use of an interpreter or other methods of communication, such as sign language, written explanations or explanation with assistance from a support person.

- This explanation is not required if the doctor or authorised mental health practitioner reasonably believes providing the explanation would prevent the clinician from completing the examination.

The doctor or authorised mental health practitioner **must** also provide a copy of the authority to the person's nominated support person/s, personal guardian or attorney upon request.

## 9 Examination outcomes

### Key points

- Following an examination, the doctor or authorised mental health practitioner **must** decide whether to make a Recommendation for Assessment for the person.
  - The outcome must be recorded on an *Outcome of Examination Under Examination Authority form* and uploaded on CIMHA.
- If a Recommendation for Assessment is made for the person, the *Chief Psychiatrist Policy Examination and assessment* must be complied with.

# 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 (CIMHA) application – The statewide mental health database which is the designated patient record for the purposes of the Act
MHRT	Mental Health Review Tribunal
PSHSF	Public Sector Health Service Facility
QAS	Queensland Ambulance Service
QPS	Queensland Police Service

## Referenced policies and resources

### Chief Psychiatrist policies and guidelines

- [Chief Psychiatrist Policy – Examination and assessment](#)
- [Chief Psychiatrist Policy – Transfers and transport](#)
- [Chief Psychiatrist Policy – Treatment criteria, assessment of capacity, less restrictive way and advance health directives](#)
- [Less Restrictive Way Guidelines](#)

### Mental Health Act 2016 forms and other resources

- Form: [Application for Examination Authority](#)
- Form: [Outcome of Examination Under Examination Authority](#)
- [Queensland Health Guideline – Information sharing between mental health staff, consumers, family, carers, nominated support persons and others](#)
- [Queensland Health website – Emergency Examination authorities](#)

### Legislation

- [Hospital and Health Boards Act 2011](#)
- [Information Privacy Act 2009](#)
- [Public Health Act 2005](#)
- [Right to Information Act 2009](#)

### Document status summary

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