

Transport powers for police officers

The *Mental Health Act 2016* gives police officers powers and responsibilities for supporting people requiring mental health assessment and treatment. This fact sheet is intended to provide general information to Queensland police officers about these powers and responsibilities.

Where a police officer is authorised under the *Mental Health Act 2016* (chapter 11, part 6) to **transport a person, they're also authorised** with the following transport powers (in addition to powers already available to them under the *Police Powers and Responsibilities Act 2000*):

- Enter a place (with the consent of the occupier) or a public place that is currently open,
 - or otherwise obtain a *Warrant for apprehension of person* to enter and search any place (with the approval of the Magistrates Court).
- Use mechanical restraint (if approved by the Chief Psychiatrist).
- To detain the person.

The *Mental Health Act 2016* also includes the power to administer medication, without consent, if a doctor is satisfied there is no other reasonably practicable way to protect the person or others from physical harm. The administration of the medication may be done by either a doctor or a registered nurse (under the instructions of a doctor) with the help and using the force that is necessary and reasonable in the circumstances.

The *Mental Health Act 2016* authorises police officers to either act alone or work with another authorised person (usually mental health clinicians or ambulance officers) for:

- Examination Authorities
- returning absent patients to authorised mental health services
- returning patients absent from interstate mental health services
- interstate transfers – emergency examinations and recommendations for assessment
- warrants
- other circumstances requiring transport for people requiring mental health assessment and treatment.



Examination Authorities (sections 32–34)

The Mental Health Review Tribunal can make an Examination Authority which authorises the involuntary examination of a person by a doctor or authorised mental health practitioner.

An Examination Authority is considered a last resort if it has not been possible to engage the person for a voluntary examination. An Examination Authority may be made by the Mental Health Review Tribunal if they consider that, because of the person's mental illness, there is (or may be) an imminent risk of either:

- serious harm to the person or someone else, or
- the person suffering serious mental or physical deterioration.

If a doctor or authorised mental health practitioner requests assistance from the Queensland Police Service with carrying out an Examination Authority, the *Mental Health Act 2016* authorises police officers to help them transport the person, as well as exercise the transport powers above.

Doctors and authorised mental health practitioners (as 'public officials') can request police assistance by completing a *Request for police assistance* form.

A doctor, authorised mental health practitioner or police officer may exercise these powers with the help and using the force that is necessary and reasonable in the circumstances (see *Police Powers and Responsibilities Act 2000*, section 21). As far as practicable, the use of force under an Examination Authority should be avoided.

Before exercising these powers, a doctor, authorised mental health practitioner or police officer must, or make a reasonable attempt to:

- identify himself or herself to the person
- tell the person an examination authority has been made
- explain to the person, in general terms, the nature and effect of the authority
- give the person a copy of the authority, if requested, and
- if the doctor, health practitioner or police officer is entering a place - give the person an opportunity to allow entry to the place without using force.

However, the doctor, practitioner or police officer need not comply with this if it may affect the actioning of the authority.

Returning absent patients to authorised mental health services (sections 364, 366)

If a person becomes an 'absent person' under the *Mental Health Act 2016*, they might become subject to an *Authority to transport absent person* form which authorises the involuntary detention and transportation of the person.

In most cases, this form is completed by an authorised doctor or authorised mental health practitioner after unsuccessful attempts at encouraging the person to return voluntarily.

The *Mental Health Act 2016* authorises police officers to either act alone or work together with other authorised people (usually mental health clinicians or ambulance officers) to help them transport the absent person, as well as exercise the transport powers above.

Depending on the circumstances, an authorised mental health service can also provide a photograph of the absent person to a police officer to help locate them (section 786).

Authorised doctors and authorised mental health practitioners (as 'public officials') can request police assistance by completing:

- if they're asking police to act alone, an *Authority to transport absent person* form
- if they're asking police to work together with them, a Request for police assistance form.

These forms include a statement outlining why it is necessary for police to assist with the transport. Generally, police should be involved in transport only where their assistance is required for the management of serious risk to the individual or others.

In some cases, a request or authorisation is only in force for 3 days. This applies if the person:

- is under a recommendation for assessment or is being detained for assessment
- is under an examination authority, or
- is detained while a recommendation for assessment is being made for the person (see section 36).

Before transporting the person, the authorised person must:

- tell the person that the authorised person is detaining the person and transporting the person to the authorised mental health service or public sector health service facility stated in the authorisation, and
- explain to the person the effect of taking this action for the person.

The officer must take reasonable steps to ensure the person understands this **information including by having regard to the person's culture, mental impairment and communication ability** (see section 286).

For more information refer to the *Chief Psychiatrist Policy Managing involuntary patient absences*.

Returning patients absent from interstate mental health services (section 368)

If an interstate mental health patient travels to Queensland and becomes absent without permission, the *Mental Health Act 2016* authorises police officers to transport the absent patient, as well as use the transport powers above.

In addition to police officers, the *Mental Health Act 2016* also recognises persons authorised under corresponding law to apprehend, detain and transport the interstate person. For example, if appropriate an authorised interstate clinician can collect a person from a Queensland service and return them to their state/territory of origin.

An explanation must be provided to the person about why they are being detained and/or transported. The officer must take reasonable steps to ensure the person **understands this information including by having regard to the person's culture, mental impairment and communication ability** (see section 286).

Interstate transfers – emergency examinations and recommendations for assessment (sections 369 and 371)

Provisions of the Act enable persons to be transported into and out of Queensland for an emergency examination or assessment, for example, over the Queensland-NSW border.

Provisions of the Act apply to a person in Queensland who:

- appears to have a mental illness and may be detained and transported to a public sector health service facility under the *Public Health Act 2005* (emergency examination authority provisions), or
- is subject to a recommendation for assessment.

If permitted under a corresponding law in another State, the person may be transported to an interstate mental health service by an authorised person, including a Queensland police officer, or a person who is authorised to transport the person under the other **State's law**.

Provisions of the Act also apply to a person outside of Queensland who may be transported to an interstate mental health service under a corresponding law in another State for:

- emergency involuntary examination or treatment and care relating to a mental illness, or
- an involuntary assessment of whether the person should be involuntarily treated for a mental illness.

In these circumstances, the person may be transported to a public sector health service facility in Queensland for emergency examination, treatment and care. However, as with the emergency examination authority provisions under the *Public Health Act 2005*, if the public sector health service facility is not an inpatient hospital, the person may be transported to the facility only with the approval of the person in charge of the facility.

The person may be transported by an authorised person, including a Queensland police officer, or a person who is authorised to transport the person to an interstate mental health service **under the other State's law.**

Where a person is transported by a Queensland police officer to a public sector health service facility for an emergency examination, an emergency examination authority must be made for the person, which is taken to have been made under the *Public Health Act 2005 (Qld)*.

Warrants (Chapter 11, Part 6, Division 6)

An authorised person may apply to a magistrate for a warrant if they consider a warrant for the apprehension of a person is necessary to transport the person to an authorised mental health service or public sector health service facility for examination, assessment, or treatment and care.

The *Mental Health Act 2016* recognises interstate documents (such as an apprehension authority) as a warrant for the purpose of apprehension in Queensland.

The warrant authorises an authorised person, including a police officer, to:

- to enter a place the authorised person reasonably believes the person is located
- to search the place to find the person
- to remain in the place for as long as the authorised person considers it reasonably necessary to find the person, and
- to transport the person to a stated authorised mental health service or public sector health service facility.

The powers may be exercised with the help and using the force that is necessary and reasonable in the circumstances. As far as practicable, the use of force should be avoided.

If an authorised person is intending to enter a place under a warrant, before entering the place, the authorised person must do or make a reasonable attempt to do the following things, unless immediate entry to the place is required:

- identify themselves to a person present at the place who is an occupier of the place
- give the person a copy of the warrant or, if the entry is authorised by a duplicate warrant under section 378, a copy of the duplicate warrant
- tell the person the authorised person is permitted by the warrant to enter and search the place to find the person named in the warrant, and
- give the person an opportunity to allow the authorised person immediate entry to the place without using force.

Other circumstances requiring transport for people requiring mental health assessment and treatment

The *Mental Health Act 2016* also authorises police officers to help transport people in the following circumstances (as well as use the transport powers above):

- To transport a person under a Recommendation for Assessment to an authorised mental health service or public sector health service facility (see section 44).
- To transport a classified patient between a place of custody and inpatient unit of an authorised mental health service (see sections 65–67, 73, 83).
- In accordance with a court order, to transport a person from the court to an authorised mental health service (see sections 124, 149–150, 177, 188, 191, 197).
- To transport a person between authorised mental health services, public sector health service facilities, interstate mental health services, courts, places of custody, the Queensland forensic disability service or a place in the community (see sections 357, 360–361, 369–370).
- To transport a person subject to a warrant for apprehension to an authorised mental health service or public sector health service facility (see section 378).

Authorised doctors and authorised mental health practitioners (as ‘public officials’) can request police assistance by completing a *Request for police assistance* form.

Emergency transport powers under the *Public Health Act 2005*

In emergency circumstances, a police officer can make an Emergency Examination Authority under the *Public Health Act 2005* to detain and transport a person to a public sector health service facility, if the officer believes the person is at immediate risk of serious harm and the risk appears to be the result of a major disturbance in the person's mental capacity.

A disturbance in a person's mental capacity may be caused by illness, disability, injury, intoxication or another reason.

The provisions in the *Public Health Act 2005* aim to ensure that the *Mental Health Act 2016* captures only those persons that are within its intended scope and that appropriate treatment and care is provided after the person is examined.

More information is available via the [Public Health Act website](#) (refer to links in ‘More Information’ section below).

More information:

Mental Health Act 2016

www.health.qld.gov.au/mental-health-act

Contact your local mental health service 1300 MH CALL (1300 642255)

www.qld.gov.au/health/mental-health/help-lines/1300-mh-call

Emergency examination authorities (Queensland Health)

www.health.qld.gov.au/clinical-practice/guidelines-procedures/emergency-examination-authorities-eas

Resources:

Policy: [Managing involuntary patient absences](#)

Policy: [Transfers and transport](#)

Factsheet: [Transport of patients](#)