



Mental Health Act 2016

Information for service providers

What is the Mental Health Act 2016?

The *Mental Health Act 2016* will replace the current *Mental Health Act 2000* on 5 March 2017.

The purpose of the Act is to provide mental health care in a way that:

- safeguards the rights of consumers,
- affects a person's rights and liberties only to the extent necessary,
- promotes consumer recovery.

Referral to CYMHS

The current referral guidelines and criteria for the Child and Youth Mental Health Service (CYMHS) will remain the same after the commencement of the *Mental Health Act 2016*.

Consent and treatment

The new Act provides special protections for young people to access treatment and care. The Act requires that if a young person is assessed by mental health services as competent to make their own decisions about their treatment and care, they can receive this care, without needing to be subject to the *Mental Health Act 2016*.

If a young person is assessed by mental health services as lacking competency to make their own treatment and care decisions, consent will be sought from a parent/guardian. Where consent cannot be provided by the young person's parent/guardian (ie. the parent/guardian is not readily available or they live independently) and there is concern that the young person is at serious risk of harm or deterioration—the *Mental Health Act 2016* can be used to provide mental health care to that young person without consent.

What happens with young people receiving care under the current mental health act?

All young people who are receiving care under the *Mental Health Act 2000* (for example under an

Involuntary Treatment Order) will transition to care under the *Mental Health Act 2016*, with no change to their status or treatment. If a young person is on an Involuntary Treatment Order, this will now be called a Treatment Authority.

What happens in an emergency?

The new Act will not impact on how your organisation currently manages mental health emergencies for young people. You can continue to utilise emergency responses that involve Queensland Ambulance Service (QAS) and/or Queensland Police Service (QPS).

What is an Emergency Examination Authority?

An Emergency Examination Authority (EEA) will replace the current Emergency Examination Orders (EEO) used by QPS and QAS. The EEA is administered by the *Public Health Act 2005* (not the *Mental Health Act 2016*).

Criteria for QPS and QAS to consider when using an EEA:

- A person's behaviour indicates they are at immediate risk of serious harm, for example, by threatening to commit suicide — and the risk appears to be the result of major disturbance in the person's mental capacity caused by illness, disability, injury, intoxication or other reason — and the person appears to require urgent examination, treatment or care. The person can be detained and transported without consent to a "treatment or care place" (not a watch house).

What is an Examination Authority?

The Examination Authority (EA) replaces the current Justices Examination Order (JEO). The Act identifies that 'concerned persons' can now seek advice directly at their local CYMHS, from a doctor or authorised mental health practitioner, regarding their concerns for the mental health of a young person. This is to

identify a plan for providing treatment and care to a young person. If it isn't possible to provide treatment and care or attempts to engage the young person are not successful, a concerned person can then apply for an EA through the Mental Health Review Tribunal with support from their local CYMHS. CYMHS can provide information to support the application.

If CYMHS are concerned they can also make this application to the Mental Health Review Tribunal. This process does not replace seeking assistance from QPS or QAS if a young person is at immediate risk of serious harm.

What is an Examination Order?

An Examination Order (EO) is new to the *Mental Health Act 2016*. An EO can be made by a magistrate, and has the power to require a person who has, or may have, a mental illness to undergo an involuntary examination, by an authorised doctor, at an authorised mental health service or public sector health service facility.

This applies if charges for a simple offence have been dismissed or court adjourned, and the magistrate believes the person needs an examination.

The Order cannot specify the outcome of examination, and can require the person to be transported either immediately or, if non urgent, to attend a public health service facility within 28 days.

Expanded court liaison services

Children's Health Queensland's CYMHS will have an expanded Court Liaison Service providing clinical assessment, liaison, support and advice to consumers, their families, carers, legal professionals, police and magistrates.

This service assists young people involved in the criminal justice system who have mental health needs, ensuring access to appropriate services, limiting the possibility of bias due to their needs, and ensuring continuity of care for consumers already involved with mental health services.

Further information

For further information speak with your CYMHS team or visit the Queensland Health website at www.health.qld.gov.au and search for 'Mental Health Act 2016'.

Independent Patient Rights Advisor

People being treated under the *Mental Health Act 2016* will have the benefit of a new level of protection. An independent person will be employed by Children's Health Queensland to work with young people and their family/guardians.

This person is called an Independent Patient Rights Advisor (IPRA). The IPRA makes sure consumer rights are upheld while they are involved with mental health services.

The new IPRA will start at Children's Health Queensland on 5 March 2017.

The IPRA will be employed separately from the Child and Youth Mental Health Service (CYMHS). That way, the IPRA can provide advice and support independent of CYMHS. The IPRA can support young people and their families/guardians:

- during a hospital admission, or
- by providing advice about the Mental Health Review Tribunal and its work.

Young people and families can contact the IPRA, and/or they can ask to be referred through their treating CYMHS team (from 5 March 2017).

Contact us

For more information contact your local Child and Youth Mental Health Service.

North West CYMHS Tel: 3335 8888

Nundah CYMHS Tel: 3146 2693

Pine Rivers CYMHS Tel: 3817 6380

Inala CYMHS Tel: 3372 5577

Mt. Gravatt CYMHS Tel: 3087 2260

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