



## Mental Health Act 2014 (MHA) Frequently Asked Questions

### MHA section 303 – Segregation of children from adult inpatients

4 June 2020

#### Why these FAQs on section 303 of the MHA 2014 are being issued

Since the MHA 2014 came into effect in 2015, a range of new mental services have been developed, including inpatient services catering specifically for youth (children and young people aged 16 to 24 years), as well as the development of Mental Health Observation Areas (MHOAs), which may admit children under 18 years of age.

As a result, the Chief Psychiatrist (CP) and the Mental Health Commission (MHC) have had to consider whether s.303 applies to these new inpatient services which admit both adults and children as a matter of course. In the process, and based on expert information, it has been necessary to revisit the previous understanding of s.303, and issue these FAQs to explain the new understanding and revised application of s.303.

Given that s.303 was drafted before any of the new inpatient services were developed, the wording and scope of s.303 will need to be reviewed. This will occur as part of the statutory review of the MHA 2014.

*Please note: this revised understanding of s.303 may differ from advice your service has previously received. That previous advice is replaced with this information. There is no requirement for any historical remediation.*

#### When to apply MHA 2014 s.303

Segregation of children from adults under the Mental Health Act 2014 (Part 2 Division 1 Section 4), a child is defined as a person who is under 18 years of age.

Whenever a child is admitted to any mental health service (including MHOAs or MHOA equivalents) where adults are also admitted, MHA 2014 s.303 must be applied. This includes when a child is admitted to a youth inpatient mental health service and applies whether the child is admitted as a voluntary or involuntary inpatient.

When considering and applying MHA 2014 s.303, the person in charge of the mental health service must first be satisfied that:

- the mental health service can provide the child with treatment, care and support that is appropriate having regard to the child's age, maturity, gender, culture and spiritual beliefs; and
- the treatment, care and support can be provided to the child in a part of the mental health service that is separate from any part of the mental health service in which adults are provided with treatment and care if, having regard to the child's age and maturity, it would be appropriate to do so.



## Who is required to complete a MHA 2014 s.303 – Segregation of children from adult inpatients Notification Form?

The MHA 2014 s.303 refers to the “person in charge of the mental health service” doing various things. The MHA 2014 does not define this position. Who is the ‘person in charge’? This might vary from site to site. It does not necessarily have to be a doctor, but the person must have senior governance oversight. Practically, it might be the admitting clinician or the person in charge of the mental health service at the particular point in time. As one example, after hours it might be the Senior Nurse in charge of the inpatient mental health service, whereas during the day it might be the Director of Clinical Services - these are examples only, and not exhaustive. This is a practical application of s.303, which allows for the Notification Form to be completed at the time of admission, whatever time of the day that may occur.

## Where do I find the MHA 2014 s.303 – Segregation of children from adult inpatients Notification Form?

The MHA 2014 s.303 – Segregation of children from adult inpatients Notification Form **must be completed at admission** and can be found here:

**[Office of the Chief Psychiatrist - Segregation of children from adult inpatients](#)**

## What should be documented in the MHA 2014 s.303 – Segregation of children from adult inpatients Notification Form?

1. The reasons why the person in charge is satisfied that the mental health service can provide the child with treatment, care and support that is appropriate having regard to the child’s age, maturity, gender, culture and spiritual beliefs.
2. The measures that the mental health service will take to ensure that, while the child is admitted as an inpatient, the child is protected and the child’s individual needs in relation to treatment and care are met.

Practically, this is documented to the best of the person’s ability, in brief, with the information available to the service clinicians at that time.

## Who requires a copy of the MHA 2014 s.303 – Segregation of children from adult inpatients Notification Form?

A copy should be:

1. Given to the child’s parents or guardian
2. Sent to the Chief Psychiatrist at [monitoring@ocp.wa.gov.au](mailto:monitoring@ocp.wa.gov.au)
3. Filed in the patient’s medical record



## Practically, what does this mean?

Sexual, physical and all other safety for children (which means every person under 18 years of age) in a ward where there are adult patients is, and always was, an **existing governance responsibility** for any health and mental health service. Documenting strategies to keep a child safe on a ward where there are adult patients, and informing parents, **have always been** important clinical governance issues even prior to MHA 2014.

- Assessment of safety is a serious business. After hours, if there is any uncertainty around safety and strategies for the child among the admitting clinicians, the on-call Consultant Psychiatrist should be contacted to discuss the matter.
- Thus, completion of a s.303 Notification Form is a very brief summary of the **actions which clinical staff will have already taken and documented** to keep a child safe and to provide age-specific care in a ward where there are adult patients, with the information available to the clinicians at the time.
- A copy of the s.303 Notification Form is given to the parent/guardian, filed and another copy is sent to the Chief Psychiatrist at [monitoring@ocp.wa.gov.au](mailto:monitoring@ocp.wa.gov.au)
- The MHA 2014 is clear that s.303 Notification Form must be completed at the time of the start of the admission - this means at the time of the admission assessment and does not allow this to be done at some time after the admission assessment.

The MHA 2014 s.303 is flexible around what actions may be taken by the inpatient mental health service in order to comply. It does not note specific strategies regarding therapy for children and also does not note specific strategies for keeping a child segregated or safe. For example, 1:1 special or having a child in a separate, better observed area of the ward are common strategies for safety, but are not the only strategies.

Staff and parents/guardians should be satisfied that the strategies to keep the child safe will be practically effective- this must not be a tick box exercise.

Staff can call the Chief Psychiatrist's Clinical Helpdesk on 08 6553 0000 if they are uncertain about anything to do with compliance with s.303 MHA 2014.