CHIEF PSYCHIATRIST
of Western Australia

Chief Psychiatrist's Guideline

Ensuring compliance with the Mental Health Act 2014 by mental health services

Compliance with approved forms

As required under section 547(1)(g) and (h) of the *Mental Health Act 2014*

December 2025

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Version Control

Purpose	Statutory Requirement under the *Mental Health Act 2014 s 547*		
Relevant To	All mental health services		
Approval Authority	Dr Nathan Gibson, Chief Psychiatrist		
Version	2.0		
Effective Date	December 2025	**Review Date:**	December 2027
Enquiries Contact	Reception, Office of the Chief Psychiatrist Tel: 08 6553 0000		
Source Documents	*Mental Health Act 2014*		

Version	Date From	Date To	OCP Ref
2.0	December 2025	Current	OCP55595
1.0	December 2015	December 2025	OCP840

Acknowledgements

We acknowledge Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of our State and its waters. We pay our respects to Elders who were, who are and who will be, and extend this to all Aboriginal and Torres Strait Islander peoples seeing this message.

We recognise the individual and collective expertise of those with a living or lived experience of mental health, alcohol and other drug issues. We recognise their vital contribution at all levels, and value the courage of those who share this unique perspective for the purpose of learning and growing together to achieve better outcomes for all.

We are committed to embracing diversity and eliminating all forms of discrimination in the provision of health and mental health services.

This document would not have been possible without the invaluable contribution from the Chief Psychiatrist's Standards and Guidelines Working Group, and the broader agencies and individuals involved in feedback.

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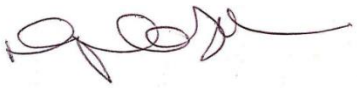
Message from the Chief Psychiatrist

The *Mental Health Act 2014* (MHA) makes the Chief Psychiatrist responsible for overseeing the treatment and care of a range of users of mental health services. As Chief Psychiatrist, I am required to discharge that responsibility by publishing guidelines identified in the MHA s 547.

These guidelines were originally developed prior to the implementation of the MHA, by a working group consisting of consumers, carers, families, mental health professionals, and relevant peak bodies, the Chief Psychiatrist's Standards and Guidelines Working Group (CPSGWG). Some amendments have been made over time as clinical interpretation of the MHA has evolved. They complement and must be read in conjunction with the Chief Psychiatrist's Standards and other relevant documents.

These guidelines are not intended to provide a full description of best practice approaches to mental health care. However, the person in charge of the mental health service must ensure that regard is had to these guidelines in the treatment and care of persons who have a mental illness (MHA s 191)

As Chief Psychiatrist, I value the skill and commitment of mental health service staff. They, together with the central role of consumers and carers in shared decision making, represent the greatest assets available to mental health services.



Dr Nathan Gibson
CHIEF PSYCHIATRIST

17 December 2025

Ensuring compliance with the Mental Health Act 2014 by mental health services

Introduction and purpose

The Mental Health Act 2014 (MHA) is legislation enacted by Parliament and establishes legal obligations for clinicians and services who carry out functions under its provisions. As such, compliance with the MHA is a primary and fundamental requirement of service delivery.

By embedding compliance with the MHA into their operational processes, mental health services demonstrate accountability, promote public confidence, safeguard the rights of individuals, and support their staff.

Compliance also requires adherence to the overarching objects of the MHA (s 10) and the Charter of Mental Health Care Principles (MHA Schedule 1).

The objects of the MHA are:

> *(a) to ensure people who have a mental illness are provided the best possible treatment and care —*
>
> *(i) with the least possible restriction of their freedom; and*
>
> *(ii) with the least possible interference with their rights; and*
>
> *(iii) with respect for their dignity;*
>
> *(b) to recognise the role of carers and families in the treatment, care and support of people who have a mental illness;*
>
> *(c) to recognise and facilitate the involvement of people who have a mental illness, their nominated persons and their carers and families in the consideration of the options that are available for their treatment and care;*
>
> *(d) to help minimise the effect of mental illness on family life;*
>
> *(e) to ensure the protection of people who have or may have a mental illness;*
>
> *(f) to ensure the protection of the community.*

Responsibilities of mental health services and clinicians

Mental health services

- Mental health services have a responsibility to ensure that all staff are provided with sufficient initial and refresher training to allow them to carry out their functions under the MHA. At a minimum, completion of this training is required on commencement with the service and at regular 3 yearly intervals thereafter.

- Mental health services should ensure that policies and procedures which support functions under the MHA accurately reflect the legislative requirements and are known by clinicians and administrative staff.
- Mental health services should have in place audit and checking functions for completed MHA forms, to check for correct usage and compliance with the MHA requirements.
- Mental health services should have a process in place that ensures investigation when instances of irregularities and/or non-compliance with the legal requirements of the MHA are found, to take action to remedy the legal issues and to ensure that the patient is informed of the irregularities (open disclosure) and that they are advised that they can seek their own legal advice.

Clinicians

- Clinicians who perform functions under the MHA have a responsibility to ensure that they always practise in compliance with the legislative requirements of the MHA when using those powers
- Clinicians must undertake MHA comprehensive training on commencement with the service and then meaningful training at regular intervals thereafter. Clinicians must be aware of their specific responsibilities in relation to their organisational role regarding the MHA.

Agencies which monitor compliance with the MHA

There are several agencies which have oversight of functions in relation to the MHA. They all perform various compliance checks to detect when the MHA is not being enacted in accordance with legal requirements. They are:

Chief Psychiatrist

The Chief Psychiatrist is responsible for overseeing the standards of treatment and care of all involuntary patients, all voluntary patients of a mental health service, supervised persons detained in an authorised hospital, supervised persons required to undergo treatment, those referred under the MHA for an examination by a psychiatrist, and residents of private psychiatric hostels.

Please refer to Chapter 11 of the Clinician's Practice Guideline.

Mental Health Advocacy Service

The Mental Health Advocacy Service provides an identified person (as defined in the MHA s 348) with access to information about their rights and provides support to the person in exercising those rights. This is generally achieved by providing the identified person with access to a mental health advocate who will also support the person in pursuing complaints where necessary and can support the person to request and attend a review by the Mental Health Tribunal.

Please refer to Chapter 8 of the Clinician's Practice Guide.

The Mental Health Tribunal

The Mental Health Tribunal (The Tribunal) is an independent statutory body established under the MHA. The Tribunal has the authority to review a number of decisions made under the MHA that affect a person's rights, voluntary or involuntary status and other restrictions on a person's freedom.

Please refer to Chapter 9 of the Clinician's Practice Guide.

The State Administrative Tribunal

A person in respect of whom the Tribunal makes a decision may apply to the State Administrative Tribunal (SAT) for a review of the decision; and any other person, including the treating psychiatrist who, in the opinion of the SAT has an interest in the matter, may, with the leave of the SAT, apply to the SAT for a review of that decision.

Please refer to Chapter 10 of the Clinician's Practice Guide.

Compliance with approved forms

Introduction and purpose

To ensure that approved forms are completed, recorded and filed correctly and are delivered to the patient and appropriate staff, agencies and personal support persons in a timely and efficient manner and in accordance with the MHA. Approved forms are not to be used as a replacement for the recording of notifiable events (ss. 138 to 145).

The completion of the approved forms is a legal requirement for clinicians who are performing functions under the MHA. This legal requirement supports and upholds the rights of patients and personal support persons as outlined in the Chief Psychiatrist's Standard for Consumer and Carer Involvement Standard in Individual Care.

Services which use approved forms

- Mental health services should have clear internal processes that ensure clinicians are completing and complying with all requirements in the approved forms as per the MHA. The service is to have regular audits of legal orders and processes to ensure that the service and their staff maintain compliance with the requirements of the MHA when managing voluntary, referred, involuntary and supervised persons.
- Mental health services should provide comprehensive education at commencement and on a regular basis thereafter on legal requirements regarding but not limited to the correct completion of the approved forms. This is to include specific requirements for metropolitan, non-metropolitan locations, children and adolescent patients and supervised persons.
- Mental health services should have a process in place that ensures investigation when instances of irregularities and/or non-compliance with the legal requirements of the MHA are found, to take action to remedy the legal issues and to ensure that the patient is informed of the irregularities (open disclosure) and that they are advised that they can seek their own legal advice.
- Mental health services should have internal processes that regularly check patient's clinical records are being adequately maintained and appropriate information and all the approved forms are included.
- Mental health services must ensure that staff follow the process for approved forms to be sent to Office of the Chief Psychiatrist, the Mental Health Advocacy Service and the Mental Health Tribunal within the legislated timeframe.

Clinicians

- Clinicians have a responsibility to always practice within the legislative requirements of the MHA and Charter of Mental Health Care Principles when using approved forms to carry out functions under the MHA.
- It is the responsibility of all clinicians who perform functions under the MHA to ensure that they have a sound working knowledge of the provisions of the MHA, the approved forms and their applications prior to using them by attending comprehensive training on commencement with the service and then organised training at regular intervals thereafter.
- Clinicians must ensure that all relevant clinical and legal information is clearly documented in the patient's clinical record – including date, time, name, designation and signature of the clinician.
- When referring and transferring patients between services, clinicians must ensure the approved form/s, and any other relevant information, have been received and confirmed by the accepting service, before the (referral) transfer occurs (this guideline should be followed in conjunction with the Chief Psychiatrist's Clinical Care Standard for Transfer of Care).
- Clinical justification for decisions made under the MHA must be recorded and documented in the clinical record on all occasions and on the approved form where required.
- The approved forms, if handwritten, must be legible and recorded using black ink.
- Clinicians must ensure that the original of each completed approved form is placed in the clinical record and entered into the Psychiatric Services Online Information System (PSOLIS) as soon as is possible.
- Clinicians must ensure the patient has been given a copy of the completed approved form except for the Attachment to Form 1A – Information Provided by Another Person in Confidence which is never to be released.
    - Appropriate services are to be involved to ensure that the patient and personal support persons understand the content of the approved forms in a format or language they understand.

Terminology

Aboriginal

Within Western Australia, the term 'Aboriginal' is used in preference to 'Aboriginal and Torres Strait Islander', in recognition that Aboriginal people are the original inhabitants of Western Australia. No disrespect is intended to Torres Strait Islander colleagues and community.

Children

The MHA refers to anyone under the age of 18 as a child, so the term 'child' or 'children' has been used in preference to terms such as young person, when referring to anyone under 18.

Consumer/patient

We have used the term "consumer" to refer to groups of people who have used or may use a mental health service, and the term "patient" to refer to a person receiving treatment, and when quoting from the MHA, as this is the term used in the Act.

Support person

We have used the overarching term 'support person' to refer to a family member, carer or personal support person for a mental health consumer.