

# ANNUAL REPORT 2019–20

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CHIEF CIVIL PSYCHIATRIST  
CHIEF FORENSIC PSYCHIATRIST

**For more information**

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## CHIEF PSYCHIATRIST'S MESSAGE

I am pleased to present this Annual Report of the Chief Civil Psychiatrist and Chief Forensic Psychiatrist in accordance with section 150 of the *Mental Health Act 2013* (Tas) (the Act) for the period 1 July 2019 – 30 June 2020.

This report, my third as Chief Civil Psychiatrist and Chief Forensic Psychiatrist for Tasmania, provides an outline of the Chief Psychiatrists' activities during the 2019 – 2020 Financial Year. It reports on the statutory functions of the Chief Psychiatrists under the Act and makes observations and presents data about these functions. It also provides an overview of other work that I have undertaken as the incumbent to the offices of the Chief Civil Psychiatrist and Chief Forensic Psychiatrist within the broader mental health sector in Tasmania.

The past financial year my office has responded to challenges and complexity in the Tasmanian health system at a time that was greatly influenced by the emergence of a global pandemic. There has been a greater demand than in the previous year for advice and support both to consumers and clinicians, especially when as a community we faced a number of restrictions to our normal way of living due to the COVID-19 pandemic. One of the most prominent ways the Office of the Chief Psychiatrist provided support and flexibility to clinicians and consumers was by developing a clinical guideline encouraging telehealth when other means of face to face contact was not possible.

This year has been very busy with a range of activities and reforms that we have continued to implement. The Review of the Act's Operation was completed, and extensive work continued with Tasmania's Mental Health Reform Program, there was also further work undertaken to progress long-standing issues associated with people on mental health orders who move jurisdiction. All of this occurred within the challenges and restrictions the whole of our community faced as a direct impact of the COVID-19 pandemic.

In response to this, the Tasmanian government announced a significant support package for people experiencing mental health difficulties as a result of the challenges associated with the pandemic. For many in Tasmania, the pandemic and our response to it, has caused people to become more anxious, lonely and distressed. I am also acutely aware of the added pressure the pandemic placed on both those in our community who already lived with a mental illness and our clinical and non-clinical services who are regularly in contact with them, and I can assure you that this office will continue to provide advice and support as required during these times of uncertainty.

I had the pleasure to lead the review of the Act on the Minister's behalf by chairing the 2019 review Project Steering Committee that oversaw the completion of the review of the Act's operation. The review and the Government's response to the review outcomes will be tabled in parliament this current financial year. This will subsequently be available to the public on the Chief Psychiatrist website as soon as it is tabled in parliament.

The review of the Act was an important opportunity for people with lived experience of the Act, their family, friends, clinicians and others to share their experiences of the Act's operation, and to let us know what they think. I am thankful for the opportunity to hear people's views and incorporate this feedback into the review which then went on to inform the Government's response to the issues and concerns that were raised. I look forward to reporting further on the outcomes and their implementation in my next annual report.

I would like to extend my thanks to Professor Ken Kirkby, who has acted as Chief Civil Psychiatrist and Chief Forensic Psychiatrist at times when I have been unable to do so, and to my colleagues both in the Office of the Chief Psychiatrist and the Mental Health, Alcohol and Drug Directorate within the Department of Health, who provide me with ongoing support to perform my functions.

Thanks also go to the Legal Orders Coordinators around the State who provide the Tasmanian Health Service with support every day to ensure the Act is complied with.

I also want to acknowledge that the work of the Chief Psychiatrists has been assisted by close working relationships with the Mental Health Tribunal, Mental Health Official Visitors Scheme, Public Guardian and the Office of the Health Complaints Commission and the Ombudsman and staff in their respective offices. Regular liaison with each of these bodies has enabled matters of shared interest to be explored and, in many cases, resolved.

Finally, I would also like to thank the clinicians, service leaders, consumers and carers who continue to share their expertise and lived experience with us. I acknowledge it has been a very challenging year, but our office appreciates the support we continue to receive to assist us with broader policy and strategic development.

A handwritten signature in black ink, appearing to read 'A. Groves', with a large, stylized flourish at the end.

Dr Aaron Robert Groves  
Chief Civil Psychiatrist and Chief Forensic Psychiatrist

22 September 2020

# CHAPTER 1: BACKGROUND AND OVERVIEW

## BACKGROUND

The *Mental Health Act 2013* (the Act) was developed in response to a review of the *Mental Health Act 1996*, which together with the *Guardianship and Administration Act 1995* (Tas) had previously regulated the treatment and care of people with mental illness.

The review process found that working between the two Acts was unnecessarily complex and that the framework did not provide an appropriate level of review or safeguards for people being involuntarily treated for a mental illness.

The Act was developed following extensive public and targeted consultation and with assistance from a wide range of stakeholders to ensure that people with mental illness are treated within a framework that is consistent with a human rights approach, and that is focussed on consumers and their rights.

The Act is intended to be rights-focussed, and to reflect notions of consumer autonomy. It establishes what is effectively a substitute decision-making framework for people with mental illness who, because of the illness, lack decision-making capacity and cannot make their own assessment and treatment decisions.

The Act introduced decision-making capacity as a threshold test for determining whether people with a mental illness can be involuntarily treated. On this basis, the legislation does not enable a person with mental illness to be involuntarily treated or detained if they have decision-making capacity.

The Act sought to remedy the difficulties associated with the previous legislative framework, which saw decisions about a person's treatment being made under the *Guardianship and Administration Act*, with decisions about treatment setting made under the *Mental Health Act 1996*, by establishing a streamlined and clarified treatment pathway featuring a single Treatment Order enabling treatment across a range of settings.

Before the Act commenced, decisions about treatment setting for people with severe mental illness were made by medical practitioners while decisions about treatment were commonly made by family members, carers or friends of the person. The Act sought to address difficulties associated with this decision-making model by enabling treatment decisions to be made by an independent Tribunal comprised of legal and medical experts (the Mental Health Tribunal, henceforth referred to as the Tribunal).

Another main aim of the Act was to provide clarity for clinicians, people with experience of mental illness and their families and carers by clearly setting out the rights that consumers have under the Act.

The Act was amended in 2016 to clarify and improve the Act's operation in response to feedback received from clinicians and the Tribunal about certain aspects of the legislation. The 2016 amendments took effect on 1 July 2017.

Other more recent amendments to the Act include:

- removal of the requirement for the Tribunal to review a person's admission to an approved facility before a division of three members chosen by the President of the Tribunal, and
- technical amendments to the interstate transfer provisions to facilitate interstate transfers of forensic patients.

Amendments to remove the requirement for the Tribunal to review admissions before a division of three members took effect in May 2019 while amendments to the interstate transfer provisions took effect in June 2019.

## OVERVIEW OF THE ACT

The Act provides for the assessment and treatment of people with mental illness, and related matters, as follows:

- Chapter 1 of the Act defines key terms, confirms how particular concepts underpinning the Act's provisions are to be interpreted and identifies the Act's objects, status and principles
- Chapter 2 of the Act provides for the assessment, treatment and management of patients
  - Part 1 of Chapter 2 of the Act refers to the mental health service delivery principles and identifies the circumstances in which a patient may be given treatment.
  - Part 2 of Chapter 2 of the Act applies to and regulates protective custody.
  - Part 3 of Chapter 2 of the Act applies to involuntary patients. It provides for and regulates Assessment Orders, Treatment Orders, treatment plans, urgent circumstances treatment, seclusion and restraint, patient movements and the circumstances in which an involuntary patient can be admitted to a secure mental health unit. It also sets out the rights of involuntary patients under the Act.
  - Part 4 of Chapter 2 of the Act applies to the admission and custody of forensic patients and regulates forensic patient leave.
  - Part 5 of Chapter 2 of the Act applies to the treatment and management of forensic patients. Amongst other matters it provides for and regulates force, seclusion and restraint, visits, telephone calls and mail, searches, and judicial and related matters. It also sets out the rights of forensic patients under the Act.
  - Part 6 of Chapter 2 of the Act applies to special psychiatric treatment.
  - Part 7 of Chapter 2 of the Act applies to information management and related matters.
  - Part 8 of Chapter 2 of the Act applies to approved personnel and facilities.
- Chapter 3 of the Act provides for oversight and review
  - Part 1 of Chapter 3 provides for the appointment and features of office of the Chief Psychiatrists and for Clinical Guidelines and Standing Orders.
  - Part 2 of Chapter 3 provides for the appointment, powers and functions of Official Visitors, and for visits, complaints and reporting mechanisms.

- Part 3 of Chapter 3 provides for the establishment, functions and powers of the Tribunal. It also provides for the Tribunal's review functions.
- Chapter 4 provides for interstate transfer agreements and interstate control agreements.
- Chapter 5 provides for miscellaneous matters including offences and legal and administrative matters.
- Schedule 1 outlines the mental health service delivery principles.
- Schedule 2 outlines the custody and escort provisions.
- Schedules 3 and 4 relate to the Tribunal.
- Schedule 5 relates to Official Visitors.

## ABOUT THE CHIEF CIVIL PSYCHIATRIST AND CHIEF FORENSIC PSYCHIATRIST

The Act provides for the offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist.

The Governor may appoint a person to be Chief Civil Psychiatrist, and a person to be Chief Forensic Psychiatrist, under sections 143 and 144 of the Act respectively. In each case the person appointed must be a psychiatrist with at least five years' experience in practising psychiatry.

Together with the Tribunal and Official Visitors, the Chief Psychiatrists provide an important review and oversight role.

The statutory position of Chief Forensic Psychiatrist was introduced to the *Mental Health Act 1996* in 2006. The role was widely considered to provide an important review role in relation to forensic mental health patients, and to be of value in providing an oversight and quality assurance role.

The *Mental Health Act 1996* did not provide for a similar position with respect to involuntary patients and the office of Chief Civil Psychiatrist was included in the Act to address this perceived deficiency.

The legislation in place in other States and Territories provides for the concept of Chief Psychiatrists. The concept is supported by the Model Mental Health Legislation, according to which the Chief Psychiatrist would be "responsible for the medical care and welfare of persons receiving treatment and care at a mental health facility or from a health care agency". The establishment of an independent statutory authority to provide guidance and clarity to clinical staff in relation to the Act and to oversee clinical practice in this respect was also considered to be consistent with (the then recent establishment of) independent and separate Tasmanian Health Organisations.

Matters relevant to the Chief Psychiatrists are provided for in sections 143 – 153 of the Act.

Matters relating to the offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist are set out in Chapter 2 of this document while the Chief Civil Psychiatrist and Chief Forensic Psychiatrist's powers and functions, and their oversight and review responsibilities, are explored further in Chapters 3 and 4.

## CHAPTER 2: ADMINISTRATION OF THE MENTAL HEALTH ACT 2013

This Chapter provides information on the offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist, and on administration of the *Mental Health Act 2013* (the Act).

### CHIEF CIVIL PSYCHIATRIST AND CHIEF FORENSIC PSYCHIATRIST

The independent statutory offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist are established under sections 143 and 144 of the Act.

Under section 143 of the Act, the Governor may appoint a person with at least five years' experience in practising psychiatry to be Chief Civil Psychiatrist. Under section 144 of the Act, the Governor may, in turn, appoint a person with at least five years' experience in practising psychiatry to be Chief Forensic Psychiatrist.

Each of the Chief Psychiatrists is appointed by the Governor and holds office for a term of up to five years.

Dr Aaron Groves was appointed to be Chief Civil Psychiatrist and Chief Forensic Psychiatrist on 20 November 2017 for a term of five years commencing on 23 November 2017.

### APPROVED PERSONNEL

The Act provides for approved medical practitioners, and approved nurses.

Approved medical practitioners and approved nurses are people who have been approved as medical practitioners or nurses for provisions of the Act within the Chief Psychiatrists' jurisdiction and for provisions of other Acts under which the relevant Chief Psychiatrist has responsibilities.

Approved medical practitioners have a range of powers and functions under the Act including:

- Affirming and discharging Assessment Orders
- Assessing people subject to Assessment Orders to confirm whether the assessment criteria and treatment criteria are met
- Authorising urgent circumstances treatment
- Applying for and discharging Treatment Orders
- Applying for the renewal or variation of Treatment Orders
- Granting involuntary patients leave of absence from approved hospitals
- Applying for authorisation of treatment for forensic patients, and
- Examining patients placed in seclusion or under restraint.

The Chief Psychiatrists may approve people individually. Alternatively, the Chief Psychiatrists may approve all members of a class of people. The power to do so is set out in section 138 of the Act.



There are limitations on who can be approved as a medical practitioner, and only people who are either psychiatrists, or medical practitioners who are otherwise qualified or experienced in the diagnosis or treatment of mental illness, can be approved.

Before deciding whether to approve a person as a medical practitioner, the Chief Psychiatrists consider evidence that the person meets these criteria. This includes considering the person's qualifications and experience and receiving confirmation from a senior clinician that knows the person that the person understands the requirements of the Act. Every person seeking approval as a medical practitioner is also required to complete an online education and training package.

Approved nurses are people who have been approved as nurses for provisions of the Act within the Chief Psychiatrists' jurisdiction and for provisions of other Acts under which the relevant Chief Psychiatrist has responsibilities.

Approved nurses have power under the Act including:

- Authorising seclusion or physical restraint
- Responsible under the Act for examining people who are being secluded or restrained

The Chief Psychiatrists may approve people as nurses individually. Alternatively, the Chief Psychiatrists may approve all members of a class of people as approved nurses. As with approved medical practitioners, the power to approve a person as an approved nurse, or all members of a class of people as approved nurses, is set out in section 138 of the Act.

As is also the case with approved medical practitioners, there are limitations on who can be approved as a nurse, and only people who are registered nurses who are qualified or experienced in the treatment or care of people with mental illness can be approved.

Approval of a person as a medical practitioner, or as a nurse, takes effect on the day the approval is given or a later day, if specified, and remains in effect for five years unless sooner revoked.

For the period 1 July 2019 to 30 June 2020:

- 77 people were newly approved as medical practitioners for purposes of the provisions of the Act within the Chief Psychiatrists' jurisdiction
- No classes of people were approved as medical practitioners for the purposes of the provisions of the Act within the Chief Psychiatrists' jurisdiction
- Two approvals of a person as a medical practitioners were revoked
- 12 people were approved as nurses for provisions of the Act within the Chief Psychiatrists' jurisdictions and
- No classes of people were approved as nurses for the purposes of relevant provisions of the Act.

## MENTAL HEALTH OFFICERS

The Act provides for mental health officers.

Mental health officers are people who have been approved by a Chief Psychiatrist for provisions of the Act within the Chief Psychiatrists' jurisdiction, and for provisions of any other Act in respect of which the relevant Chief Psychiatrist may have responsibilities.

Mental health officers have a range of powers and functions under the Act including the power to:

- Take a person into protective custody and escort the person to an approved assessment centre
- Take an involuntary patient under escort to ensure that he or she presents for assessment under an Assessment Order or treatment under a Treatment Order
- Take a patient who is being transferred from one approved hospital to another under escort for the purposes of the transfer, and
- Conduct a frisk or ordinary search of a person who has been taken into protective custody or under escort in certain circumstances.

Ambulance officers and medical practitioners who are approved as mental health officers under the Act may also sedate patients who are being transported under the Act in certain circumstances. The power to sedate patients in this manner is set out in section 212 of the Act.

The Chief Psychiatrists may approve people as mental health officers individually. Alternatively, the Chief Psychiatrists may approve all members of a class of people as mental health officers. The power to approve a person as a mental health officer, or all members of a class of people as mental health officers, is set out in section 139 of the Act.

As is also the case with approved medical practitioners and approved nurses, there are limitations on who can be approved as a mental health officer, and only people who have skills, qualifications or experience relevant to the responsibilities of mental health officers under relevant provisions of the Act can be approved.

Approval may also be conferred on ambulance officers with the consent of the Commissioner of Ambulance Services under the *Ambulance Service Act 1982 (Tas)* and on police officers with the consent of the Commissioner of Police.

Approval of a person as a mental health officer takes effect on the day the approval is given or on a later day, if specified, and remains in effect for five years unless sooner revoked.

For the period 1 July 2019 to 30 June 2020:

- 102 ambulance officers were newly approved as mental health officers for the Act
- 73 people other than ambulance officers were newly approved as mental health officers for the Act

## AUTHORISED PERSONS

The Act also provides for authorised persons.

Under the Act, authorised persons are people who have been approved by the Chief Forensic Psychiatrist or the controlling authority of a secure mental health unit for the purposes of any or all the provisions of the Act.

Authorised persons have a range of powers and functions under the Act relating to forensic patients. This includes the power to:

- Transport an involuntary patient from an approved hospital to a secure mental health unit in relevant circumstances
- Transport a forensic patient from a secure mental health unit to an approved hospital, secure institution, health service or premises from which a health service is provided in relevant circumstances
- Apply force to a forensic patient in certain, limited circumstances
- Perform functions relating to visitors to the secure mental health unit including requiring a person seeking entry to the unit to provide proof of identity or status, and
- Perform functions in relation to telephone calls and mail to and from forensic patients.

The Chief Forensic Psychiatrist or the controlling authority of a secure mental health unit may authorise a person to be an authorised person for the purposes of relevant provisions of the Act individually. The Chief Forensic Psychiatrist or controlling authority may also approve all members of a class of people, for the purposes of relevant provisions of the Act. The power to do this is set out in section 109 of the Act.

For the period 1 July 2019 to 30 June 2020:

- No people were authorised under section 109 of the Act, and
- No classes of people were authorised under section 109 of the Act.

## APPROVED FORMS

Each of the Chief Psychiatrists has the power to approve forms for use under provisions of the Act within his or her jurisdiction, or under provisions of other Acts in respect of which he or she may have responsibilities.

In the period 1 July 2019 – 30 June 2020, no new forms were approved.

A list of forms that have been approved by the Chief Civil Psychiatrist and Chief Forensic Psychiatrist since the Act's commencement in 2014, and that were in place on 30 June 2020 can be found at Appendix I.

## STANDING ORDERS AND CLINICAL GUIDELINES

Clinical Guidelines and Standing Orders indicate how a provision of the Act, or another Act, should be applied in a practical clinical or forensic setting.

Each of the Chief Psychiatrists may issue Clinical Guidelines and Standing Orders to help controlling authorities, medical practitioners, nurses or other people in the exercise of their responsibilities in respect of any treatment, clinical procedure or other clinical matter under provisions of the Act within the relevant Chief Psychiatrist's jurisdiction, or under provisions of other Acts in respect of which the Chief Psychiatrist may have responsibilities. The power to do so is set out in section 151 of the Act.

A person exercising responsibilities in respect of a matter for which Clinical Guidelines have been issued is to have regard to those Guidelines. While failure by an individual to have regard to Clinical Guidelines is not an offence, it may constitute proper grounds for instituting professional or occupational disciplinary action, particularly if the failure leads to unfavourable patient outcomes that might otherwise have been avoided or if there is a history of disregard.

Each of the Chief Psychiatrists may also issue Standing Orders to controlling authorities, medical practitioners, nurses or other people regarding the exercise of their responsibilities in respect of any clinical or non-clinical procedure or matter under provisions of the Act within the relevant Chief Psychiatrist's jurisdiction, or under provisions of other Acts in respect of which the Chief Psychiatrist may have responsibilities. The power to do so is set out in section 152 of the Act.

A person exercising responsibilities in respect of a matter for which Standing Orders have been issued must comply with those Orders. While failure by an individual to comply with Standing Orders is not an offence it does constitute proper grounds for instituting professional or occupational disciplinary action against that individual.

For the period 1 July 2019 – 30 June 2020, no new Standing Orders were issued.

For the period 1 July 2019 - 30 June 2020, one new Clinical Guideline was issued: Chief Civil Psychiatrist Clinical Guideline 22. Clinical Guideline 22 relates to the use of remote medical procedures in the treatment, assessment, diagnosis and examination of patients under the Act.

A list of Standing Orders and Clinical Guidelines introduced by the Chief Civil Psychiatrist and the Chief Forensic Psychiatrist since the Act's commencement in 2014, and in place as at 30 June 2020 can be found at Appendix 2.

## STATEMENTS OF RIGHTS

Each of the Chief Psychiatrists has responsibility for approving the form of Statements of Rights required to be given to patients in relevant circumstances under the Act.

The Statements of Rights approved since the Act's commencement in 2014, and in place as at 30 June 2020 are as follows:

- *Your Rights as an Involuntary Patient – Tasmania's Mental Health Act 2013*
- *Your Rights as a Forensic Patient – Tasmania's Mental Health Act 2013*
- *Your Rights if you are Secluded or Restrained under Tasmania's Mental Health Act 2013.*

The Statements of Rights can be accessed online from here.

([www.dhhs.tas.gov.au/mentalhealth/mental\\_health\\_act/mental\\_health\\_act\\_2013\\_new\\_mental\\_health\\_act/information\\_for\\_consumers\\_carers\\_and\\_the\\_community\\_sector](http://www.dhhs.tas.gov.au/mentalhealth/mental_health_act/mental_health_act_2013_new_mental_health_act/information_for_consumers_carers_and_the_community_sector))

## DELEGATIONS

The Chief Psychiatrists may delegate any of their powers or functions under the Act or any other Act other than the power of delegation, the power to issue, vary or revoke Clinical Guidelines and Standing Orders and powers relating to special psychiatric treatment. The Chief Psychiatrists' power to delegate is set out in section 149 of the Act.

In some cases, powers and functions may only be delegated to another medical practitioner. This includes the power to authorise seclusion or restraint, to direct patient transfers, and the power to make decisions about admitting involuntary patients to or detaining involuntary patients at the secure mental health unit.

Under the *Acts Interpretation Act 1931* (Tas), powers and functions may be delegated to a person by name, or to the holder of an office or position by reference to the title of the office or position concerned.

For the period 1 July 2019 – 30 June 2020, the Chief Civil Psychiatrist delegated certain of his powers and functions under the Act and the *Sentencing Act 1997* (Tas) to:

- The person or people holding particular offices or positions on one occasion and
- People by name on 71 occasions.

For the period 1 July 2019 – 30 June 2020, the Chief Forensic Psychiatrist delegated certain of his powers and functions under the Act, the *Criminal Justice (Mental Impairment) Act 1999* (Tas), the *Corrections Act 1997* (Tas), the *Youth Justice Act 1997* (Tas), the *Criminal Code Act 1924* (Tas), the *Justices Act 1959* (Tas) and the *Sentencing Act* to:

- The person or people holding offices or positions on no occasions, and
- People by name on 15 occasions.

The Minister administering the Act may delegate any of his or her responsibilities under the Act other than the power of delegation and the power to approve facilities and secure institutions under sections 140 and 142 of the Act respectively. The Minister's power of delegation is set out in section 220 of the Act.

As at 30 June 2020, the Act was administered by the Minister for Mental Health and Wellbeing other than Parts 2 and 3 of Chapter 3, and Schedules 3, 4 and 5, which were administered by the Minister for Justice.

The controlling authority of an approved facility may also delegate any of the controlling authority's responsibilities under the Act or any other Act, other than the power of delegation. For approved facilities run by or on behalf of the State, the controlling authority is the Secretary, Department of Health. The controlling authority's power or delegation is set out in section 221 of the Act.

For the period 1 July 2019 – 30 June 2020, neither the Ministers nor the controlling authority delegated any of their powers and functions under the Act.

## CHAPTER 3: CHIEF CIVIL PSYCHIATRIST

The Chief Civil Psychiatrist has general overall responsibility, under and to, the Minister for Mental Health and Wellbeing responsible for administration of the Act, for ensuring that the objects of the Act are met in respect of involuntary patients, forensic patients and forensic inpatients, and for the running of approved hospitals and approved assessment centres. This responsibility is set out in section 143 of the Act.

This includes ensuring that each involuntary patient has a treatment plan, authorising seclusion and physical restraint for child patients, authorising chemical or mechanical restraint for child and adult patients, authorising patient transfers (including involuntary patient admissions to the secure mental health unit), correcting errors in forms that do not affect the form's validity and intervening directly regarding the assessment, treatment and care of involuntary patients and voluntary inpatients.

The Chief Civil Psychiatrist also has a significant oversight and review responsibility in respect of decisions made by approved medical practitioners, approved nurses and others in respect of involuntary patients and voluntary inpatients.

This responsibility is facilitated through a requirement that information relating to decisions made under the Act by approved medical practitioners and others is provided to the Chief Civil Psychiatrist as appropriate.

This Chapter reports on the exercise by the Chief Civil Psychiatrist of the powers and functions given to him by the Act and by other Acts. It also provides information on matters reported to the Chief Civil Psychiatrist as is required by the Act.

### CHIEF CIVIL PSYCHIATRIST POWERS AND FUNCTIONS TREATMENT PLANS

Under the Act, a treatment plan is a document that outlines the treatment a patient is to receive and a copy of this must be given to the patient. A copy of the plan must also be given to the Chief Civil Psychiatrist.

A patient's treatment plan may be prepared by any medical practitioner involved in the patient's treatment or care. In preparing a treatment plan, a medical practitioner should involve and consult with the patient. The medical practitioner may also, after consulting the patient, consult with other support people as the medical practitioner considers appropriate in the circumstances. This may include the patient's family, friends, and carers.

A medical practitioner who prepares a treatment plan is required to give a copy of the plan to the patient. A copy of the plan must also be given to the Chief Civil Psychiatrist.

**Figure 1: Treatment Plans by Region**

Area	2015-16	2016-17	2017-18	2018-19	2019-20
North	216	206	122	126	150
North West	149	189	167	120	135
South	428	374	374	307	356
Interstate	9	11	6	5	6
<b>Total</b>	<b>802</b>	<b>780</b>	<b>669</b>	<b>558</b>	<b>647</b>
% Children	0.50%	1.79%	1.20%	0.72%	0.77%
% Female (all ages)	45.39%	42.56%	43.35%	43.37%	42.19%
% Male (all ages)	54.61%	57.44%	56.65%	56.63%	57.81%

## SECLUSION AND RESTRAINT

Involuntary patients may be placed in seclusion or under restraint under the Act in certain, limited circumstances. The circumstances in which an involuntary patient may be placed in seclusion or under restraint are set out in sections 56 and 57 of the Act.

An involuntary patient may only be placed in seclusion if the patient is in an approved hospital and if:

- The seclusion is authorised as being necessary to facilitate the patient’s treatment, to ensure the patient’s health or safety or the safety of others, or to provide for the management, good order or security of an approved hospital
- The person authorising the seclusion is satisfied that it is a reasonable intervention in the circumstances
- The seclusion lasts for no longer than is authorised, and
- The seclusion is managed in accordance with any relevant Chief Civil Psychiatrist Standing Orders or Clinical Guidelines.

For a child patient (a patient who is under the age of 18), seclusion may only be authorised by the Chief Civil Psychiatrist or a delegate. For other patients, authorisation may be given by the Chief Civil Psychiatrist or a delegate, or by a medical practitioner or an approved nurse.

An involuntary patient may only be placed under restraint if the patient is in an approved hospital or approved assessment centre and if:

- The restraint is authorised as being necessary to facilitate the patient’s treatment, to ensure the patient’s health or safety or the safety of others, or to effect the patient’s transfer to another facility, whether in Tasmania or in another State
- The person authorising the restraint is satisfied that it is a reasonable intervention in the circumstances
- The restraint lasts for no longer than is authorised
- In the case of mechanical restraint, the means of restraint employed in the case is approved in advance by the Chief Civil Psychiatrist, and

- The restraint is managed in accordance with any relevant Chief Civil Psychiatrist Standing Orders or Clinical Guidelines.

In relation to chemical or mechanical restraint, and the physical restraint of a child (a person under the age of 18), the restraint may only be authorised by the Chief Civil Psychiatrist or a delegate. In other cases, and for other patients, authorisation may be given by the Chief Civil Psychiatrist or a delegate, or by a medical practitioner or an approved nurse.

Under the Act:

- Mechanical restraint means a device that controls a person’s freedom of movement
- Chemical restraint means medication given primarily to control a person’s behaviour, not to treat a mental illness or physical condition, and
- Physical restraint means bodily force that controls a person’s freedom of movement.

Seclusion and restraint are restrictive interventions, and may cause distress for patients, support people and staff members. They are essentially interventions of last resort and may only be applied when less restrictive interventions have been tried without success or have been excluded as inappropriate or unsuitable in the circumstances.

A person who authorises seclusion or restraint is required to make a record of the matter and to give a copy of the record to the patient, the Chief Civil Psychiatrist and the Tribunal. A copy of the record is also required to be placed on the patient’s clinical record.

For the period 1 July 2019 – 30 June 2020, three notifications of a child being secluded were received. All three notifications related to the Royal Hobart Hospital.

**Figure 2: Occasions of Seclusion by Hospital for the period 2015-16 to 2019 - 20**

Area	2015-16	2016-17	2017-18	2018-19	2019-20
LGH	77	30	25	28	29
NWRH	20	26	17	19	18
RHH	181	195	91	81	105
MRC	19	10	3	7	3
Roy Fagan Centre	0	1	1	1	1
<b>Total</b>	<b>297</b>	<b>262</b>	<b>137</b>	<b>136</b>	<b>156</b>
% Female (all ages)	50.84%	66.41%	41.61%	44.85%	31.41%
% Male (all ages)	49.16%	33.59%	58.39%	55.15%	68.59%
% Other (all Ages)	0%	0%	0%	0%	0%

**NOTE: The figures presented here for seclusion may differ from the National Collection of Seclusion data due to different scope of the collection.**

For the period 1 July 2019 – 30 June 2020, three notifications of a child being restrained were received. One notification related to the Launceston General Hospital and two notifications related to the North West Regional Hospital.

**Figure 3: Occasions of Restraint by Hospital and Type for the period 2015-16 to 2019-20**



Area	2015-16	2016-17	2017-18	2018-19	2019-20
<b>LGH</b>	<b>53</b>	<b>90</b>	<b>56</b>	<b>83</b>	<b>107</b>
Mechanical	5	3	5	5	6
Physical	48	85	51	73	92
Chemical	0	2	0	5	9
<b>NWRH</b>	<b>48</b>	<b>54</b>	<b>76</b>	<b>46</b>	<b>40</b>
Mechanical	3	2	8	9	6
Physical	43	48	65	34	33
Chemical	2	4	3	3	1
<b>RHH</b>	<b>221</b>	<b>171</b>	<b>118</b>	<b>85</b>	<b>84</b>
Mechanical	25	8	4	1	1
Physical	194	160	111	78	78
Chemical	2	3	3	6	5
<b>Millbrook Rise Centre</b>	<b>20</b>	<b>6</b>	<b>5</b>	<b>13</b>	<b>4</b>
Mechanical	0	0	0	0	0
Physical	20	6	5	12	4
Chemical	0	0	0	1	0
<b>Roy Fagan Centre</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>
Mechanical	0	0	0	0	0
Physical	0	3	0	0	0
Chemical	0	0	0	0	0
<b>State Total</b>	<b>352</b>	<b>324</b>	<b>255</b>	<b>227</b>	<b>235</b>
Mechanical	13	13	17	15	13
Physical	305	302	232	197	207
Chemical	4	9	6	15	15
<b>Mechanical Female</b>	<b>27.27%</b>	<b>61.54%</b>	<b>41.18%</b>	<b>13.33%</b>	<b>53.85%</b>
<b>Mechanical Male</b>	<b>72.73%</b>	<b>38.46%</b>	<b>58.82%</b>	<b>86.67%</b>	<b>46.15%</b>
<b>Physical Female</b>	<b>58.36%</b>	<b>65.56%</b>	<b>56.03%</b>	<b>48.73%</b>	<b>44.44%</b>
<b>Physical Male</b>	<b>41.64%</b>	<b>34.44%</b>	<b>43.973%</b>	<b>51.27%</b>	<b>55.56%</b>
<b>Chemical Female</b>	<b>50.00%</b>	<b>44.44%</b>	<b>33.33%</b>	<b>40.00%</b>	<b>20.00%</b>
<b>Chemical Male</b>	<b>50.00%</b>	<b>55.56%</b>	<b>66.67%</b>	<b>60.00%</b>	<b>80.000%</b>

## State-wide Restrictive Interventions Review Panel

The State-wide Restrictive Interventions Review Panel meets on a quarterly basis and examines all incidents of restrictive practices that have been reported to the Panel in the intervening period. The intention is to closely examine each episode to identify structural and case-specific problems and to generate discussion with a view to implementing suitable remedies to reduce these practices.

The Chief Psychiatrist is Chair of the State-wide Restrictive Interventions Review Panel.

**Figure 14: Tasmanian Seclusion Events per 1 000 Bed Days by Inpatient Unit for the Period 2014 - 15 to 2019-20**

Unit	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Northside	9.2	14.3	4.3	5	5.7	4.9
Spencer Clinic	5.7	4.8	5.6	5.4	5.8	4.7
Department of Psychiatry	15.3	17.8	17.9	9.5	13.6	14.7
Wilfred Lopes Centre	5.8	10	7	3	3.7	4.1
<b>TOTAL</b>	<b>10.1</b>	<b>13.1</b>	<b>10.2</b>	<b>6.4</b>	<b>8.5</b>	<b>7.6</b>

## TRANSFER OF INVOLUNTARY PATIENTS BETWEEN HOSPITALS

Under section 59 of the Act, the Chief Civil Psychiatrist or delegate may direct an involuntary patient's transfer from one approved hospital to another if he or she is satisfied that the transfer is necessary for the patient's health or safety or for the safety of other people.

The Chief Civil Psychiatrist or delegate is required to document the transfer and to give a copy of the transfer direction to the patient, to the controlling authority of each hospital, to the patient's treating medical practitioner and to the Tribunal. A copy of the transfer direction is also required to be placed on the patient's clinical record.

A transfer direction issued by the Chief Civil Psychiatrist or a delegate in accordance with section 59 is authority for a mental health officer to take the person under escort, for the mental health officer to remove the person from the transferring hospital and for the mental health officer to take the person to the other hospital.

Once the person has been transferred, any Assessment Order or Treatment Order that the person is subject to has effect as if it provided for the person's involuntary admission to, and if necessary, detention in, the new approved hospital.

For the period 1 July 2019 – 30 June 2020, no children were transferred.

**Figure 4: Involuntary Patient Transfers between Facilities**

Originating Hospital	Destination Hospital	2015-16	2016-17	2017-18	2018-19	2019-20
LGH	RHH	4	4	1	1	0
LGH	NWRH	1	15	18	7	13
NWRH	RHH	0	5	2	0	0
NWRH	LGH	1	16	9	6	7
RHH	LGH	0	3	3	4	0
RHH	NWRH	0	5	2	2	0
<b>Total Transfers</b>		<b>6</b>	<b>48</b>	<b>35</b>	<b>20</b>	<b>20</b>

## POWER OF DIRECT INTERVENTION

The Chief Civil Psychiatrist has the power to intervene directly regarding the assessment, treatment or care of voluntary inpatients or involuntary patients in relation to:

- The use of seclusion and restraint
- The granting, refusal, and control of leaves of absence
- The giving or withholding of patient information, and
- Assessment and treatment generally

Under the Act, a voluntary inpatient is a person who has been admitted to a facility voluntarily to receive treatment for a mental illness and is receiving that treatment with informed consent.

The power of intervention may be exercised on the Chief Civil Psychiatrist's own motion, or on request of the patient or any other person who, in the Chief Civil Psychiatrist's opinion, has a genuine interest in the patient's health, safety or welfare, and only if the Chief Civil Psychiatrist has made inquiries into the matter and is satisfied from those inquiries that intervention is essential to the patient's health, safety or welfare.

The Chief Civil Psychiatrist can exercise the power of direct intervention by giving any person responsible for the patient's treatment and care a notice to discontinue, alter, observe or carry out a practice, procedure or treatment in respect of the patient. The Chief Civil Psychiatrist can also issue consequential directions for the patient's future assessment, treatment or care or direct that relevant matters be referred to the Tribunal.

The Tribunal has jurisdiction to review decisions made by the Chief Civil Psychiatrist under section 146 of the Act.

For the period 1 July 2019 – 30 June 2020, the Chief Civil Psychiatrist received 3 requests to exercise the power of direct intervention under section 147 of the Act.

In each case the Chief Civil Psychiatrist made inquiries into the relevant matters but was not satisfied from the inquiries that intervention was essential to the patient's health, safety or welfare.

## CORRECTION OF ORDERS WHERE VALIDITY NOT AFFECTED

Under section 224 of the Act, an error in a Chief Civil Psychiatrist Approved Form that does not affect the form's validity may be corrected by the Chief Civil Psychiatrist or a delegate.

For the period 1 July 2019 – 30 June 2020, the Chief Civil Psychiatrist did not correct any errors in Chief Civil Psychiatrist Approved Forms.

## FUNCTIONS AND POWERS UNDER OTHER ACTS

The Chief Civil Psychiatrist has functions and powers under the *Criminal Justice (Mental Impairment) Act* and the *Sentencing Act*.

A full list of these functions can be found at Appendix 3.

## CHIEF CIVIL PSYCHIATRIST OVERSIGHT PROTECTIVE CUSTODY

A mental health officer or police officer may take a person into protective custody under the Act if the mental health officer or police officer reasonably believes that:

- The person has a mental illness,
- The person should be examined to see if he or she needs to be assessed against the assessment criteria or the treatment criteria, and
- The person's safety or the safety of other people is likely to be at risk if the person is not taken into protective custody.

The meaning of mental illness is set out in section 4 of the Act.

A mental health officer or police officer who has taken a person into protective custody must escort that person to an approved assessment centre or ensure that another mental health officer or police officer escorts the person. The controlling authority of the approved assessment centre must then ensure that the person is examined by a medical practitioner within four hours of the person's arrival. The purpose of the examination is to see if the person needs to be assessed against the assessment criteria or the treatment criteria.

A mental health officer or police officer who has a person in protective custody must release the person from that custody if:

- Informed consent is given to assess or treat the person, or
- An Assessment Order or Treatment Order is made in respect of the person, or
- The mental health officer or police officer reasonably forms the belief that the person no longer meets the criteria for being taken into protective custody, or
- The person has been at an approved assessment centre for four hours and none of these things has occurred.

A mental health officer or police officer who takes a person into protective custody, a mental health officer or police officer who releases a person from protective custody and a medical practitioner who examines a person in protective custody are each to make an appropriate record of the matter. This record is to be given to the person, and the Chief Civil Psychiatrist.

Matters relevant to protective custody are set out in sections 17 – 21 and Schedule 2 of the Act.

**Figure 5: Number of People taken into Protective Custody by Region**

Area	2015-16	2016-17	2017-18	2016-17	2018-19	2019-20
North	111	113	126	133	133	125
North West	118	175	197	186	186	196
South	192	214	211	219	219	197
Interstate	1	7	10	6	6	4
<b>Total</b>	<b>425</b>	<b>509</b>	<b>544</b>	<b>544</b>	<b>544</b>	<b>522</b>

Area	2015-16	2016-17	2017-18	2016-17	2018-19	2019-20
% Children	4.24%	6.29%	6.07%	7.17%	7.17%	7.17%
% Female (all ages)	46.35%	47.94%	47.79%	46.69%	46.69%	44.06%
%Male (all ages)	53.65%	52.06%	52.21%	53.31%	53.31%	55.94%

## ASSESSMENT ORDERS

A medical practitioner may make an Assessment Order in respect of a person if the medical practitioner has examined the person in the 24-hour period immediately before the Assessment Order is made and is satisfied from that examination that the person needs to be assessed against the assessment criteria. The medical practitioner must also be satisfied that a reasonable attempt to have the person assessed with informed consent has failed, or that it would be futile or inappropriate to attempt to have the person assessed with informed consent.

The assessment criteria are set out in section 25 as follows:

- The person has, or appears to have, a mental illness that requires or is likely to require treatment for the person's health or safety or the safety of others
- The person cannot be properly assessed regarding the mental illness or the making of a Treatment Order except under the authority of the Assessment Order, and
- The person does not have decision-making capacity.

The meaning of decision-making capacity is set out in section 7 of the Act.

An Assessment Order is authority for a patient to be assessed, without informed consent, by an approved medical practitioner to confirm whether the patient meets the assessment criteria, and to determine if the patient also meets the treatment criteria.

The treatment criteria are set out in section 40 of the Act as follows:

- The person has a mental illness
- Without treatment, the mental illness will, or is likely to, seriously harm the person's health or safety or the safety of others
- The treatment will be appropriate and effective
- The treatment cannot be adequately given except under a Treatment Order, and
- The person does not have decision-making capacity.

A patient subject to an Assessment Order must be assessed by an approved medical practitioner other than the medical practitioner who made the Order within 24 hours of the Order taking effect. The approved medical practitioner must immediately either affirm, or discharge, the Order; and an approved medical practitioner who affirms an Order may simultaneously extend its operation by a period of up to 72 hours from the time of affirmation.

An approved medical practitioner who affirms or discharges an Assessment Order is to give notice to that effect to the patient, to the Chief Civil Psychiatrist and to others. He or she is also required to place a copy of the instrument of affirmation, or discharge paper, on the patient's clinical record.

Matters relevant to Assessment Orders are set out in sections 22 – 35 of the Act.

For the period 1 July 2019-30 June 2020, the Chief Civil Psychiatrist received 988 Assessment Order records made by medical practitioners.

## TREATMENT ORDERS

A patient's treating medical practitioner may seek to have an involuntary patient who has failed to comply with a Treatment Order admitted to, and if necessary detained in, an approved hospital. The circumstances in which this may occur are set out in section 47 of the Act.

A patient's treating medical practitioner may only seek to act under section 47 of the Act if:

- The patient is subject to a Treatment Order
- Reasonable steps have been taken to obtain the patient's compliance with the Order, and
- The treating medical practitioner is satisfied on reasonable grounds that:
  - despite those reasonable steps, the patient has failed to comply with the Treatment Order, and
  - the failure in compliance has seriously harmed, or is likely to seriously harm, the patient's health or safety or the safety of other people, and
  - the harm or likely harm cannot be adequately addressed except by way of a treatment or treatment setting that is inconsistent with the treatment or treatment setting specified in the Treatment Order.

Admission in the event of failure to comply is generally to the Royal Hobart Hospital, the Launceston General Hospital or the North West Regional Hospital – Burnie Campus.

Other action available to a patient's treating medical practitioner under section 47 includes:

- Applying to the Tribunal to have the Treatment Order varied, or
- Authorising urgent circumstances treatment or seeking authorisation to give urgent circumstances treatment, if the treating medical practitioner is not also an approved medical practitioner.

If a patient is admitted to an approved facility under section 47 of the Act, the controlling authority of the approved facility is to notify the Chief Civil Psychiatrist (and the Tribunal) of the patient's admission.

**Figure 6: Failures to Comply with Treatment Orders – Action Taken under section 47 of the Act by Facility**

Hospital	2015-16	2016-17	2017-18	2018-19	2019-20
LGH	6	11	8	3	4
NWRH	1	6	11	7	5
RHH	5	13	28	13	47
<b>Total</b>	<b>12</b>	<b>30</b>	<b>47</b>	<b>23</b>	<b>56</b>

A patient's treating medical practitioner may also seek to have a patient who has complied with a Treatment Order but who nevertheless requires admission to prevent possible harm taken under escort and involuntarily admitted to and detained in an approved hospital. The circumstances in which this may occur are set out in section 47A of the Act.

A patient's treating medical practitioner may only seek to act under section 47A if:

- The patient is subject to a Treatment Order that provides for a combination of treatment settings and for the admission and re-admission of the patient to those settings
- The patient has complied with the Treatment Order, and
- The treating medical practitioner is satisfied on reasonable grounds that:
  - despite the patient's compliance, the patient's health or safety or the safety of any other person has been, or is likely to be, seriously harmed, and
  - the harm, or likely harm, cannot be adequately addressed except by way of the patient's admission or re-admission to and, if necessary, detention in an approved hospital.

Admission to prevent possible harm is generally to the Royal Hobart Hospital, the Launceston General Hospital or the North West Regional Hospital – Burnie Campus.

If a patient is admitted to an approved facility under section 47A of the Act, the controlling authority of the approved facility is to notify the Chief Civil Psychiatrist (and the Tribunal) of the patient's admission.

**Figure 7: Admissions to Prevent Possible Harm - Action Taken under section 47A of the Act by Region**

Hospital	2018-19	2019-20
LGH	30	54
NWRH	11	21
RHH	45	75
Roy Fagan	0	1
<b>Total</b>	<b>86</b>	<b>151</b>

*NOTE: 2018-19 is not comparable to previous years due to data loss in unrecoverable files*

## URGENT CIRCUMSTANCES TREATMENT

Urgent circumstances treatment is treatment that is authorised by an approved medical practitioner as being urgently needed in the patient's best interests and that is given to the patient without informed consent or Tribunal authorisation.

An approved medical practitioner may authorise urgent circumstances treatment if, and only if, he or she has examined the patient and has concluded, from the examination, that:

- The patient has a mental illness that is generally in need of treatment
- The urgent circumstances treatment is necessary for the patient's health or safety or the safety of other people,

- The urgent circumstances treatment is likely to be effective and appropriate in terms of the treatment outcomes referred to in section 6 of the Act, and
- Achieving the necessary treatment outcomes would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal (or by a member of the Tribunal on an interim basis).

The circumstances in which urgent circumstances treatment may be authorised for and given to an involuntary patient are set out in section 55 of the Act.

Urgent circumstances treatment may be given for up to 96 hours or until the first of the following occurs:

- The treatment is completed
- An approved medical practitioner stops the treatment
- Until the Assessment Order, Treatment Order or interim Treatment Order ceases or is discharged, or
- The authorisation is set aside by the Tribunal.

An approved medical practitioner who authorises urgent circumstances treatment is to ensure that the patient is advised of the authorisation, and that a copy of the authorisation is given to the patient, the Chief Civil Psychiatrist and to the Tribunal. The approved medical practitioner is also required to ensure that a copy of the authorisation is placed on the patient's clinical record.

**Figure 8: Authorisations of Urgent Circumstances Treatment by Region**

Area	2015-16	2016-17	2017-18	2018-19	2019-20
North	318	375	321	254	274
North West	171	195	160	148	181
South	432	518	477	473	535
Interstate	12	14	12	10	9
<b>Total</b>	<b>933</b>	<b>1102</b>	<b>970</b>	<b>885</b>	<b>999</b>
% Children	1.41%	4.63%	1.75%	1.81%	2.50%
% Female (all ages)	41.80%	51.63%	49.18%	53.73%	48.35%
% Male (all ages)	58.20%	48.37%	50.10%	46.27%	51.65%
% Other (all Ages)	0.00%	0.00%	0.72%	0.00%	0.00%

## INVOLUNTARY PATIENT LEAVE

An approved medical practitioner may grant an involuntary patient leave of absence from an approved hospital. The leave may be granted for clinical or personal reasons and in the case of leave for personal reasons, an application is required.

Leave may be granted subject to conditions, including that the patient is required to be under escort during the leave or any part of the leave. Leave may also be extended, varied or cancelled.



An approved medical practitioner who grants an involuntary patient leave is to give a copy of the leave pass, and any notice extending, varying or cancelling the leave, to the patient and the Chief Civil Psychiatrist. A copy of leave documentation is also required to be placed on the patient's clinical record.

The circumstances in which leave may be granted, refused, extended, varied or cancelled are set out in section 60 of the Act.

Statistical data is not provided for involuntary patient leave decisions.

## **VOLUNTARY INPATIENTS**

Under section 136 of the Act, the controlling authority of an approved hospital or approved assessment centre is to provide the Chief Civil Psychiatrist and the Tribunal with a monthly report on the accommodation and treatment of people who have been voluntary inpatients for a continuous period of longer than four months. The report is to specify the name and date of admission of each long-term voluntary inpatient and details of the treatment and care given in the previous month.

Statistical data is not provided for the accommodation and treatment of long-term voluntary inpatients.

## SPECIAL POWERS OF AMBULANCE OFFICERS AND MEDICAL PRACTITIONERS ACTING AS MENTAL HEALTH OFFICERS (POWER OF SEDATION)

Under section 212 of the Act, an ambulance officer or medical practitioner who is approved as a mental health officer under the Act may, when transporting or preparing to transport a patient (or prospective patient) by ambulance under the Act, sedate the patient.

An approved ambulance officer or approved medical practitioner may only sedate a patient if the officer or practitioner reasonably considers it necessary or prudent to do so, having regard to (and in accordance with) any field protocols approved by the Commissioner of Ambulance Services under the *Poisons Act 1971* (Tas).

An approved ambulance officer or approved medical practitioner who exercises the power of sedation under section 212 is to give the Chief Civil Psychiatrist a report of the matter.

Statistical data is not provided for the exercise by approved ambulance officers and approved medical practitioners of the power of sedation.

## CHAPTER 4: CHIEF FORENSIC PSYCHIATRIST

The Chief Forensic Psychiatrist has the functions given to him by the Act and by other Acts, and the power to do anything necessary or convenient to be done to perform these functions. This includes matters relating to patient leave and transfers between approved facilities, authorising seclusion or restraint for certain patients, correcting errors in forms that do not affect the form's validity and intervening directly regarding the assessment, treatment and care of forensic patients.

The Chief Forensic Psychiatrist has general overall responsibility, under and to the Minister for Mental Health and Wellbeing for administration of the Act, for ensuring that the objects of the Act are met in respect of forensic patients, involuntary patients who are admitted to a secure mental health unit under section 63 of the Act and people who are subject to supervision orders, and for the running of secure mental health units. This responsibility is set out in section 144 of the Act.

The Chief Forensic Psychiatrist also has a significant oversight and review responsibility in respect of decisions made by approved medical practitioners, approved nurses and others in respect of forensic patients.

This responsibility is facilitated through a requirement that information relating to decisions made under the Act by approved medical practitioners and others is provided to the Chief Forensic Psychiatrist as appropriate.

This Chapter reports on the exercise by the Chief Forensic Psychiatrist of the powers and functions given to him by the Act and by other Acts. It also provides information on matters reported to the Chief Forensic Psychiatrist as is required by the Act.

## CHIEF FORENSIC PSYCHIATRIST POWERS AND FUNCTIONS

### RETURN OF CERTAIN FORENSIC PATIENTS TO PRISON OR YOUTH DETENTION

A prisoner or detainee who appears to be suffering from a mental illness, or who has a disability, may be removed from a prison, a hospital or an institution and transferred to a secure mental health unit under section 36A of the *Corrections Act*. This may be because the Director of Prisons determines that it is in best interests of the prisoner or detainee or other people in the prison, hospital or institution for the prisoner or detainee to be so removed. In the case of a prisoner or detainee with mental illness, it may also be because the prisoner or detainee has asked to be transferred.

Similarly, a youth detainee who appears to be suffering from a mental illness, or who has a disability, may be removed from a detention centre to a secure mental health unit under section 134A of the *Youth Justice Act*. This may be because the Director of Prisons determines that it is in the best interests of the youth detainee or other people in the detention centre for the detainee to be so removed. In the case of a youth detainee with mental illness, it may also be because the detainee has asked to be transferred.

A prisoner or detainee, or youth detainee, who has asked to be transferred to a secure mental health unit and who becomes a forensic patient on that basis may ask to be returned to the custody of the Director, Corrective Services (if the patient is a prisoner or detainee) or to the custody of

the Secretary of the Department responsible for the *Youth Justice Act* (if the patient is a youth detainee) at any time.

The Chief Forensic Psychiatrist or a delegate is to have any patient who asks to be returned to custody, examined by an approved medical practitioner as soon as possible after receiving the patient's request. The Chief Forensic Psychiatrist or delegate must have regard to the results of the examination and whether the reasons for the patient's admission are still valid, as well as such other matters that the Chief Forensic Psychiatrist or delegate thinks are relevant, before deciding whether to agree to the request, or refuse the request.

The circumstances in which a forensic patient may ask to be returned to prison or youth detention, and the actions required from the Chief Forensic Psychiatrist or delegate on receipt of such a request, are set out in section 70 of the Act.

Any decision by the Chief Forensic Psychiatrist or a delegate to refuse a request is reviewable by the Tribunal.

**Figure 9: Requests to Return to Prison/Youth Detention**

	2015-16	2016-17	2017-18	2019-20	2019-20
Request to return to prison	0	0	0	0	0
% Female (all ages)	0.00%	0.00%	0.00%	0.00%	0.00%
% Male (all ages)	0.00%	0.00%	0.00%	0.00%	0.00%

## TRANSFER OF FORENSIC PATIENTS TO HOSPITALS ETC.

The Chief Forensic Psychiatrist may direct that a forensic patient be removed from a secure mental health unit and transferred to a secure institution, an approved hospital, a health service within the meaning of the *Health Complaints Act 1995* (Tas), or premises where such a health service is provided. Section 73 regulates transfers of this kind.

Circumstances in which a transfer may be directed under section 73 of the Act include if a patient requires specialist hospital care or to facilitate attendance at allied health, dental or medical appointments which generally occur offsite. In most cases transfers are planned and authorisation is given by a delegate of the Chief Forensic Psychiatrist.

**Figure 10: Forensic Patient transfers to Hospital etc**

	2015-16	2016-17	2017-18	2018-19	2019-20
Transfer to hospital	174	82	35	32	148
% Female (all ages)	2.30%	1.22%	0.00%	6.25%	0.00%
% Male (all ages)	97.70%	98.78%	100.00%	93.75%	100.00%

## LEAVE OF ABSENCE

The Chief Forensic Psychiatrist or a delegate may:

- Apply to the Tribunal, under section 78 of the Act, for leave of absence for a forensic patient who is subject to a restriction order

- Apply to the Tribunal, under section 79 of the Act, for an extension of leave or variation of the conditions of leave that has been granted to a forensic patient who is subject to a restriction order under section 78 of the Act
- Cancel leave, under section 79 of the Act, that has been granted to a forensic patient under section 78 of the Act
- Grant leave of absence, under section 82 of the Act, to a forensic patient who is not subject to a restriction order
- Extend, vary or cancel leave, under section 83 of the Act, that has been granted to a forensic patient who is not subject to a restriction order.

The Chief Forensic Psychiatrist or delegate may only apply for leave of absence for a forensic patient who is subject to a restriction order for clinical reasons. Clinical reasons are defined in section 3 of the Act to include facilitating the patient’s rehabilitation or reintegration into the community, furthering the patient’s treatment, and reasons deemed appropriate by the person authorised to grant the leave.

Matters relevant to leave of absence for forensic patients who are subject to restriction orders are reported by the Tribunal in the Mental Health Tribunal’s Annual Report.

The Chief Forensic Psychiatrist or a delegate may grant leave to a forensic patient who is not subject to a restriction order for clinical reasons, or personal reasons. Clinical reasons are as described above. Personal reasons include visiting a sick or dying relative or close friend, attending the funeral (or wedding) of a relative or close friend, and attending a reunion or commemoration. Leave for clinical reasons may be granted on the application of the patient’s treating medical practitioner while leave for personal reasons may be granted on the application of the patient or another person who, in the opinion of the Chief Forensic Psychiatrist or delegate considering the matter, has a genuine interest in the patient’s welfare.

The Chief Forensic Psychiatrist or delegate considering an application for leave for a forensic patient who is not subject to a restriction order is required to notify the Secretary (Corrections) and others of the application and to consider any submissions received, including from any registered victims, before deciding whether to grant or refuse to grant leave.

Leave for a forensic patient who is not subject to a restriction order may be granted for a particular purpose, or for a particular period, or both, and may be granted subject to such conditions as the Chief Forensic Psychiatrist or delegate considers necessary or desirable for the patient’s health or safety or for the safety of others. This may extend to a requirement that the patient be under escort during the leave or any portion of the leave.

**Figure 11: Leave of Absence Granted to Forensic Patients who are not subject to Restriction Orders**

	2015-16	2016-17	2017-18	2018-19	2019-20
Leave of Absence	38	9	37	4	17
% Female (all ages)	0.00%	0.00%	0.00%	0.00%	0.00%
% Male (all ages)	100.00%	100.00%	100.00%	100.00%	100.00%

## SECLUSION AND RESTRAINT

Forensic patients may be placed in seclusion or under restraint pursuant to the Act in certain, limited circumstances. The circumstances in which a forensic patient may be placed in seclusion or under restraint are set out in sections 94 and 95 of the Act respectively.

A forensic patient may only be placed in seclusion if the patient is in an approved hospital and if:

- The seclusion is authorised as being necessary to facilitate the patient's treatment or general health care, to ensure the patient's health or safety or the safety of others, to prevent the patient from destroying or damaging property, to prevent the patient's escape from lawful custody, to provide for the management, good order or security of a secure mental health unit, to facilitate the patient's lawful transfer to or from another facility, whether in Tasmania or elsewhere, or for a reason sanctioned by Chief Forensic Psychiatrist Standing Orders
- The person authorising the seclusion is satisfied that it is a reasonable intervention in the circumstances
- The seclusion lasts for no longer than is authorised, and
- The seclusion is managed in accordance with any relevant Chief Forensic Psychiatrist Standing Orders or Clinical Guidelines.

For a child patient (a patient who is under the age of 18), seclusion may only be authorised by the Chief Forensic Psychiatrist or a delegate. For other patients, authorisation may be given by the Chief Forensic Psychiatrist or a delegate, or by a medical practitioner or an approved nurse.

A forensic patient may only be placed under restraint if:

- The restraint is authorised as being necessary to facilitate the patient's treatment or general health care, to ensure the patient's health or safety or the safety of others, to prevent the patient from destroying or damaging property, to prevent the patient's escape from lawful custody, to provide for the management, good order or security of a secure mental health unit, to facilitate the patient's lawful transfer to or from another facility, whether in Tasmania or elsewhere, or for a reason sanctioned by Chief Forensic Psychiatrist Standing Orders
- The person authorising the restraint is satisfied that it is a reasonable intervention in the circumstances
- The restraint lasts for no longer than is authorised
- In the case of mechanical restraint, the means of restraint employed in the case is approved in advance by the Chief Forensic Psychiatrist, and
- The restraint is managed in accordance with any relevant Chief Forensic Psychiatrist Standing Orders or Clinical Guidelines.

In relation to chemical or mechanical restraint, and the physical restraint of a child (a person under the age of 18), the restraint may only be authorised by the Chief Forensic Psychiatrist or a delegate. In other cases, and for other patients, authorisation may be given by the Chief Forensic Psychiatrist or a delegate, or by a medical practitioner or an approved nurse.

Under the Act:

- Mechanical restraint means a device that controls a person’s freedom of movement
- Chemical restraint means medication given primarily to control a person’s behaviour, not to treat a mental illness or physical condition, and
- Physical restraint means bodily force that controls a person’s freedom of movement.

Seclusion and restraint are restrictive interventions, and their application may cause distress for patients, support people and staff members. They are essentially interventions of last resort and may only be applied when less restrictive interventions have been tried without success or have been excluded as inappropriate or unsuitable in the circumstances.

A person who authorises seclusion or restraint is required to make a record of the matter and to give a copy of the record to the patient, the Chief Forensic Psychiatrist and the Tribunal. A copy of the record is also required to be placed on the patient’s clinical record.

**Figure 12: Number of seclusion authority forms received by the Chief Forensic Psychiatrist**

Hospital	2015-16	2017-18	2018-19	2018-19	2019-20
Seclusion	40	20	6	6	16
% Female (all ages)	32.50%	0.00%	0.00%	0.00%	6.25%
% Male (all ages)	67.50%	100.00%	100.00%	100.00%	93.75%

No new means of restraint were approved by the Chief Forensic Psychiatrist during the 2019 –2020 Financial Year.

## CANCELLATION OR SUSPENSION OF PRIVILEGED VISITOR, CALLER OR CORRESPONDENT STATUS

The Act provides forensic patient with certain visiting, telephone and correspondence rights. These are provided for in sections 97 – 107 of the Act.

Provisions of the Act that deal with visiting, telephone and correspondence rights refer to privileged visitors, callers and correspondents. These are visitors, callers and correspondents with status under the Act or other laws and include people such as the Chief Psychiatrists, Official Visitors and members and staff of the MHT. A full list is set out in section 98 of the Act.

The Act’s provisions relating to visiting, telephone and correspondence rights are modified in their application to privileged visitors, callers and correspondents as follows:

- Section 101 of the Act, which enables the Chief Forensic Psychiatrist, the controlling authority of a secure mental health unit or an authorised person to require a visitor to explain the nature of the person’s relationship to any forensic patient in the secure mental health unit and the purpose of the visit, and to provide other relevant information, does not apply to privileged visitors.
- The circumstances in which telephone calls to or from privileged callers may be refused under section 106 are different to the circumstances that apply to telephone calls to or from callers who are not privileged callers.

- The information that a privileged caller may be required to provide under section 106 when making a call to a forensic patient is more limited than the information that a caller who is not a privileged caller may be required to provide.
- The circumstances in which mail to or from privileged correspondents may be refused under section 107 are different to the circumstances that apply to mail to or from correspondents who are not privileged correspondents.
- The ability under section 107 for a forensic patient's mail or email to be opened and read does not extend to mail sent to or from privileged correspondents.

The Chief Forensic Psychiatrist may cancel or suspend a person's status as a privileged visitor, privileged caller or privileged correspondent. This may occur if the Chief Forensic Psychiatrist is satisfied on reasonable grounds that the person has engaged in behaviour that is not compatible with the management, good order or security of a secure mental health unit. The Chief Forensic Psychiatrist's power in this respect is set out in section 98 of the Act.

For the period 1 July 2019 – 30 June 2020, the Chief Forensic Psychiatrist did not cancel or suspend any individual's privileged visitor, privileged caller or privileged correspondent status.

## POWER OF DIRECT INTERVENTION

The Chief Forensic Psychiatrist has the power to intervene directly regarding the assessment, treatment or care of forensic patients in relation to:

- The use of seclusion or restraint
- The use of force
- The granting, refusal, and control of leaves of absence
- The giving or withholding of patient information
- The granting, denial and control of visiting, correspondence and telephone rights
- Assessment and treatment generally, and
- Matters prescribed by the regulations.

It should be noted that no matters are prescribed by the regulations.

The power of direct intervention may be exercised on the Chief Forensic Psychiatrist's own motion, or on request of the patient or any other person who, in the Chief Forensic Psychiatrist's opinion, has a genuine interest in the patient's health, safety or welfare, and only if the Chief Forensic Psychiatrist has made inquiries into the matter and is satisfied from those inquiries that intervention is essential to the patient's health, safety or welfare.

The Chief Forensic Psychiatrist can exercise the power of direct intervention by giving any person responsible for the patient's treatment and care a notice to discontinue, alter, observe or carry out a practice, procedure or treatment in respect of the patient. The Chief Forensic Psychiatrist can also issue consequential directions for the patient's future assessment, treatment or care or direct that relevant matters be referred to the Tribunal.



The Chief Forensic Psychiatrist cannot however issue directions which are repugnant to any provision of the Act or of any other Act, or to an order, determination or direction of the Tribunal or any Court. This effectively prevents the Chief Forensic Psychiatrist from using the power of direct intervention to achieve an outcome that would be contrary to the provisions, including the objects and principles, of the Act.

The Tribunal has jurisdiction to review decisions made by the Chief Forensic Psychiatrist under section 146 of the Act.

For the period 1 July 2019 – 30 June 2020, the Chief Forensic Psychiatrist on one occasion exercised the power of direct intervention in regard to leave of absences for a patient.

## CORRECTION OF ORDERS WHERE VALIDITY NOT AFFECTED

Under section 224 of the Act, an error in a Chief Forensic Psychiatrist Approved Form that does not affect the form’s validity may be corrected by the Chief Forensic Psychiatrist or a delegate.

For the period 1 July 2019 – 30 June 2020, the Chief Forensic Psychiatrist did not correct any errors in Chief Forensic Psychiatrist approved forms.

## FUNCTIONS AND POWERS UNDER OTHER ACTS

The Chief Forensic Psychiatrist has functions and powers under the *Criminal Justice (Mental Impairment) Act*, *Corrections Act*, *Youth Justice Act*, *Criminal Code Act*, *Justices Act*, and the *Sentencing Act*.

A full list of these functions can be found at Appendix 4.

A main function of the Chief Forensic Psychiatrist under the *Criminal Justice (Mental Impairment) Act*, *Corrections Act*, *Youth Justice Act*, *Criminal Code Act*, *Justices Act*, and the *Sentencing Act* is to provide reports to Courts and other bodies. In most cases reports are prepared in practice by delegates of the Chief Forensic Psychiatrist.

Data relating to reports that have been requested in the 2019 – 2020 Financial Year and in previous Financial Years is reported below.

**Figure 13: Number of reports requested from the Chief Forensic Psychiatrist**

	2015-16	2016-17	2017-18	2018-19	2019-20
Reports Requested	10	12	15	15	9

## CHIEF FORENSIC PSYCHIATRIST OVERSIGHT URGENT CIRCUMSTANCES TREATMENT

Urgent circumstances treatment is treatment that is authorised by an approved medical practitioner as being urgently needed in the patient’s best interests and that is given to the patient without informed consent or Tribunal authorisation.

An approved medical practitioner may authorise urgent circumstances treatment if, and only if, he or she has examined the patient and has concluded, from the examination, that:

- The patient has a mental illness that is generally in need of treatment
- The urgent circumstances treatment is necessary for the patient's health or safety or the safety of other people,
- The urgent circumstances treatment is likely to be effective and appropriate in terms of the treatment outcomes referred to in section 6 of the Act, and
- Achieving the necessary treatment outcomes would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal (or by a member of the Tribunal on an interim basis).

The circumstances in which urgent circumstances treatment may be authorised for and given to a forensic patient are set out in section 87 of the Act.

Urgent circumstances treatment may be given for up to 96 hours or until:

- The treatment is completed
- An approved medical practitioner stops the treatment
- The authorisation is set aside by the Tribunal, or
- The patient is discharged from the secure mental health unit,

whichever occurs first.

An approved medical practitioner who authorises urgent circumstances treatment is to ensure that the patient is advised of the authorisation, and that a copy of the authorisation is given to the patient, the Chief Forensic Psychiatrist and to the Tribunal. The approved medical practitioner is also required to ensure that a copy of the authorisation is placed on the patient's clinical record.

For the period 1 July 2019 – 30 June 2020, there were no authorisations of urgent circumstance treatment for forensic patients.

## CHAPTER 5: CHIEF CIVIL PSYCHIATRIST AND CHIEF FORENSIC PSYCHIATRIST

The Act provides for the admission of involuntary patients who are not also prisoners or youth detainees to secure mental health units. The circumstances and way in which this may occur are narrow and are set out in section 63 of the Act.

The Chief Civil Psychiatrist and the Chief Forensic Psychiatrist each has a role with respect to the admission of involuntary patients who are not prisoners or youth detainees to secure mental health units, as set out below.

### ADMISSION OF INVOLUNTARY PATIENTS TO SECURE MENTAL HEALTH UNITS

Under section 63 of the Act, an involuntary patient may only be admitted to a secure mental health unit if:

- the involuntary patient is, immediately prior to admission, being detained in an approved hospital
- the admission is authorised by the Chief Forensic Psychiatrist or a delegate following a formal request from the Chief Civil Psychiatrist for this to occur. To authorise the admission, the Chief Forensic Psychiatrist must be satisfied that:
  - the involuntary patient is a danger to himself or herself or to others, because of mental illness
  - the danger is, or has become so serious as to make the involuntary patient's continued detention in the approved hospital untenable
  - a secure mental health unit is, in the circumstances the only appropriate place where the involuntary patient can be safely detained, and
  - the secure mental health unit to which admission is contemplated has the resources to give the involuntary patient appropriate treatment and care.

If the involuntary patient is a child, the Chief Forensic Psychiatrist must also be satisfied that the involuntary patient can be detained separately from adults and that the probable benefits of accommodating the involuntary patient in a secure mental health unit outweigh the probable risks.

Under section 64 of the Act, the Chief Forensic Psychiatrist is required to determine the period for which the involuntary patient may be detained. The Chief Forensic Psychiatrist may extend the period of detention, in consultation with the Chief Civil Psychiatrist. The Act requires notice of the admission, and any extension of the period of admission, to be given to the involuntary patient and other relevant people.

The Chief Forensic Psychiatrist is also required to ask the Chief Civil Psychiatrist to arrange for the involuntary patient to be returned to an approved hospital if, at any time, the Chief Forensic Psychiatrist comes to be satisfied that the involuntary patient no longer meets the requirements of admission. The Act requires the Chief Civil Psychiatrist to agree to any such transfer request that is made.

The Tribunal has oversight of the admission, and any extension of the period of admission, of an involuntary patient to a secure mental health unit.

**Figure 14: Admissions of Involuntary Patients to Secure Mental Health Units**

	2015-16	2016-17	2017-18	2018-19	2019-20
Involuntary patient transfer to SMHU	16	6	1	3	1
% Female (all ages)	37.50%	50.00%	0.00%	0.00%	0.00%
% Male (all ages)	62.50%	50.00%	100.00%	100.00%	100.00%

## CHAPTER 6: NATIONAL AND TASMANIAN REFORM AGENDA

This Chapter provides an overview of the national and Tasmanian context in which the Act operates and the significant work that the Chief Civil Psychiatrist and Chief Forensic Psychiatrist roles has undertaken within the broader mental health sector in Tasmania during the 2019 – 2020 Financial Year.

### NATIONAL CONTEXT

It has been estimated that almost half (45 per cent) of the Australian population aged 16 – 85 will experience a mental illness at some point in their life and that in any one year period, nearly three per cent of all Australians have a severe mental illness, as judged by diagnosis, intensity and duration of symptoms, and degree of disability acquired as a direct impact of the mental illness. Another four to six per cent of the population are estimated to have a moderate disorder and a further nine to 12 per cent are estimated to have a mild disorder.

### FUNDING AND SERVICE DELIVERY

The Australian Government provides Medicare and grant-based funding and policy direction for the delivery of primary mental health care services by General Practitioners (GPs), private psychologists, nurses and other allied health professionals, as well as providing core funding to Aboriginal Community Controlled Health Services.

The Australian Government also provides funding for a range of specialist mental health services including:

- psychological support through the National Disability Insurance Scheme (NDIS)
- funding for the aged care sector including funding for mental health programs for older Australians in residential aged care facilities
- funding to subsidise medicines through the Pharmaceutical Benefits Scheme (PBS)
- funding for headspace centres
- funding for the National Suicide Prevention Trial in Northern Tasmania
- national mental health projects such as the National Education Initiative
- projects that are provided by multiple organisations such as Beyond Blue, and
- funding for the build of an eating disorder centre in Southern Tasmania

In Tasmania, the community-managed sector generally operates on a not-for-profit basis and is funded by both the Tasmanian and Australian Governments. It includes both large and small organisations, some with state-wide coverage and many different programs, and some that operate in only one region with a single service. These services often have strong connections with local communities and can engage those communities to deliver better social outcomes for consumers and carers.

The private health sector provides professional fee-based services in both inpatient and office-based settings. These services include primary mental health care, acute specialist management,

rehabilitation, psychological interventions and other allied health-based supports. Private sector professionals and organisations are substantial contributors to overall service delivery in mental health with their funding provided by a mix of individual payments and Australian Government rebates.

The Australian Government, through its programs, primarily focuses on funding services for those Tasmanians with mild to moderate levels of mental illness in need of treatment, most of whom will access services through their GP.

The Tasmanian Government, through the Tasmanian Health Service (THS), is the provider of publicly available specialist mental health services. This includes Acute Mental Health Inpatient units in the major Public Hospitals across the state, notably the Royal Hobart Hospital, Launceston General Hospital and the North West Regional Hospital. In addition, there are a range of other Inpatient services that include, those at the Roy Fagan Centre, Mistral Place, Milbrook Rise Centre, Tolosa Street, and the Wilfred Lopes Centre. The THS also provides a number of programs that are available for people to access specialist mental health clinical care in the community across a number of different programs, including Child and Adolescent, Adult, Older Persons and Forensic Mental Health services.

## NATIONAL REFORM AGENDA

The reform of mental health services in Australia has been largely shaped by the National Mental Health Strategy which was agreed by all Australian Health Ministers in 1992. This Strategy comprises of the National Mental Health Policy and its later revision in 2008, together with a series of 5 national mental health plans. Implementation of these plans has seen a shift from institutionalised care to supported care in the community, mainstreaming of care, cross sectoral collaboration, a greater whole of government focus and more recently a stronger focus on person centred and recovery orientated approaches.

The *Fifth National Mental Health and Suicide Prevention Plan* (the Fifth Plan) and accompanying Implementation Plan were endorsed by the Council of Australian Governments (COAG) Health Council, in August 2017. On 29 May 2020, the Prime Minister announced a plan to disband COAG and this has since been replaced by National Cabinet who will meet on a more regular basis. The arrangements for National Mental Health Reform through the National Cabinet have not been released.

The Fifth Plan seeks to establish a national approach for collaborative government effort from 2017 - 2022 across the following targeted priority areas:

- Achieving integrated regional planning and service delivery
- Effective suicide prevention
- Coordinated treatment and supports for people with severe and complex mental illness
- Improving aboriginal and Torres Strait Islander mental health and suicide prevention
- Improving the physical health of people living with mental illness and reducing early mortality
- Reducing stigma and discrimination
- Making safety and quality central to mental health service delivery

- Ensuring that the enablers of effective system performance and system improvement are in place.

Governance arrangements for implementation of the Fifth Plan featured the following committees whose roles are explained in further detail below:

- The Mental Health Principal Committee (MHPC)
- The Safety and Quality Partnership Standing Committee (SQPSC)
- The Mental Health Information Strategy Standing Committee (MHISSC)
- The Mental Health Expert Reference Panel (MHERP)
- The Suicide Prevention Project Reference Group (SPPRG)
- The Aboriginal and Torres Strait Islander Mental Health and Suicide Prevention Project Reference Group (ATSIMHSPPRG), and
- The Fifth Plan Technical Advisory Group (FPTAG).

## MHPC

The MHPC has a critical role in leading and coordinating the implementation of National Mental Health Reform in Australia and is the main National Mental Health Policy forum. MHPC is a subcommittee of the Australian Health Ministers Advisory Council (AHMAC) and is responsible for developing and implementing a shared National Mental Health and Suicide Plan, for advising AHMAC on mental health and drug service issues of national significance and for overseeing the implementation of a number of the priority areas within the current National Mental Health Plan.

The Chief Psychiatrist is Tasmania's representative on the MHPC.

## SQPSC

The SQPSC is a standing committee of MHPC, that provides expert technical advice and recommendations to the MHPC on the development of national policy and strategic directions for safety and quality in mental health taking into consideration matters including the Fifth Plan and other health reform initiatives. The SQPSC also responds, through the provision of advice to the MHPC, on emerging issues of concern and related safety and quality issues in mental health. In addition, SQPSC is leading the implementation of the safety and quality reforms of the Fifth plan. SQPSC jurisdictional members are usually the Chief Psychiatrist or their representative.

The Chief Psychiatrist is Tasmania's representative on the SQPSC.

## **Mutual Recognition of Mental Health Orders**

In 2018, the then Tasmanian Minister for Health, Michael Ferguson MP raised issues with the transfer and return of people subject to mental health orders between jurisdictions and options for dealing with this with his State and Territory counterparts at COAG Health Council.

Action 26 of the Fifth Plan requires Governments to improve consistency across jurisdictions in mental health legislation with a view to ensuring seamless and safe care for consumers, particularly consumers who move between states and territories.

Queensland and Tasmania were identified as project leads for Action 26 of the Fifth Plan and jointly developing a paper exploring options for how best to deal with the transfer and return of people subject to mental health orders from one jurisdiction to another. Following national consultation on

the paper, and broad agreement from states and territories, the Australian Health Minister's Advisory Council (AHMAC) agreed that a national legislative scheme is the preferred approach to mutual recognition.

In October 2019 funding was provided to Queensland to lead the development of the scheme on behalf of the MHPC.

Tasmania is represented on an inter-jurisdictional project steering committee with responsibility for providing leadership and advice on the development of the scheme by the Chief Psychiatrist.

## MHISSC

The MHISSC is a Standing Committee of the MHPC. Its role is to provide expert technical advice and, where required, to recommend policy for consideration by the MHPC.

MHISSC brings together jurisdictional mental health data representatives and key stakeholders including consumers, carers, clinicians, peak bodies and key organisations. It provides a collaborative forum for the development and implementation of national initiatives in mental health information and provides expert technical advice and recommendations for the information requirements of the *National Mental Health Strategy*.

Tasmania is represented on the MHISSC by staff from the Mental Health, Alcohol and Drug Directorate.

## MHERP

The MHERP provides expert advice to AHMAC, through the MHPC, on the implementation of the Fifth Plan. It also takes matters of importance in mental health and suicide prevention to the MHPC for consideration and provides advice to the MHPC on renewal of the National Mental Health Policy.

The Chief Psychiatrist was appointed as Chair of the MHERP in September 2018 and this was extended until the end of 2020.

Participation in the work of the MHPC, SQPSC and MHERP, along with subcommittees of these groups, enables the incumbent to the Chief Psychiatrist roles to report on the progress of these initiatives from the Tasmanian perspective and to ensure, through the Mental Health, Alcohol and Drug Directorate, that they become a focus of attention for the delivery of mental health services within Tasmania.

## SPPRG

The SPPRG is a subcommittee of the MHPC. It is responsible for reporting on priorities for planning and investment in suicide prevention and for development of the National Suicide Prevention Strategy under Action 4 of the Fifth Plan.

The SPPRG comprises representatives from governments, national stakeholders, large service providers, academics and people with a lived experience of suicide.

The Chief Psychiatrist is Tasmania's representative on the SPPRG.



## ATSIMHSPPRG

The ATSIMHSPPRG is a subcommittee of the MHPC. It is responsible for reporting on priorities for planning and investment in mental health care and suicide prevention in Aboriginal and Torres Strait Islander communities, and for working with the SPPRG on the development of the National Suicide Prevention Strategy.

Tasmania is represented on the ATSIMHSPPRG by staff from the Mental Health, Alcohol and Drug Directorate within the Department of Health.

## FPTAG

The FPTAG supports the National Mental Health Commission in monitoring and reporting to the Council of Australian Government Health Council on implementation of the Fifth Plan and performance against identified indicators by providing expert technical advice as required.

The Chief Psychiatrist is Tasmania's representative on the FPTAG.

## STATE CONTEXT

### FUNDING AND SERVICE DELIVERY

The Tasmanian Government funds public sector services and sets legislative, regulatory and policy frameworks for mental health service delivery.

Public sector mental health services are provided across Tasmania through the Tasmanian Health Service (THS) Services include:

- 24-hour acute inpatient services located at three public hospitals (the Royal Hobart Hospital, the Launceston General Hospital and the North West Regional Hospital - Burnie Campus)
- a 24-hour older persons acute/sub-acute inpatient unit located in the South providing services to people across the state (the Roy Fagan Centre)
- a 24-hour step up/step down facility located in the South (Mistral Place)
- 24-hour specialist extended treatment units located in the South and providing services to people across the state (the Millbrook Rise Centre and Tolosa Street)
- child and adolescent, older persons and adult community mental health services that operate throughout the state
- adult community mental health teams that provide crisis, assessment and treatment and triage services
- a 24-hour state-wide helpline and triage service – the Mental Health Services Helpline, and
- community and inpatient care for people with a mental illness who are involved with, or who are a risk of involvement with, the justice system (community forensic mental health services teams and the Wilfred Lopes Centre).

A Mental Health Hospital in the Home Unit (MHHITHU) also commenced operation in March 2019. MHHITHU provides intensive hospital-level treatment and operates with extended hours, seven days a week.

The Tasmanian Government also funds a range of community-based organisations to provide services including:

- psychosocial support services
- individual packages of care
- residential rehabilitation
- community-based recovery and rehabilitation
- peer support groups
- prevention and brief intervention services, and
- advocacy and peak body representation for consumers, carers and service providers.

The Tasmanian public mental health service is primarily designed to provide a range of clinical services to people living with the most severe forms of mental illness.

## STATE REFORM AGENDA

### Rethink 2020: A State Plan for Mental Health in Tasmania 2020-25

In March 2015, the Tasmanian Government launched *Rethink Mental Health: A long-term plan for mental health in Tasmania 2015-25* (Rethink 2015-25). The plan sets out a 10-year vision to integrate mental health services and improve care and support for Tasmanian's living with mental illness and their loved ones. Since the launch of Rethink 2015-25 there has been significant reform activity underway at a local and national level, and together with Rethink 2015-25 being at mid-point of implementation, it was time to revisit and update the document.

Another influencing factor in the updating of Rethink 2015-25 is *Priority Area 1 of The Fifth National Mental Health Plan* (The Fifth Plan) which outlines that each state and territory will develop a joint regional mental health and suicide prevention plan to support integrated planning and delivery between the Primary Health Network, the Local Health Network and the State Government.

There continued to be broad support from the Tasmanian community for Rethink 2015-25 to remain the foundational document for mental health reform. Rethink 2015-25 captures stakeholder feedback which spanned over a six-month period. It was decided that Rethink 2015-25 should be updated instead of undergoing a formal review process, and the original reform directions were still considered relevant. It is envisaged that once finalised, the updated document will be the foundation for the regional plan for mental health, suicide prevention and service integration in Tasmania.

*Rethink 2020: A State Plan for Mental Health in Tasmania 2020-25* (Rethink 2020) is the updated plan for Tasmania's mental health and is close to being released for consultation and then finalised. Primary Health Tasmania in partnership with the Department of Health, and the Tasmanian Health Service together with key consumer, family and sector representatives have collaborated to update the document.

The intention is that *Rethink 2020* will report on the progress we have made against Rethink 2015-2025 including the Tasmanian Government's commitment to developing an integrated mental health

service. It is proposed that the ten reform directions contained in the original Rethink 2015-25 will remain the same in *Rethink 2020*.

The development of *Rethink 2020* has been guided by national and state policy and through the priorities of the Fifth Plan and the Tasmanian Mental Health Reform Program.

*Rethink 2020* is scheduled to be launched in late 2020 once finalised. A statewide consultation process will then commence with the aim to identify priority actions under each of the reform direction for implementation. Primary Health Tasmania and the Department of Health will oversee the implementation process over the next five years with key partners including the Mental Health Council of Tasmania, Flourish Tasmania, Mental Health Family and Friends Tasmania and the National Disability Insurance Agency (NDIA).

The Chief Psychiatrist is the Chair of the current Rethink Mental Health Plan Implementation Steering Committee.

## The Tasmanian Mental Health Reform Program

In March 2018, the Tasmanian Government established the Mental Health Integration Taskforce (the Taskforce) to consider the best approaches to achieving integration of mental health services in Southern Tasmania. This process involved broad consultation with a range of consumers, families, clinicians, primary health, community mental health services and peak bodies. The Taskforce report, which was released by Government in July 2019, makes 21 recommendations to achieve vertical and horizontal integration across the mental health system and within other human service systems. These recommendations were all accepted and the Government Response to the Mental Health Integration Taskforce Report and Recommendations was released in July 2019 identifying eight key action areas for implementation.

The Taskforce's Report and Recommendations, and the Government's Response, can be found online here: [www.dhhs.tas.gov.au/news/2019/mental\\_health\\_integration\\_taskforce\\_report](http://www.dhhs.tas.gov.au/news/2019/mental_health_integration_taskforce_report)

In 2019, the Tasmanian Mental Health Program (the Reform Program) was established to implement the Taskforce recommendations. The Reform Program supports the aims of Rethink 2015-2025 to design and implement an integrated mental health system including a hospital avoidance program, integration hubs, and an integrated suicide response service.

Under the Reform Program, it is envisaged that State-wide Mental Health Services in Tasmania will be provided through two streams: an acute care stream and a continuing care stream. The acute care stream includes acute inpatient services, acute care teams, mental health triage, Emergency Department short stay units, acute treatment units in community settings, mental health hospital in the home unit (MHHITHU), and other acute services.

The Reform Program is currently working alongside stakeholders to define the core elements, roles and functions, of the Continuing Care Stream that will operate alongside the Acute Care Stream.

The Reform Program has created a suite of operational documents that describes the models that underpin the design of these reforms. Each of these operational models have been co-designed with people living with mental illness, their families, community support organisations, and clinicians and once endorsed will form the basis of the reform.

The work of the Reform Program together with the capital investments in the Peacock Centre redevelopment and at St Johns Park, focus on integration of services and shifting hospital-based care to more community-based services. This specifically addresses Rethink 2015-2025 Reform Direction 4: An integrated Tasmanian mental health system and Reform Direction 5: Shifting the focus from hospital-based care to support in the community).

## National Disability Insurance Scheme (NDIS)

The NDIS is now available for eligible people with severe and persistent mental illness which result in ongoing functional impact, through individualised psychosocial recovery supports.

The implementation of the NDIS in Tasmania impacts on the responsibilities of the Tasmanian Government to fund mental health services. State-wide Mental Health Services will be responsible for the treatment of mental illness including, early intervention, mental health crisis services, hospital avoidance services, post-acute services and the operation of mental health facilities, as they will no longer be funded to deliver long-term non-clinical services. This will need to be considered in any new models of care being developed by the Reform Program.

## Suicide Prevention

### Connecting with People

The Office of the Chief Psychiatrist works in partnership with the Mental Health sector to implement the Connecting with People (CwP) approach. CwP, an approach to suicide mitigation that was developed in the UK and adapted for delivery in Australia, is designed to improve the response given to people in suicidal distress or at risk of suicide. CwP aims to increase the use of a compassionate approach to reduce stigma, use of a common language to describe the nature and intent of suicidal thoughts, and a new narrative to describe suicide risk.

Tasmania's Statewide Mental Health Services (SMHS) has adopted CwP as the preferred approach within the service and is slowly building capacity across the service. Training is also delivered to non-health providers and the community sector. Implementation gained momentum in 2019, but, like most face to face training, was restricted during March to June 2020 due to COVID-19.

During 2019-2020, the Chief Psychiatrist co-delivered CwP training and is mentoring new CwP trainers.

Modules delivered to 30 June 2020:

	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>Total</b>
Health	91	177	326	<b>594</b>
Non-health	28	111	73	<b>212</b>
CSOS	-	9	73	<b>82</b>
Other	-	2	14	<b>16</b>
<b>Total</b>	<b>119</b>	<b>299</b>	<b>486</b>	<b>904</b>

## Tasmanian Suicide Register

The Tasmanian Suicide Register (TSR) was established in late 2017 in the Coronial Division within the Magistrate's Courts in Hobart. The TSR, which is administered by a Research Officer, is a joint project between the Departments of Health and Justice.

In 2018, the Chief Psychiatrist commissioned the first report on suicide in Tasmania for the Tasmanian Government. Data in the report comprises 359 suicide deaths in Tasmania between 1 January 2012 and 31 December 2016. The report includes data on socio-demographics; trends and rates; mental and physical health; access to services; and identified stressors. This includes occupation and employment status, interpersonal and family situations, method of suicide and diagnosed mental illness.

## Developing an integrated approach to people in suicidal distress

Tasmania's suicide rate is consistently higher than the national average. The Tasmanian Government has made a commitment to suicide prevention and achieving better mental health outcomes with these to be achieved through the Tasmanian Mental Health Reform Program. One component of this work is the development of an integrated response to people in suicidal distress. A working group consisting of individuals with lived experience, policy makers, medical, nursing and allied health professionals, and representatives of primary care and the community mental health sector, was established to provide advice on this approach. The Chief Psychiatrist chairs the working group. Some of the key elements of the response, which should be finalised by the end of 2020, will be:

- The development of a common language and a common approach to the assessment of people in suicidal distress across the Tasmanian healthcare system.
- A commitment to achieving zero suicides among people receiving care from the Tasmanian health care system.
- A realignment of existing services and the establishment of new services for people in suicidal distress;
- Fostering a culture of safety, learning and continuous improvement.

## Suicide rates and COVID-19

The COVID-19 pandemic has had an impact of the mental health of most Australians, and it has been forecast that suicide rates will rise substantially as a result. Tasmania has not seen a statistically significant rise in suicide rates during the first 6 months of the pandemic but will continue to use information available from the Tasmanian Suicide Register to monitor trends over time.

The Chief Psychiatrist continues to chair the Tasmanian Suicide Prevention Committee (TSPC) and the Cross Agency Working Group which was established to oversee the implementation of strategies to mitigate the risk of suicide at a known hotspot.

## APPENDIX I: APPROVED FORMS

The forms approved by the Chief Civil Psychiatrist since the Act's commencement in February 2014 and that were in place on 30 June 2020 are as follows:

- Decision-making capacity (CCP Approved Forms 2A and 2B)
- Protective Custody (CCP Approved Form 4)
- Assessment Orders (CCP Approved Form 6)
- Treatment Plans (CCP Approved Form 7)
- Urgent Circumstances Treatment (Involuntary Patients) (CCP Approved Form 8)
- Seclusion (Involuntary Patients) (CCP Approved Form 9)
- Restraint (Involuntary Patients) (CCP Approved Form 10)
- Leave (Involuntary Patients) (CCP Approved Forms 11, 12A, 12B and 12C)
- Involuntary Patient Transfer Between Hospitals (CCP Approved Form 13)
- Admission of an involuntary patient to hospital following failure to comply with a Treatment Order (CCP Approved Form 22)
- Admission of an involuntary patient to hospital to prevent possible harm (CCP Approved Form 23)
- Involuntary Patient Escort to Hospital (CCP Approved Form 24).

The forms approved by the Chief Forensic Psychiatrist since the Act's commencement in February 2014 and that were in place on 30 June 2020 are as follows:

- Urgent Circumstances Treatment (Forensic Patients) (CFP Approved Form 8)
- Seclusion (Forensic Patients) (CFP Approved Form 9)
- Restraint (Forensic Patients) (CFP Approved Form 10)
- Leave (Forensic Patients) (CFP Approved Forms 12A, 12B and 12C)
- Search and Seizure (CFP Approved Form 16)
- Forensic Patient Transfer to Hospital (CFP Approved Form 17)
- Cancellation or Suspension of Visits (CFP Approved Form 18)
- Forensic Patient Request to Return to Prison/Youth Detention (CFP Approved Forms 20A and 20B).

## APPENDIX 2: STANDING ORDERS AND CLINICAL GUIDELINES

The following Standing Orders issued by the Chief Civil Psychiatrist were in place as at 30 June 2019:

- Chief Civil Psychiatrist Standing Order 8 - Urgent Circumstances Treatment
- Chief Civil Psychiatrist Standing Order 9 – Seclusion
- Chief Civil Psychiatrist Standing Order 10 - Chemical Restraint
- Chief Civil Psychiatrist Standing Order 10A - Mechanical Restraint and Physical Restraint

The following Standing Orders issued by the Chief Forensic Psychiatrist were in place as at 30 June 2020:

- Chief Forensic Psychiatrist Standing Order 8 - Urgent Circumstances Treatment
- Chief Forensic Psychiatrist Standing Order 9 - Seclusion
- Chief Forensic Psychiatrist Standing Order 10 - Chemical Restraint
- Chief Forensic Psychiatrist Standing Order 10A - Mechanical Restraint and Physical Restraint
- Chief Forensic Psychiatrist Standing Order 15 - Visitor Identification
- Chief Forensic Psychiatrist Standing Order 16 – Entry Screen and Search
- Chief Forensic Psychiatrist Standing Order 17 – Unauthorised Items
- Chief Forensic Psychiatrist Standing Order 21 – Use of Force.

The Chief Civil Psychiatrist and Chief Forensic Psychiatrist have issued one joint Standing Order - Standing Order 19 – Involuntary Patient Admission to Secure Mental Health Unit.

The following Clinical Guidelines issued by the Chief Civil Psychiatrist were in place as at 30 June 2020:

- Chief Civil Psychiatrist Clinical Guideline 1 – Meaning of Mental Illness
- Chief Civil Psychiatrist Clinical Guideline 7 – Off-Label Use of Medications
- Chief Civil Psychiatrist Clinical Guideline 8 - Urgent Circumstances Treatment
- Chief Civil Psychiatrist Clinical Guideline 9 – Seclusion
- Chief Civil Psychiatrist Clinical Guideline 10 – Chemical Restraint
- Chief Civil Psychiatrist Clinical Guideline 10A - Mechanical Restraint and Physical Restraint.

The following Clinical Guidelines issued by the Chief Forensic Psychiatrist were in place as at 30 June 2019:

- Chief Forensic Psychiatrist Clinical Guideline 8 – Urgent Circumstances Treatment
- Chief Forensic Psychiatrist Clinical Guideline 9 – Seclusion
- Chief Forensic Psychiatrist Clinical Guideline 10 – Chemical Restraint
- Chief Forensic Psychiatrist Clinical Guideline 10A – Mechanical Restraint and Physical Restraint.

The Chief Civil Psychiatrist and Chief Forensic Psychiatrist have issued several joint Clinical Guidelines, as follows:

- Chief Civil Psychiatrist and Chief Forensic Psychiatrist Clinical Guideline 2 – Capacity
- Chief Civil Psychiatrist and Chief Forensic Psychiatrist Clinical Guideline 3 – Representative and Support Person.



## APPENDIX 3: CHIEF CIVIL PSYCHIATRIST - POWERS AND FUNCTIONS UNDER OTHER ACTS

The Chief Civil Psychiatrist has the following powers and functions under the *Criminal Justice (Mental Impairment) Act* and the *Sentencing Act*:

- Notifying the Attorney General of a defendant's subsequent fitness to stand trial under section 29 of the *Criminal Justice (Mental Impairment) Act*
- Receiving notification that no further proceedings are to be taken against a defendant from the Attorney-General under section 29 of the *Criminal Justice (Mental Impairment) Act*
- Reporting to the Court under section 75 of the *Sentencing Act*.

## APPENDIX 4: CHIEF FORENSIC PSYCHIATRIST - POWERS AND FUNCTIONS UNDER OTHER ACTS

The Chief Forensic Psychiatrist has powers and functions under the *Criminal Justice (Mental Impairment) Act*, the *Sentencing Act*, the *Criminal Code Act*, the *Corrections Act* and the *Youth Justice Act*.

The Chief Forensic Psychiatrists under the *Criminal Justice (Mental Impairment) Act* include:

- Applying to the Supreme Court for discharge of a restriction order under section 26
- Preparing and submitting a report to the Court under section 26
- Notifying the Attorney General of a defendant's subsequent fitness to stand trial under section 29
- Receiving notification that no further proceedings are to be taken against a defendant from the Attorney-General under section 29
- Supervising people on supervision orders under section 29A
- Notifying the Mental Health Tribunal of a patient's objection to taking medication or to the administration of medical treatment under section 29A
- Applying to the Court for variation or revocation of a supervision order under section 30
- Providing a report to the Court under section 30
- Apprehending a person under section 31
- Receiving notification that a person has been apprehended under section 31
- Authorising the admission to a secure mental health unit of a defendant for a further period under section 31
- Reporting to the Court under section 35
- Reporting to the Court under section 39
- Reporting to the Court under section 39A, and
- Authorising persons under section 41A.

The Chief Forensic Psychiatrist's functions under the *Sentencing Act* are to provide advice to the Court under section 72 and to report to the Court under section 75.

The Chief Forensic Psychiatrist's functions under the *Criminal Code Act* are to report to the Court under section 348 and to apply to the Court for revocation of a restriction order under section 348.

The Chief Forensic Psychiatrist's functions under the *Corrections Act* are to have input to a decision to admit a prisoner to the secure mental health unit under section 36A, to require the Director, Corrective Services, to remove a prisoner or detainee who has been admitted to the secure mental health unit from the secure mental health unit under section 36A, and to supply to Parole Board with a report under section 74.

The Chief Forensic Psychiatrist's functions under the *Youth Justice Act* include:

- Reporting to the Court under section 105
- Reporting to the Court under section 134A

- Having input to the decision to admit a youth detainee to the secure mental health unit under section 134A, and
- Requiring the Secretary, Youth Justice to remove a youth detainee from the secure mental health unit under section 134A.



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