



Mental Health Act 2014

Information Sharing: Clinicians' Powers and Responsibilities

Information Sharing

The **Mental Health Act 2014** (the Act) commenced on 30 November 2015. The Act enables clinicians to share certain information about a patient without the need for consent and without breaching confidentiality laws or professional ethics or standards.

This fact sheet focuses on:

- information sharing between mental health services; and
- keeping personal support persons informed and involved.

Clinicians' powers and responsibilities with respect to information sharing depend primarily on the patient's legal status and decision making capacity; risk assessment; the setting in which the treatment and care is being provided; and the patient's support networks.

The Act enables clinicians to share certain information about a patient without the need for consent and without breaching confidentiality laws or professional ethics or standards.

Information Sharing Between Mental Health Services

The Act recognises the importance of well-coordinated and integrated treatment and care, and continuity of service provision.

The following rules apply with respect to information sharing between mental health services:

- the person in charge of a mental health service may request relevant information from the person in charge of another mental health service;
- the person in charge of a mental health service may disclose relevant information to the person in charge of another mental health service, with or without a request from that other mental health service; and
- there is no requirement for the patient's consent to disclose or obtain the relevant information.

Mental Health Service

For the purposes of the information sharing provisions in the Act, a mental health service means an individual or body that provides a service specifically for people who have or may have a mental illness. This extends to private psychiatric hostels, private psychiatric hospitals, and psychiatrists in public or private practice.

Relevant Information

The person in charge of a mental health service can share information about a former, current or future patient if that information is relevant to:

- the patient's treatment or care;
- the patient's health, safety or wellbeing; or
- the safety of another person where the patient poses a serious risk to that other person.



Examples of circumstances in which it may be appropriate to share a patient's personal information include where:

- a patient is being discharged from hospital and transferred to the care of a private psychiatrist; or
- it would be beneficial to provide a copy of a patient's treatment, support and discharge plan to a community mental health support service.

Informing and Involving Personal Support Persons

Upon admission or receipt to a mental health service, a patient should be encouraged to identify their personal support persons. The Act defines 'personal support person' as a:

- close family member;
- carer;
- nominated person;
- guardian or enduring guardian of an adult; and
- parent or guardian of a child.

The service should ensure that personal support persons are informed and involved in accordance with the Act. The requirements set out below are in addition to the requirement under the Act to notify a personal support person of notifiable events (such as the making of an involuntary treatment order). [Click here](#) for a list of notifiable events.

Voluntary Patients

Whether or not a clinician is required to inform and involve a voluntary patient's close family member or carer depends on the patient's decision making capacity.

The following rules apply with respect to individuals who are voluntary patients in a hospital or a community clinic:

- if the patient has decision making capacity, inform and involve a close family member and carer with the patient's consent; or
- if the patient does not have decision making capacity, inform and involve a close family member and carer unless this would not be in patient's best interests; and
- regardless of decision making capacity, inform and involve a nominated person unless this would not be in the best interests of the patient.

The above rules (in relation to voluntary patients) do not apply to the private practice of a psychiatrist or other health professional in the community.

Involuntary Patients

The following rules apply with respect to involuntary patients:

- if the patient has decision making capacity, inform and involve a close family member unless the patient reasonably refuses to consent; or
- if the patient does not have decision making capacity, inform and involve a close family member unless this would not be in the best interests of the patient; and
- regardless of decision making capacity, inform and involve a nominated person unless this would not be in the best interests of the patient.

'Best Interests of the Patient'

Clinicians are not required to inform or involve a personal support person where this would not be in the best interests of the patient. This exception generally relates to risk; for example, where there is a history of abuse or domestic violence.

'Informed and Involved'

Keeping a personal support person informed and involved requires:

- informing them of the nature of the patient's illness;
- if the patient is an involuntary patient, the reasons for the making of the involuntary treatment order;
- involving them in treatment, support and discharge planning;
- informing them of the treatment provided and the patient's progress;
- discussing the services available to meet the patient's needs;
- notifying them of the use of seclusion or bodily restraint;
- advising them of the patient's legal rights; and
- advising them of their legal rights as a personal support person.

For more information about this fact sheet contact the Mental Health Commission on (08) 6553 0600 or at legislation@mhc.wa.gov.au
Further resources about the *Mental Health Act 2014* can be found on the Mental Health Commission's website at mhc.wa.gov.au