



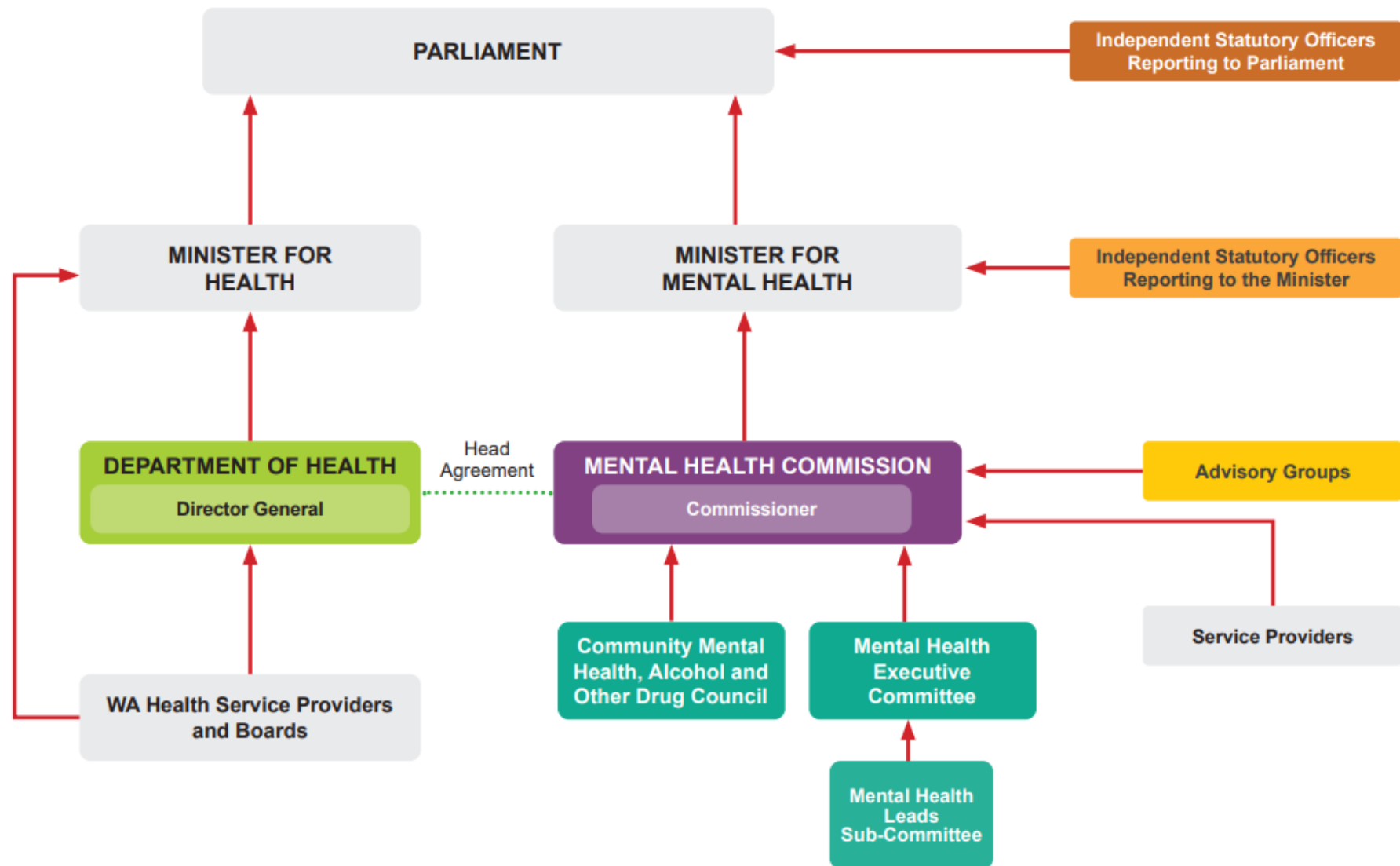
*We're working for
Western Australia.*

Governance of Mental Health, Alcohol and other Drug Services: Roles and Responsibilities

The following document outlines the primary governing legislation, and roles and responsibilities of key agencies in the Western Australian mental health, alcohol and other drug sector.

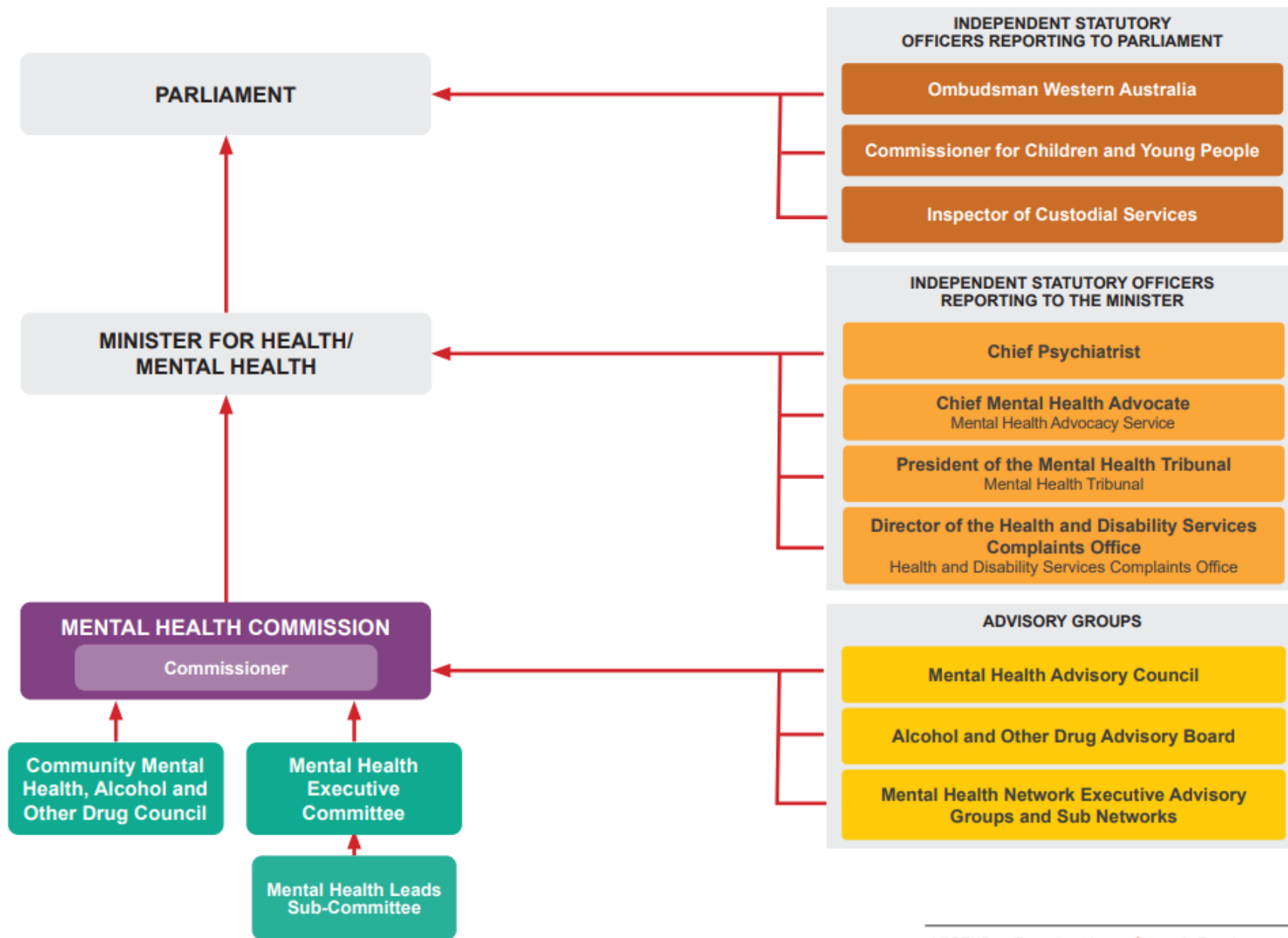
Delivering a better Western Australia, including optimal mental health and reduced alcohol and other drug harms requires all of us to work together towards our common goal.

WA Mental Health, Alcohol and Other Drugs: System-Wide Governance



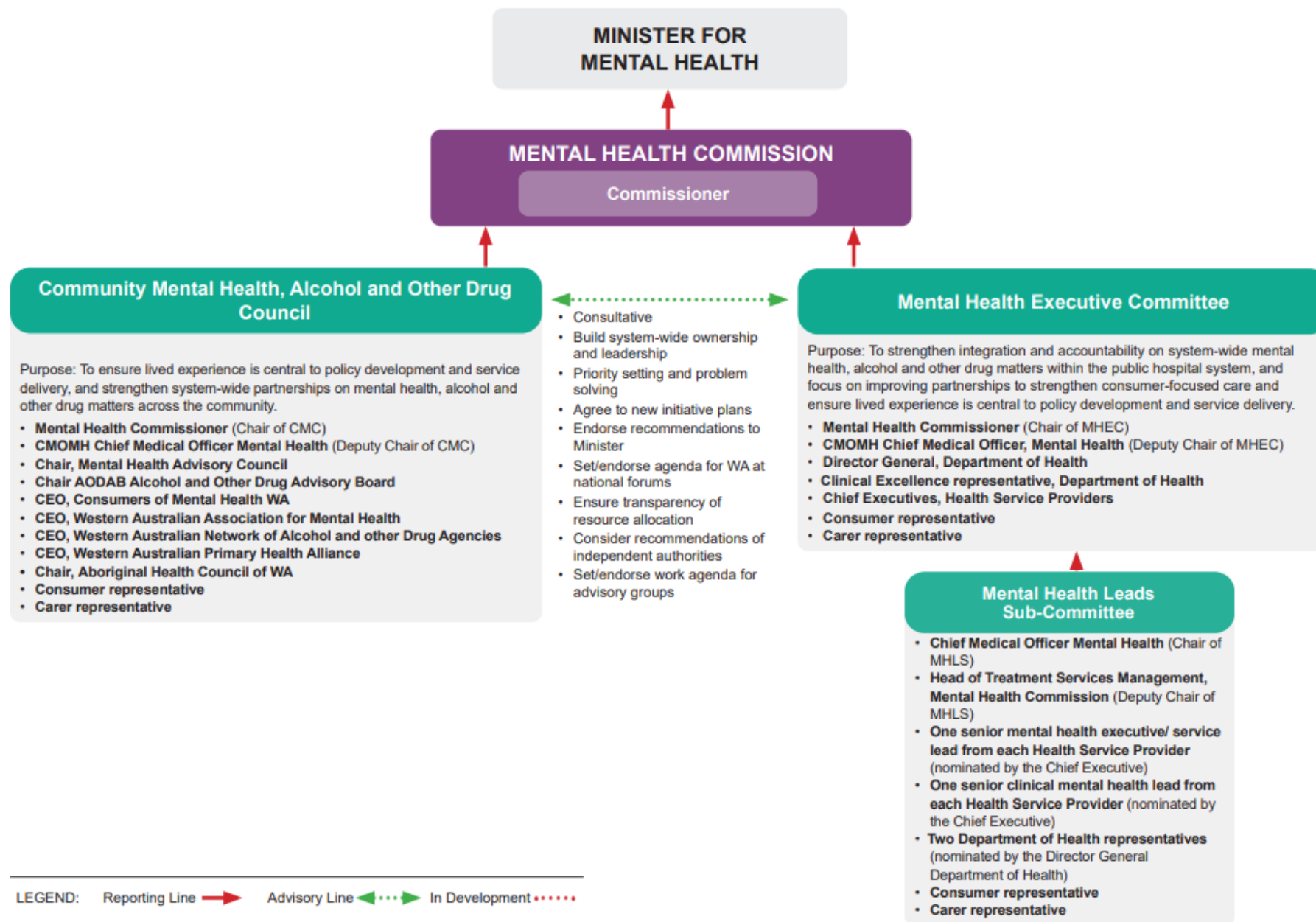
LEGEND: Reporting Line → Advisory Line In Development

WA Mental Health, Alcohol and Other Drugs: Detailed Governance



LEGEND: Reporting Line → In Development

WA Mental Health, Alcohol and Other Drugs: New Governance Arrangements



Mental Health, Alcohol and Other Drug Governance Committees

In late 2019, the Auditor General released the report Access to State-managed Adult Mental Health Services, which recommended that the Mental Health Commission and Department of Health clarify their roles so that it is clear which agency is primarily responsible for the effective and efficient management of the mental health system. This document has been expanded to include detail of the roles and responsibilities within the mental health, alcohol and other drug system.

In March 2020, Hon Roger Cook MLA, Minister for Health; Mental Health, released the Review of the Clinical Governance of Public Mental Health Services, and announced the creation of the Chief Medical Officer, Mental Health, and the establishment of the Mental Health Executive Committee (MHEC) and the Community Mental Health, Alcohol and Other Drug Council (CMC) to support the role of the Mental Health Commission as system leader and to drive system-wide integration and partnership.

These announcements were aimed at strengthening the Mental Health Commission's leadership role; bringing clinical expertise to policy and planning; developing consumer and community focused clinical care; and boosting integration and accountability within the public health system.

The MHEC and CMC are chaired by the Mental Health Commissioner and report through the Commissioner to the Minister to endorse recommendations for reform and prioritisation of initiatives across the mental health, alcohol and other drug system. The MHEC and CMC will support the Mental Health Commission to set and drive a WA agenda at national forums.

Mental Health Executive Committee (MHEC)

Membership of the MHEC is made up of the following:

Mental Health Commissioner (Chair)
Chief Medical Officer, Mental Health (Deputy Chair)
Director General, Department of Health
Chief Executive Officer, Child and Adolescent Health Service
Chief Executive Officer, East Metropolitan Health Service
Chief Executive Officer, North Metropolitan Health Service
Chief Executive Officer, South Metropolitan Health Service
Chief Executive Officer, WA Country Health Service
Assistant Director General, Clinical Excellence Division, Department of Health
Consumer representative*
Carer representative*

*The consumer and carer representatives are members of both the MHEC and the CMC.

The MHEC aims to strengthen integration and accountability of system-wide mental health, alcohol and other drug matters within the public hospital system. The MHEC is focused on improving partnerships to strengthen consumer-focused care and ensure lived experience

is central to policy development and service delivery. The MHEC assists to drive implementation of the mental health strategy and alcohol and other drug related strategies of the Sustainable Health Review. The MHEC, through its members, will drive local mental health leadership across the HSPs ensuring clinicians are informed and engaged in leading the reform agenda.

The full detail of the role and functions of the MHEC can be found in the Terms of Reference, available on the Mental Health Commission's website.

Community Mental Health, Alcohol and Other Drug Council (CMC)

Membership of the CMC is made up of the following:

Mental Health Commissioner (Chair)
Chief Medical Officer, Mental Health (Deputy Chair)
Chair, Mental Health Advisory Council (MHAC)
Chair, Alcohol and Other Drugs Advisory Board (AODAB)
CEO, Consumers of Mental Health WA (CoMHWA)
CEO, WA Association for Mental Health (WAAMH)
CEO, WA Network of Alcohol and other Drug Agencies (WANADA)
Chair, Aboriginal Health Council of Western Australia (AHCWA)
CEO, WA Primary Health Alliance (WAPHA)
Consumer representative and Carer representative (who also serve on the MHEC).

The CMC contributes to system-wide reform to ensure consumer focused care is strengthened across all clinical and non-clinical mental health, alcohol and other drug service delivery. The CMC, through its members, will drive leadership across the system and strengthen integration and collaboration on mental health and alcohol and other drug matters. The CMC will guide the work of the Mental Health Commission's lead advisory groups, strengthening the opportunity for the Commission to ensure policy advice and service delivery is based on strong evidence and expertise and reinforces the system-wide reform agenda.

The full detail of the role and functions of the CMC can be found in the Terms of Reference, available on the Mental Health Commission's website.

Legislation

The *Health Services Act 2016*

- The *Health Services Act 2016* (HS Act) provides a contemporary devolved governance model for the WA health system, including the public mental health services provided by health service providers (HSPs).
- The Director General of the Department of Health (DoH) (the Department CEO), as System Manager is responsible for the overall management, performance and strategic direction of the WA health system. HSPs are responsible for the delivery of public health services to their communities.
- The HS Act provides a framework for the purchasing of mental health, alcohol and other drug services by the Mental Health Commission (MHC) from the HSPs.

The *Mental Health Act 2014*

- The *Mental Health Act 2014* (MH Act) governs mental health treatment and care in WA, including that provided by HSPs.
- The MH Act confers powers of review and investigation on the independent Chief Psychiatrist, the Chief Mental Health Advocate, the Mental Health Tribunal and the Health and Disability Services Complaints Office (HaDSCO) to ensure that safe and quality mental health care services are provided.
- The Mental Health Regulations 2015 prescribe, and further clarify, certain provisions in the MH Act.

Criminal Law (Mentally Impaired Accused) Act 1996

- The *Criminal Law (Mentally Impaired Accused) Act 1996* (the 'CLMIA Act') governs the legal procedures and decisions regarding people with a mental impairment who have been found to be either mentally unfit to stand trial, or not guilty by reason of unsound mind.
- The Department of Justice is the responsible WA Government agency for the CLMIA Act.

The *Alcohol and other Drugs Act 1974*

- The *Alcohol and other Drugs Act 1974* (AOD Act) provides for the treatment, management, care and rehabilitation of persons experiencing alcohol or other drug use problems or co-occurring health issues, as well as promotion, research, education and coordination to reduce alcohol or other drug use problems and co-occurring health issues.
- The Mental Health Commissioner (referenced as the CEO in the Act) is responsible for undertaking these functions.

The *Private Hospitals and Health Services Act 1927* and the *Hospitals (Licensing and Conduct of Psychiatric Hostels) 1997*

- The *Private Hospitals and Health Services Act 1927* (PHHSA) and the *Hospitals (Licensing and Conduct of Psychiatric Hostels) 1997 (Hostel Regulations)* govern the control and regulation of private hospitals and private psychiatric hostels in WA.
- The Director General of the Department of Health (Department CEO) grants licenses to conduct a private health facility (including private psychiatric hospitals or private hospitals providing mental health services) if satisfied with the suitability of the licence holder, the suitability of the premises and the suitability of the arrangements for the management, staffing and equipment.
- The Department CEO may grant a licence for a facility where mentally ill people are treated, with conditions and restrictions, and endorse a licence to allow persons to be detained under the *Mental Health Act 2014* at the recommendation of the Office of the Chief Psychiatrist (OCP).
- The Department CEO may cancel a licence and/or withdraw the endorsement to allow persons to be detained under the *Mental Health Act 2014* at the recommendation of the OCP.
- On written application, the Department CEO may grant approval for a person to work as a supervisor in the day to day operations of private psychiatric hostels.
- The Department of Health's Licensing and Accreditation Regulatory Unit (LARU) is the delegated authority administering the provisions of the PHHSA Act and Regulations in WA.

Carers Recognition Act 2004

- The *Carers Recognition Act 2004* recognises the role of carers in the community and provides a mechanism for the involvement of carers in the provision of services that impact on carers and the role of carers.
- The Department of Communities is the responsible WA Government agency for the *Carers Recognition Act 2004*.

Roles and Responsibilities

Ministers and Ministerial Officers

Minister for Health

- Accountable to WA Parliament for the operation of the HS Act and the WA health system, including planning, service delivery, and performance.
- Establishes HSPs and can direct any HSP in relation to the performance of its functions.
- Appoints board members, for board governed HSPs, and designates a Chair and Deputy Chair.
- Can request information that relates to the functions of an HSP from any HSP, including in relation to mental health. (NB: not entitled to access to personal information except in certain circumstances (s.61(5) of the HS Act)).

Minister for Mental Health

- Accountable to WA Parliament for the operation of the MH Act.
- May initiate an inquiry into the mental health treatment, care or other services provided by an HSP to a person or a class of persons. The inquiry will have broad-ranging, compulsory powers upon individuals and entities, including HSPs.
- May direct HaDSCO, the Chief Mental Health Advocate and the Chief Psychiatrist in relation to certain matters, including the general policy to be followed in performing the functions under the MH Act.
- Recommends the appointment of the President and members of the Mental Health Tribunal to the Governor of WA.

Parliamentary Secretary to the Minister for Mental Health

- Appointed by the Governor in Council to assist ministers.
- Performs functions of the Minister for Mental Health, as directed by the Minister.
- Able to stand in for the Minister for Mental Health in Parliament.
- Can perform the Minister for Mental Health's duties (as above) such as taking carriage of bills but cannot answer questions on portfolio matters.

Agencies and Health Service Providers

Department of Health (DOH)

- Responsible for strategic leadership, oversight, performance, planning, policy setting and direction of the WA public health system.
 - The DoH assists the Director General, as Department CEO, to fulfil his system manager role under the HS Act.
 - Oversees, monitors and promotes improvements in the overall delivery of health services, including the safety and quality of mental health services provided by HSPs.

- May issue binding policy frameworks and directions to HSPs to ensure a consistent system-wide approach to a range of matters, including relating to mental health service delivery across the WA health system.
- May issue binding directions to HSPs, in relation to a matter set out in a policy framework or the Department CEO's functions under the HS Act.
- Enters into Service Agreements with HSPs setting out services to be provided by HSPs, funding, performance measures and operational targets. This includes mental health services not purchased by the Mental Health Commission (i.e. emergency department mental health care).
- Enters into a Head Agreement with the Mental Health Commission concerning the making of Commission service agreements between the MHC and HSPs (s.44 of the MH Act).
- Enters into a memorandum of understanding with the MHC outlining the specific data to be shared with the MHC and the purposes for which the data may be used.
- Monitors performance of the HSPs and takes remedial action when performance does not meet expected standards.
- May initiate an investigation, inspection or audit to assess HSPs' compliance with the HS Act, and may conduct an inquiry into the functions, management or operations of HSPs.
- Must prepare an annual report for the Minister for Health, which is tabled in Parliament.
- Within the Department, the **Licensing and Accreditation Regulatory Unit (LARU)** is the delegated regulatory unit which administers the *Private Hospitals and Health Services Act 1927* and Regulations for the private health industry (including private hospitals providing mental health services and private psychiatric hostels (providing residential accommodation) and the regulation of the approved supervisor workforce for private psychiatric hostels). LARU regulates accreditation for both public and private hospitals (including private hospitals providing mental health services) in line with the Australian Health Services Safety and Quality Accreditation Scheme (including national mental health standards).
- LARU reports to the Department CEO on private psychiatric hospital and private psychiatric hostel licensing and accreditation to the National Safety and Quality Health Service Standards (NSQHSS) in relation to high risk matters of non-compliance and/or breaches of legislation and/or resident and staff safety risks and implements regulatory response mechanisms at the direction of the CEO.

Mental Health Commission

- Responsible for strategic leadership of the public mental health and alcohol and other drug services system.
- Responsible for development of mental health and alcohol and other drugs planning, strategy and system-wide reform.
- Responsible for determining the range of mental health services required for the State, together with responsibility for specifying activity levels, ongoing performance monitoring and evaluation of key mental health programs.

- Ensures that the mental health and alcohol and other drug system is cohesive and works towards the best possible services for the individual, including through engagement across the sector.
- Represents the Western Australian State Government in national forums on mental health, alcohol and other drug matters and engages closely with the Western Australian Primary Health Alliance to ensure federally-funded primary health services on mental health, alcohol and other drug matters are aligned with state services in WA.
- Coordinates research into causation, prevention and treatment of alcohol and other drug use problems; provides assessment, treatment, management, care and rehabilitation of persons experiencing alcohol or other drug use problems or co-occurring health issues (including mental health issues); and (subject to the consent of the Minister for Mental Health) may establish and maintain premises and/or accommodation for those purposes. (AOD Act).
- Promotes prevention and early intervention through public awareness campaigns and public resources to support people to address their needs on mental health, alcohol and other drug matters.
- Purchases mental health, alcohol and other drug health services and support services across the State from the WA health system (via Commission service agreements with individual HSPs) and from non-government health providers.
- Enters into a memorandum of understanding with the DoH outlining the specific data to be shared by the DoH with the MHC and the purposes for which the data may be used.
- Monitors performance of the HSPs in relation to mental health, alcohol and other drug services.
- May request, under Section 572 of the MH Act, disclosure of relevant information about mental health treatment and care and service evaluation by the DoH CEO and HSPs.
- Must prepare an annual report for the Minister for Mental Health, which is tabled in Parliament.
- The MHC has responsibility for the administration of the MH Act and the AOD Act.
- Reporting to the Commissioner as part of the MHC leadership team, the Chief Medical Officer, Mental Health (CMOMH), works to ensure system-level clinical advice on mental health, alcohol and other drug issues is an integral consideration in the development of broader health policy and procedure in the State's public health system.

Health Service Providers (HSPs)

- HSPs are legally responsible and accountable for providing safe, high quality, and efficient operational health services to their local communities, in accordance with their service agreements with the DoH CEO and Commission service agreements with the Mental Health Commissioner.
- Contribute to the whole-of-system development and reform of public mental health services.
- Provide strong local-level leadership on mental health and alcohol and other drug issues to ensure safety and quality standards and to provide mental health clinicians and the broader organisation with a system-wide perspective.

- Must comply with policy frameworks and directions issued by the DoH CEO.
- Must prepare an annual report for the Minister for Health, which is tabled in Parliament.
- Each HSP is governed by a Board that is responsible for making strategic decisions, establishing and maintaining policies and procedures and overseeing the activity of each HSP, including systems of financial control, internal functions and performance reporting.

Statutory Officers and Bodies

Chief Psychiatrist

- The Chief Psychiatrist is an independent statutory authority with responsibility for overseeing the standards of treatment and care of a range of persons within the scope of the MH Act, including voluntary, involuntary, mentally impaired accused and referred. This includes overseeing the standards of care and treatment provided by public inpatient and community Mental Health Services, as well as private and public private partnership inpatient Mental Health Services, private psychiatric hostels and NGOs that provide clinical care.
- The Chief Psychiatrist discharges these responsibilities by publishing guidelines and standards for the treatment and care to be provided by Mental Health Services (as defined by the MH Act) and overseeing compliance with those standards, including the National Standards for Mental Health Services 2010.
- Provides clinical leadership to ensure continuous improvement and contributes to the leadership of system-wide reform of Mental Health Services across Western Australia.
- Authorises, registers and trains Authorised Mental Health Practitioners; and provides a training program for targeted clinical staff regarding best clinical practice, relevant legislation, and guidance on implementing changes to practice.
- Endorses applications for licence of private psychiatric hospitals under the MH Act and the *Private Hospitals and Health Services Act 1927*.
- Conducts clinical reviews of the standards of care provided by Mental Health Services, informal visits to the services and monitoring the clinical incidents notified under s525 of the MH Act, ensuring safety and quality in Western Australian Mental Health Services.
- Authorises inpatient units that are allowed to admit involuntary patients, approving ECT treatment facilities and authorising mental health practitioners.
- May visit a mental health service at any time, or review the treatment being provided to an involuntary patient, amongst other powers.
- Mental Health Services are required to report to the Chief Psychiatrist certain matters regarding a range of treatment and interventions, including monitoring the use of restrictive practices in authorised mental health services.
- Mental Health Services are also required to report to the Chief Psychiatrist a range of notifiable incidents in mental health services, including such serious incidents as death or assault, among others.
- Must prepare an annual report for the Minister for Mental Health, which is tabled in Parliament.

Mental Health Tribunal

- The Mental Health Tribunal is an independent decision-making body established by the MH Act to protect patients from potential abuse of the powers under the Act.
- The Tribunal undertakes a range of functions to protect the rights of involuntary patients subject to the MH Act. These include conducting reviews of involuntary status and ensuring that clinicians and services comply with certain aspects of the MH Act.
- The Mental Health Tribunal is constituted by psychiatrists, lawyers and community members.
- The President of the Mental Health Tribunal must prepare an annual report for the Minister for Mental Health, which is tabled in Parliament.

Mental Health Advocacy Service

- The Mental Health Advocacy Service (MHAS) is the independent statutory office of the Chief Mental Health Advocate providing mental health advocacy services and rights protection functions to 'identified persons'.
- Advocates for involuntary patients and others within the scope of the MH Act, including by ensuring that patients are aware of their rights under the MH Act, and by investigating matters that may adversely impact patient health, safety and wellbeing.
- The MH Act requires a mental health advocate to contact every involuntary patient within seven days or, in the case of a child, 24 hours after the involuntary treatment order is made.
- The Chief Mental Health Advocate must prepare an annual report for the Minister for Mental Health, which is tabled in Parliament

Health and Disability Services Complaints Office (HaDSCO)

- HaDSCO is an independent Statutory Authority providing an impartial resolution service for complaints relating to health, disability and mental health services provided in Western Australia and the Indian Ocean Territories.
- HaDSCO operates within two key service areas:
 - Assessment, negotiated settlement, conciliation and investigation of complaints.
 - Education and training in the prevention and resolution of complaints.
- Provides a free, independent and impartial service to assist people making a complaint, and service providers, to resolve complaints.
- Uses information about complaints to identify systemic issues and trends across these sectors.
- Works collaboratively with all parties to improve service delivery and complaints management.
- The Director of HaDSCO must prepare an annual report for the Minister for Health in accordance with section 63 of the *Financial Management Act 2006*, which is tabled in Parliament.

Mental Health Commission Advisory Groups

Mental Health Advisory Council

- The Mental Health Advisory Council provides strategic advice and guidance directly to the Mental Health Commissioner regarding major issues affecting people with mental health problems, their families and service providers.

Alcohol and other Drugs Advisory Board

- The Alcohol and Other Drugs Advisory Board provides strategic advice directly to the Mental Health Commissioner about the management, care and support services provided to people experiencing alcohol or other drug use problems.

Mental Health Networks

- The Mental Health Networks, established in 2014 as part of the broader health networks mechanisms established by the Department of Health, enables consumers, carers, health professionals, hospitals and health services (government and non-government) to engage and collaborate to inform mental health policy and reform and to strengthen coordination of mental health care across the State.
- The Mental Health Network is led by two co-leads, supported by the Mental Health Network Executive Advisory Group and a series of issue-specific sub networks have been established and report to the co-leads.

Other Organisations and Members of the Community

Many other organisations and individuals play an important part in supporting the Western Australian community on mental health, alcohol and other drug matters.

This includes other government agencies and entities; associations, community organisations and service providers; and members of communities throughout the State. They deliver services, provide feedback and input, and work within communities to prevent and manage mental health issues and reduce alcohol and other drug harms.

The lived experience of consumers, carers and families is particularly crucial to ensuring that services across the sector are effective, dignified and recovery oriented.