

**SESLHD MENTAL HEALTH SERVICE
BUSINESS RULE COVER SHEET**



Health
South Eastern Sydney
Local Health District

NAME OF DOCUMENT	NSW Minister for Mental Health Notification Processes for Release or Leave of Absence for a Person being Treated under the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> (NSW) (Section 147 [2])
TYPE OF DOCUMENT	Business Rule
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LEVEL OF EVIDENCE	National Safety and Quality Health Service Standards Second Edition: Standard 1 - Clinical Governance Standard (1.01 and 1.03)
REVIEW DATE	June 2027
FORMER REFERENCE(S)	N/A
EXECUTIVE SPONSOR	Dr Nicholas Babidge Clinical Director Mental Health Service, SESLHD
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POSITION RESPONSIBLE FOR THE DOCUMENT	Policy and Document Development Officer, Mental Health seslhd-mentalhealth-policiesanddocuments@health.nsw.gov.au
FUNCTIONAL GROUP(S)	Mental Health
KEY TERMS	Mental Health, <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> (NSW)
SUMMARY	It is a guide to notify the NSW Minister for Mental Health about the release or leave of absence for people being treated under the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> (NSW) (Section 147 [2]).

COMPLIANCE WITH THIS DOCUMENT IS MANDATORY

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Feedback about this document can be sent to SESLHD-Policy@health.nsw.gov.au

**NSW Minister for Mental Health Notification Processes for
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1. POLICY STATEMENT

The *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)* (Section 147 [2]) “the Act” provides that the NSW Minister for Health has the following roles with respect to review of the care, treatment, detention and release of people being treated under the Act:

- The right to appear before the Mental Health Review Tribunal (the Tribunal) or make submissions to the Tribunal in relation to the possible release or grant of leave of absence to a person being treated under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)* (Section 147 [2]).
- The right to appeal to the Supreme Court of NSW from any determination of the Tribunal in a proceeding before the Tribunal is within the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)* (Section 149-155).
- The right to appeal to the NSW Court of Appeal from any determination of the Tribunal as to the release of a person is within the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)* (Section 149-155).

These matters have been delegated to the NSW Minister for Mental Health. It is important that the Minister for Mental Health be appropriately briefed ahead of any potentially contentious Tribunal hearing for a person being treated under the Act.

2. BACKGROUND

This document is necessary to ensure that appropriate notifications are made during Tribunal processes for the release or granting of leave of absence to a person being treated by SESLHD MHS under the Act (Section 76A [2]).

Responsible staff include all MHS Nurses, Service Managers, Nurse Practitioners, Psychiatric Registrars and Consultant Psychiatrists, as well as other mental health clinicians involved in the Tribunal processes for the release or granting of leave of absence to a person being treated by SESLHD MHS under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)* (Section 147 [2]).

3. RESPONSIBILITIES

3.1 Employees will:

Follow the document outlined within this document and escalate as appropriate.

3.2 Line Managers will:

Follow the document outlined within this document and escalate as appropriate.

3.3 District Managers/ Service Managers will:

Follow the document outlined within this document and escalate as appropriate.

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4. PROCESS

4.1 Method of escalation and communication

- SESLHD MHS is to provide timely advice to the NSW Ministry of Health via the SESLHD Mental Health Service General Manager and the SESLHD Chief Executive in relation to circumstances where leave of absence or release is being sought and where such leave of absence or release would be likely to:
 - Pose a risk to public health or safety or raise serious community concerns.
 - Raise issues of legislative policy concerning the aim, purpose or intent of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (NSW)*
- The Site Service Director or delegate would brief the SESLHD Mental Health Service General Manager, who then would brief the SESLHD Chief Executive
- SESLHD Chief Executive would then brief the Executive Director, Mental Health Branch (MHB) at the NSW Ministry of Health MOH-MentalHealthBranch@health.nsw.gov.au, marked attention to the Principal Policy Officer of the Regulatory Services Team, Ms Ayesha Wijesinghe, ayesha.wijesinghe@health.nsw.gov.au **at least 21 days prior to the Tribunal holding the review to consider the leave of absence or release application.**
- In the first instance, enquiries about individual notification matters should be directed to the Principal Policy Officer of the Regulatory Team on (02) 94617668.

5. DOCUMENTATION

- SESLHD Briefing Template

6. AUDIT / KPI

- Nil

7. REFERENCES

- [Mental Health and Cognitive Impairment Forensic Provisions Act 2020 \(NSW\)](#)
- [NSW Ministry of Health Policy Directive PD2012_050 - Forensic Mental Health Services](#)

8. VERSION AND APPROVAL HISTORY

Date	Version	Version and approval notes
September 2013	0	Endorsed by SESLHD MHS Clinical Council.
May 2015	1	Endorsed by SESLHD MHS Clinical Council.
April 2016	2v1	Sent for review to MHS Service Directors, Clinical Operations Managers, Inpatient Service Managers, Nursing Unit Managers, Patient Flow Coordinators, Chief Psychiatrists and SESLHD MHS Clinical Nurse Manager

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May 2016	2v2	Amendments made to contact sequence, persons responsible and email addresses by the SESLHD MHS Clinical Nurse Manager as per advice from MHDAO.
June 2016	2v3	Amendments by SESLHD MHS Access and Service Integration Manager to contact position title/s, and inclusion of additional reference, as per advice from MHDAO Regulatory team.
July 2016	2v4	Detail added by SESLHD District Document Development and Control Committee to clarify who instigates contact sequence (Site Service Director or delegate). Endorsed by SESLHD MHS Clinical Council.
July 2017	2v5	Amendments by SESLHD MHS Access and Service Integration Manager to contact position names and phone contact as per advice from MHDAO Regulatory team. Sent for review to MHS Service Directors, Clinical Operations Managers, Inpatient Service Managers, Patient Flow Coordinators, Chief Psychiatrists, SESLHD MHS Clinical Nurse Manager and SESLHD Consultant Psychiatrist
October 2017	2v5	Endorsed by DDDCC.
November 2017	2v5	Processed by Executive Services prior to publishing.
May 2018	2	Risk rating changed from Extreme to Medium – approved by Executive Sponsor.
September 2018	2	Unscheduled review due to IB2018_025. SESLHD Mental Health Clinical Council confirmed no changes required. Executive Services processed prior to publishing.
September 2020	v3.0	Routine review commenced
October 2020	v3.1	Sent for review to MHS Service Directors, Clinical Operations Managers, Inpatient Service Managers, Patient Flow Coordinators, Clinical Directors, SESLHD MHS Child and Youth Director and SESLHD MHS Clinical Nurse Manager Advice sought from A/Principal Policy Officer, Regulatory Services Mental Health Branch regarding change in Provisions Act- change due March 2021. Name change to the A/Principal Policy Officer, Regulatory Services Mental Health Branch included Endorsed by SESLHD MHS DDCC Endorsed by SESLHD MHS Clinical Council
November 2020	V3.1	Approved by Executive Sponsor. Published by Executive Services.
December 2023	v4.0	Advice sought from A/Principal Policy Officer, Regulatory Services Mental Health Branch regarding change in Provisions Act Advice sought from A/Principal Policy Officer, Regulatory Services Mental Health Branch regarding change in phone contacts for

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Date	Version	Version and approval notes
		regulatory Services. Advice sought from A/Principal Policy Officer, Regulatory Services Mental Health Branch regarding change in contacts/ sequence for SESLHD Chief Executive to notify the Mental Health Branch Change in clause numbers regarding appeal processes. Change in Executive sponsor. Updated Ministry of Health/ SESLHD reference to include updated act and active link.
April 2024	v4.0	Endorsed DDCC
May 2024	v4.0	Endorsed Clinical Council
12 June 2024	4.0	Document published.