

Training materials

Introduction

This part of the Guide contains material that can be used to run three, one-hour in-service training sessions on aspects of the *Mental Health Act*.

The first session focuses on the underlying philosophy of the legislation, and the principles of ensuring that the rights, dignity and self-respect of consumers are maintained, even when the restrictive provisions of the *Act* are utilised. The second session provides material for introducing new staff to the overall scope and operation of the *Act*, while the third offers the opportunity to reflect on the use of Community Orders.

As with any training material you may wish to make adaptations to meet the specific needs of your work area. It is hoped, however, that you will find these sessions useful in enabling you to understand and work effectively within the framework established by the *Mental Health Act*.

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Promoting Consumer Rights

The *Mental Health Act* states that those who are mentally ill or disordered are to receive the best possible care and treatment in the least restrictive environment, so that any restriction on their liberty or interference with their rights, dignity and self-respect is kept to a minimum. It is this philosophy which underpins the *Act*, and that should inform the decisions made by mental health workers. The *Act* also confers a number of specific rights on consumers, which are summarised in Section 3 of the *Guide*.

Ensuring that consumers are informed of their rights (often at the point when they are most unwell) and then providing sufficient encouragement and support to enable them to act on those rights can be problematic. This session gives staff the opportunity to consider their own individual and agency practice in relation to consumer rights, and to look at specific ways of promoting them.

Aims and Objectives

By the end of this session participants should have had the opportunity to:

- listen to the views of consumers and carers
- ask questions of consumers and carers
- list the ways in which their ward/agency promotes the exercise of consumer rights
- identify practical ways of enhancing the exercise of those rights.

Before the Session

Invite two or three consumer/carer representatives to participate in the session. Ask two of them to speak for 5–10 minutes about the issue of consumer rights from their experience. For example, one person might speak about rights in the context of involuntary admission, and the other the issue of rights when on a community order. Ask them to consider the following questions:

- were they made aware of their rights
- was this helpful
- did they feel able to ask questions about the process and/or their treatment
- did they know who to turn to with a question or concern
- what could have happened to make the situation less distressing?

Encourage staff to familiarise themselves with Section 3 of the *Guide*.

Activity 1 (40 minutes)

- Facilitator introduces the session and the invited guests
- 2 presentations
- Question and answer period
- Someone to summarise issues/suggestions

Resource

Overhead transparency to introduce the topic.

Activity 2 (5 minutes)

Task

Identify the resources that currently exist in the ward/agency that provide information about consumer rights – these may include posters, pamphlets, Dept of Health forms, as well as specific individuals.

Approach

Brainstorm.

Resource

Whiteboard.

Activity 3 (15 minute)

Task

Develop practical ways of encouraging and supporting consumers to exercise their rights.

Approach

Facilitator to draw out ideas from whole group:

- what are we doing well
- what could we be doing better
- what could we do differently tomorrow (as individuals/group)
- what would we like to see happening in 6 months
- who is taking responsibility for the changes?

Resources

Facilitator and a scribe to keep the discussion focused and ensure that ideas are not lost.

 **Follow up**

Someone to take responsibility for implementing the changes. Review in 6 weeks time. Discuss the changes with the consumer/carer participants where appropriate.

Consumer rights and the Mental Health Act

Those who are mentally ill or disordered are to receive the best possible care and treatment in the least restrictive environment.

Any restriction on their liberty or interference with their rights, dignity and self-respect is to be kept to a minimum.

(s4, Mental Health Act)

Introducing the Mental Health Act

All mental health staff need a basic understanding of the *Mental Health Act*. The following materials provide the structure for an introductory lecture on the *Act*. Depending on whether staff are working in a hospital or community setting, you may wish to exclude or highlight particular sections. In introducing the major concepts of the legislation it is important not to get bogged down in the detail. While this session is aimed primarily at workers new to the system, it may also provide a useful refresher for those who have been working with the *Act*. It provides a basic framework for recognising when the *Act* is important and where further specific information can be located. A 20-question quiz has been developed, which staff can do on their own using the *Guide*.

Aims and Objectives

Introduce staff to:

- the basic philosophy and scope of the *Mental Health Act* 1990
- the use of the *Guide* as a primary reference tool
- where to go for more detailed information the *Act*.

By the end of the session staff should be familiar with:

- the primary aims of the *Act*
- the definitions of a 'mentally ill' and 'mentally disordered' person
- the broad framework for scheduling and involuntary detention
- the broad operation of community orders
- the 2 major avenues of review
- the basic consumer rights outlined by the *Act*
- where to turn for legal advice.

Activity 1

Task

The following overheads provide the basis for a 40-minute structured presentation on the *Mental Health Act*. This presentation can be done by an experienced staff member who has familiarised themselves with the *Guide*. Some additional notes on the overhead transparencies have been included. As with any training, however, you need to make the material your own, and relate the general principles to the specifics of your agency.

Resources

The *Guide*

Overhead transparencies

The quiz

The Mental Health Advocacy Service pamphlet and *The Mental Health Review Tribunal – A brief guide* (copies available from the relevant agencies).

Handout – summary of overhead transparencies.

Notes to accompany the Overheads

1 What is the 1990 Mental Health Act?

2 What is the major aim of the Mental Health Act?

3 To whom does the Mental Health Act apply?

- Overhead transparencies 1–3 are straightforward and require no particular additional information.

4 Key definitions – mentally ill and mentally disordered persons

- It is important to emphasise that these definitions frame many of the decisions made by mental health workers. A precise knowledge of these is vital.

5 Criteria for a mentally ill person

- Introduce all the criteria in summary form and then move on to OHT6.
- Go back to OHT5 and go through the elements of serious harm, continuing condition and least restrictive care.
- Illustrate each of these elements with a short example from your agency or clinical experience.
- Make the point that while these terms appear in the *Act* they have no special legal meaning and are to be understood in their everyday usage.

6 Definition of mental illness

- Emphasise that this is a definition based on symptoms rather than on diagnoses. Conditions like dementia and anorexia are therefore not seen as falling within the *Act's* definition of mental illness.

7 Criteria for a mentally disordered person

- Go through the elements of irrational behaviour, significant physical risk and least restrictive care.
- Illustrate each of these elements with a short example from your agency or clinical experience.
- These terms are to be understood in their everyday usage.

8 Exclusion criteria

- The definitions of the *Act* are incredibly broad. The exclusions are aimed at ensuring that people are not dealt with under the *Mental Health Act* just because they transgress a community norm.

9 Pathways to Involuntary Admission

- The *Act* spells out 6 ways in which involuntary admission can be initiated. 1 & 2 are the most commonly used.
- Medical practitioner – most involuntary admissions are initiated in this way. Medical practitioners are required to fill out a particular form – Schedule 2 of the *Act*.

In country areas there is also provision for certain experienced mental health practitioners to become accredited (and have the same powers as doctors in regard to scheduling).

- Police – have broad powers to take a person to hospital where they appear to be at risk of causing themselves serious bodily harm, or when in the course of investigating a criminal matter the police think the person may be more appropriately dealt with by admission to hospital. There is now a detailed Memorandum of Understanding that provides some clear guidelines on the way that police and mental health staff should work together.
- Request of a relative or friend – this can only be used in remote areas, and a written request to the medical superintendent of the hospital is required.
- Order of the court – this occurs when a person comes before a magistrate and appears to be mentally ill. This allows the magistrate to order that the person be psychiatrically assessed.
- Welfare officer – this is an outmoded category that will gradually be replaced by accredited persons.
- A rarely used provision, but one that enables a magistrate to authorise a doctor with backup from the police to schedule a person.

10 After the person gets to hospital

- Don't get too involved with the detail here. What's important is that people understand there is a procedure to be followed that is set down by the law. Those working in the hospital context will need to work through the detail laid down in the *Guide* once they are familiar with the broad principles.

11 Being detained as a mentally disordered person

12 Being detained as a mentally ill person

- Go through OHTs 11 and 12. The basic difference for staff to understand at this stage is that when a person is detained as 'mentally disordered' the process is handled internally by the hospital, whereas when a person is detained as 'mentally ill' an external process of review applies because the consequences are more serious.

13 Who reviews decisions under the *Mental Health Act*?

- Here it is important to introduce the importance of external review and name the two processes.

14 Magistrate's Inquiry

- At an introductory stage it is important to know that the process exists and that the magistrate can make a variety of decisions. For those who will be directly involved in these hearings, however, a much more thorough knowledge of the process is essential.

15 Mental Health Review Tribunal

- Here it is important to get across the broad outline of the Tribunal's work rather than the detail. Hand out a copy of the MHRT pamphlet.

16 Legal representation under the Act

- Hand out a copy of The Mental Health Advocacy Service pamphlet at this point.

17 What are Community Orders?

- While CCOs are still used, a thorough knowledge of CTOs is more important as these are by far the more commonly issued orders.

18 Finding out more about the *Mental Health Act*

- When complex situations arise these organisations can be contacted for advice.

What is the Mental Health Act?

A law that governs the care and treatment of people in NSW who experience a mental illness or mental disorder.

What is the major aim of the Mental Health Act?

‘Mentally ill’ and ‘mentally disordered’ persons are to receive:

- the best possible care and treatment in the least restrictive environment
- any interference with or restriction of their rights, dignity and self-respect is to be kept to a minimum.

To whom does the Mental Health Act apply?

The Act makes provisions for the care of people who:

- are admitted to hospital voluntarily (informal patient)
- are admitted to or detained in hospital against their wishes (involuntary patient)
- are required to receive treatment in the community
- have committed an offence and are mentally ill (forensic patient)

Definitions

2 key definitions

- A mentally ill person
- A mentally disordered person

Criteria for a mentally ill person

Has a mental illness (definition)

and

risk of serious harm to self or others
(includes physical harm, and harm to reputation, relationships, finances and self neglect)

and

continuing condition, including any likely deterioration, taken into account

and

no other care of a less restrictive kind available.

Definition of mental illness

A condition that seriously impairs, either temporarily or permanently, the mental functioning of a person and is characterised by the presence of any one or more of the following symptoms or signs:

- delusions
- hallucinations
- serious disorder of thought form
- severe disturbance of mood
- sustained or repeated irrational behaviour indicating that the person is having delusions or hallucinations.

Criteria for a mentally disordered person

Displaying irrational behaviour

and

significant physical risk to self or others

and

no other care of a less restrictive kind
available.

Exclusion criteria

A person cannot be regarded as 'mentally ill' or 'mentally disordered' for the purpose of the Act, merely because of the presence or lack of:

- religious beliefs or philosophy
- sexual preference/orientation

or because of past or current involvement in:

- sexual promiscuity
- immoral or illegal conduct

or because the person

- has a developmental disability
- takes or has taken alcohol or any other drug
- engages in antisocial behaviour.

Pathways to involuntary admission

- Certificate of medical practitioner
- After apprehension by police
- Request of relative/friend
- Order of the court
- Information of a welfare officer
- Following order for medical examination

After the person gets to hospital

- Person must be given a form explaining their legal rights
- Examination by doctor within 12 hours
- If neither mentally ill or disordered must be discharged
- If either mentally ill or disordered there must be a second examination
- In some cases a third examination is required

Being detained as a mentally disordered person

- Can be detained for 3 days
- Must be examined every 24 hours by a doctor
- Must be discharged if no longer mentally disordered
- Can be detained for 3 x 3 day periods within a month
- Interpreter provided where appropriate

Being detained as a mentally ill person

- Must be seen by a magistrate
- Legally represented before the magistrate
- Medicated at minimum level until seen by magistrate
- Appear before the magistrate in street clothes
- Interpreter provided where appropriate
- Must be discharged if no longer a mentally ill person

Who reviews decisions under the Mental Health Act?

Two external review processes:

- The Magistrate's Inquiry
- The Mental Health Review Tribunal

Patients can also have decisions about their care and treatment reviewed internally by the medical superintendent.

Magistrate's Inquiry

The magistrate looks at whether those who have been admitted involuntarily:

- are mentally ill under the Act
- require further detention
- whether the correct procedures have been followed

They may:

- make a Temporary Order up to 3 months
- place them on a Community Order
- adjourn the inquiry for up to 14 days
- discharge the person.

Mental Health Review Tribunal

The Tribunal has a wide range of powers to review decisions made under the Mental Health Act.

These include:

- renewing and approving Community Orders
- looking into the care of voluntary patients who have been hospitalised for a year
- authorising applications for ECT
- hearing extensions of TPOs

Legal representation under the Act

- Mental Health Advocacy Service coordinates free legal representation for patients throughout NSW
- Free legal representation is generally only provided in cases of involuntary detention
- Patients can organise a private lawyer if they wish

What are community orders?

Legal orders that require a person to have treatment in the community.

There are two types:

- Community Treatment Order (CTO)
- Community Counselling Order (CCO)

Community Orders can be:

- made for up to 6 months
- renewed with the approval of the Mental Health Review Tribunal.

Finding out more about the Mental Health Act

- Mental Health Review Tribunal
- Mental Health Advocacy Service
- Centre for Mental Health

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The Mental Health Act: 20 Questions

These questions have been designed to help you learn the basics about the *Mental Health Act* and find your way around the *Guide*.

- 1 What section of the *Act* defines 'a mentally ill' person?.
- 2 Bob has been on a spending spree, running up \$60,000 of debt on various credit cards in the last 2 weeks. He has also been making grandiose statements to his friends and family about his ability to predict currency fluctuations. He feels tremendously well and cannot be persuaded to see a doctor. Does Bob come under the *Mental Health Act*? (*Look at the definitions, and consider what other information you would need*.)
- 3 Jane was found last night wandering along the freeway in a highly agitated state. She was shouting at traffic, and attempting to direct all the cars into one lane. She was picked up by the police and taken to hospital.
 - what section of the *Act* did the police use to take her to hospital?
 - what does the hospital need to do in deciding whether to detain Jane?
 - if the hospital decides that Jane can go home, do they need to inform the police?
- 4 How long can a magistrate detain someone under a temporary patient order?
- 5 How can a continued treatment patient apply to be discharged?
- 6 Who does the hospital need to notify once a person has been admitted as an involuntary patient?
- 7 What rights do involuntary patients have in relation to medication?
- 8 What's the criteria for admission for an informal (voluntary) patient?
- 9 Dr Brown completed a Schedule 2 in relation to Wayne on Monday morning. On the way to hospital Wayne ran away, but returned home on Wednesday night. The next morning his father drove him into hospital with the original Schedule. Is it still valid?
- 10 On arrival at the hospital Wayne was seen by Doctor One who found him to be a mentally ill person. Five hours later Doctor Two, a psychiatrist, examined Wayne and found him to be mentally disordered. What happens to Wayne now?

- 11 Cheryl has been on CTOs for the last 14 months. She has started to refuse to take her medication. What do you need to do if you wish to initiate breach proceedings?
- 12 A few weeks later Cheryl was taken to hospital by the police as a result of breaching her CTO? What section(s) of the *Act* allow the police to assist in these cases?
- 13 There is another 4 months to run on Cheryl's current CTO. Can she be detained for this period?
- 14 If the magistrate finds that someone is a 'mentally ill person' what decisions can they make?
- 15 Who sits on the Mental Health Review Tribunal?
- 16 What does the Mental Health Advocacy Service do?
- 17 Who is a 'person responsible'?
- 18 When can an (informal) voluntary patient be given ECT?
- 19 Under what circumstances does an involuntary patient have a right to an interpreter?
- 20 Can a 9-year-old be scheduled?

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Working Effectively with Community Orders

Community Orders are now very widely used. While their technical operation is reasonably straightforward, using them as a flexible and effective treatment tool can be more complex. The activities in this session give participants an opportunity to reflect on their work and to develop new approaches. They will take longer than an hour to complete so you may choose to concentrate on a couple.

Aims and Objectives

By the end of this session staff should have had the opportunity to:

- reflect on the use of Community Orders in their agency
- identify situations in which a Community Order has worked well from an agency/ carer/and consumer perspective
- identify situations in which a Community Order has not worked well from an agency/carer/consumer perspective
- develop practical ways of enhancing the effectiveness of Community Orders in the agency.

Activity 1

Task

Develop a list of advantages and disadvantages in using Community Orders for the following groups:

- carers and families
- case managers and professionals
- consumers.

Approach

This could be done as a group or in pairs.

Consumers and/or carers could be invited along to the session.

Resources

Overhead transparencies 1–6 can be used as a discussion trigger.

Activity 2**Task**

Analyse 3 recent cases from the agency:

- a success (the person's mental state improved as a result of the CTO)
- one that has stalled (you're not sure where it's going)
- one where there's been a breach (whether or not the breach has been pursued).

Approach

Select 3 cases beforehand.

Ask 3 staff to prepare a 5 minute presentation covering:

- the consumer's goal – did they have one?/did you ask
- the worker's goal – did you have one
- the strengths and weaknesses of the treatment plan
- how you would know it was effective
- anything you would do differently?

Facilitate a group discussion

- what can be learned from the 3 cases
- what practical conclusions can be drawn
- what changes could occur at an agency level?

Resources

Sufficient time for preparation

Whiteboard/butcher's paper to summarise and focus group discussion.

Activity 3

Task

Develop criteria for the evaluating effectiveness of Community Orders.

Approach

Overhead transparencies can be used as a trigger

People to work in pairs for 10 minutes

Focused group discussion to produce list of 5–10 specific criteria

Resources

Overheads

Whiteboard/butcher's paper to focus discussion and list agreed criteria.

Community orders — advantages for clients

- It helps me take my medication
- It got me out of hospital
- It keeps me mentally well

Community orders — disadvantages for clients

- I don't understand it
- It stinks because I have to take my medication
- Now I can't change doctors – it takes away my free will

Community orders — advantages for case managers

- Reduced hospital admissions
- Increased rapport because client's mental state improved
- Reduced workload

Community orders — disadvantages for case managers

- Destroyed rapport with client – took a long time to rebuild
- Patient constantly in breach which led to police involvement and further stress for the client
- Caregiver shouldn't be the enforcer

Community orders — advantages for carers

- The family feels safe
- We can make some plans for our lives
- Wouldn't be able to cope without it

Community orders — disadvantages for carers

- He was very angry when he was put on the order
- Home visits by the nurse can be inconvenient
- Reinforces the stigma of mental illness

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