

MENTAL HEALTH SERVICE BUSINESS RULE SESLHDBR/028

Name	NSW Minister for Mental Health Notification Processes for Release or Leave of Absence for a Person being Treated under the NSW Mental Health (Forensic Provisions) Act (Section 76A [2])		
What it is	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 NSW Mental Health (Forensic Provisions) Act (Section 76A [2]).		
Risk Rating	Medium	Review Date	December 2023
What it is not	It is not a guide to the clinical care of people being treated under the NSW Mental Health (Forensic Provisions) Act (Section 76A [2]).		
Who it applies to	This business rule applies to all staff of the SESLHD Mental Health Service (MHS).		
How to use it/ What to do	<ul style="list-style-type: none"> • The NSW Mental Health (Forensic Provisions) Act 1990 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: <ul style="list-style-type: none"> ○ 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 Act (Section 76A [2]). ○ The right to appeal to the Supreme Court of NSW from any determination of the Tribunal in a proceeding before the Tribunal under this Act (Section 77A [2]). ○ The right to appeal to the NSW Court of Appeal from any determination of the Tribunal as to the release of a person (Section 77A [5]). • 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. • The 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: <ul style="list-style-type: none"> ○ Pose a risk to public health or safety or raise serious community concerns. ○ Raise issues of legislative policy concerning the aim, 		

	<p>purpose or intent of the NSW Mental Health (Forensic Provisions) Act.</p> <ul style="list-style-type: none"> ○ Significantly impact on the operations of other government departments. ● The Site Service Director or delegate should send an e-mail to the SESLHD Mental Health Service General Manager, who then forwards the email to the SESLHD Chief Executive, who sends it to the Mental Health and Drug and Alcohol Office (MHDAO) at the NSW Department of Health mhdao@doh.health.nsw.gov.au, marked attention to the NSW Chief Psychiatrist, and to the Principal Policy Officer of the Regulatory 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) 9391 9514.
Why the rule is necessary	This business rule 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]).
Who is responsible	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 Act (Section 76A [2]).
Ministry of Health/ SESLHD reference	<p>Other References</p> <ul style="list-style-type: none"> ● NSW Mental Health (Forensic Provisions) Act 1990 ● NSW Ministry of Health Policy - PD2012_050 Forensic Mental Health Services ● National Safety and Quality Health Service NSQHS Standard 1. Governance for Safety and Quality in Health Service Organisations (1.1) ● National Standards for Mental Health Services 2010: Standard 1. Rights and Responsibilities (1.6)
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Revision and Approval History

Date	Revision Number	Author and Approval
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

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.