



# TASMANIA'S MENTAL HEALTH ACT

Rights, Respect, Recovery

## What do I Need to Know? Information for Carers, Family Members, Representatives and Support People

Tasmania's *Mental Health Act 2013* establishes a substitute decision making framework for people with mental illness who, because of their illness, cannot make their own assessment and treatment decisions but who need treatment to prevent harm to their own health or safety, or to the safety of others.

The Act provides for Assessment Orders and Treatment Orders and establishes the statutory offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist. The Act also provides for an independent Mental Health Tribunal and for the appointment of Official Visitors.

The Act seeks to put the needs and rights of consumers at the centre of assessment, treatment and care decisions while also recognising the important role that carers, family members, support people and representatives play in the treatment and recovery of someone with mental illness.

### *Guiding principles*

The Act contains some guiding principles to enable the involvement of carers, family members, support people and representatives to the highest extent possible while also respecting individual consumer wishes.

The Act requires people exercising responsibilities under the Act to have regard to specific principles, called mental health service delivery principles. This includes police officers and ambulance officers performing custody and escort functions, members of the person's treating team, nursing staff and case managers as well as members of the Mental Health Tribunal, Official Visitors and the Chief Civil and Chief Forensic Psychiatrists.

The mental health service delivery principles require people exercising responsibilities under the legislation to:

- Emphasise and value promotion, prevention and early detection and intervention
- Seek to bring about the best therapeutic outcomes and promote patient recovery
- Recognise, observe and promote the rights, welfare and safety of the children and other dependents of people with mental illness
- Recognise the difficulty, importance and value of the role played by families and support persons of people with mental illness
- Involve consumers and, where appropriate, their families and support persons in decision making

- Recognise families and support persons of people with mental illness as partners with mental health service providers in the provision of treatment and care to the extent that this is appropriate and consistent with their own wishes
- Respect the wishes of families and support persons to the maximum extent possible and appropriate in the circumstances

*How may representatives and support persons become involved in a person's assessment, treatment and care under the Act?*

If you are a representative or support person of a person with mental illness you may become involved in the person's care and treatment under the Act in one or more of the following ways:

- You may apply to a medical practitioner for an Assessment Order for the person in relevant circumstances
- You may be involved in the preparation of the person's treatment plan
- You may make a complaint to the Principal Official Visitor
- You may ask the Principal Official Visitor to visit premises from which the person is being provided with services under the Act
- You may ask the Tribunal to conduct a review and in some circumstances you may be able to attend a Tribunal hearing. You can appear personally or be represented by an Australian legal practitioner, advocate or other person in relation to the proceedings
- You may ask the Chief Civil Psychiatrist or Chief Forensic Psychiatrist to intervene directly with regard to a person's assessment, treatment or care

*How can parents become involved in their child's assessment, treatment and care under the Act?*

Parents of children with mental illness, who are under 18 years of age, and whose treatment and care is being provided under the Act, may give, withdraw or refuse consent to the assessment or treatment of a child with mental illness if the child lacks decision making capacity about these matters.

*What rights do representatives and support persons have?*

Under the Act, representatives and support persons have the right to be provided with information in a language and form that the representative or support person understands.

*What information can I be given about the treatment and care that is being provided to a person for whom I am a support person or representative?*

Under the Act:

- You may be provided with personal or confidential information about a person with mental illness if the person consents, or if the medical practitioner who is treating the person otherwise considers this to be necessary for the person's treatment or care
- You may be notified of the person's admission to, transfer between, or discharge from hospital or a secure mental health unit
- You may be notified of matters relevant to the person's leave from hospital or a secure mental health unit

A parent of a child whose treatment and care is being provided under the Act also has the right to be given a copy of any documentation that is given to the child, unless the child objects to this occurring.

Representatives and support persons are encouraged to make contact with the person's treating medical practitioner and to provide the practitioner with any information that the representative or support person thinks the practitioner may need to be able to make appropriate decisions about the person's assessment, treatment or care.

More information about the role of representatives and support persons under the Act can be found in the Chief Civil Psychiatrist and Chief Forensic Psychiatrist Clinical Guideline:

Representatives and Support Persons, which can be found here:

[http://www.dhhs.tas.gov.au/\\_data/assets/pdf\\_file/0006/150288/7A\\_CCP\\_Clinical\\_Guideline\\_3\\_-\\_Representatives\\_and\\_Support\\_Persons.pdf](http://www.dhhs.tas.gov.au/_data/assets/pdf_file/0006/150288/7A_CCP_Clinical_Guideline_3_-_Representatives_and_Support_Persons.pdf)

## Other Resources:

### Accompanying Fact Sheets

You can access a range of information and resources online by clicking on the Mental Health Act logo at [www.dhhs.tas.gov.au/mentalhealth](http://www.dhhs.tas.gov.au/mentalhealth)

Some of the Fact Sheets available for download include:

- *What do I need to Know? An Overview of the new Mental Health Act 2013*
- *Patient Statement of Rights*
- *What do I need to Know? Information for Consumers Currently Being Treated Under the Mental Health Act 1996*

*This Fact Sheet also provides a list of questions which consumers may consider asking their Case Manager or Treating Practitioner, and which you may find useful to work through with the person you are caring for and/or supporting.*

### Other Organisations

#### **Mental Health Carers Tasmania:**

**[www.mentalhealthcarerstas.org.au](http://www.mentalhealthcarerstas.org.au)**

Mental Health Carers Tasmania (MHCTas) is a statewide leader in the provision of Mental Health carer support. MHCTas aims to improve the quality of life for the one in five Tasmanian families, friends, carers and people living with mental health issues and mental illness.

Phone:

South - 6228 7448

North - 6349 1121

North West - 6441 5280

#### **Flourish Tasmania:**

**[www.flourishtas.org.au](http://www.flourishtas.org.au)**

Flourish Mental Health Action in Our Hands Inc. is an independent Tasmanian not-for-profit organisation established to provide a strong voice for the state's mental health consumers. Flourish does not deliver individual services. It works with consumers, government, service providers and families to ensure that the delivery of mental health services is a quality process that meets the needs and expectations of all consumers.

Phone: 6223 1952

#### **Advocacy Tasmania:**

**[www.advocacytasmania.org.au](http://www.advocacytasmania.org.au)**

This service is for consumers and carers. Advocates can assist people to exercise their rights and responsibilities.

Phone:

Hobart - 1800 005 131

Devonport - 6441 0201

Launceston - 6331 0740

#### **The Legal Aid Commission:**

**[www.legalaid.tas.gov.au/](http://www.legalaid.tas.gov.au/)**

Legal Aid can provide lawyers to represent the rights of individuals with mental health issues, especially in cases where they may be detained and/or medically treated against their will.

**Phone: 1300 366 611**

#### **The Mental Health Tribunal:**

**[www.mentalhealthtribunal.tas.gov.au/](http://www.mentalhealthtribunal.tas.gov.au/)**

The Tribunal is an independent body established to protect the rights of people placed on involuntary orders for mental illness. It provides an independent review, and makes decisions about whether the involuntary order will continue or not. The Tribunal plays no role in relation to persons who voluntarily seek treatment for a mental illness.

#### **Official Visitors:**

**[officialvisitors.tas.gov.au/](http://officialvisitors.tas.gov.au/)**

Mental Health Official Visitors are members of the community who are appointed to visit approved hospitals and the secure mental health unit, the Wilfred Lopes Centre, to check on the way in which people with mental illness are being treated. They also investigate complaints made to them by people receiving care and treatment in these facilities for mental illness.

**Phone: 1800 001 170**