



Director of Forensic Disability POLICY

Title: Referral and Admission to the Forensic Disability Service

1. Policy Statement

Forensic disability clients can only be admitted to the Forensic Disability Service (FDS) by the Mental Health Court (MHC), Mental Health Review Tribunal (MHRT) or an agreed transfer negotiated between the Director of Forensic Disability and the Chief Psychiatrist.

Clearly established processes for the referral and admission of a person to the FDS are fundamental to ensuring clients are screened and assessed for suitability, and only clients deemed likely to benefit from the care and support provided by the FDS will be admitted.

2. Purpose

This policy sets out the relevant provisions of the *Forensic Disability Act 2011* (the Act) and the *Mental Health Act 2016* (MHA), and the Director of Forensic Disability Policy for:

- the referral of a person who may be considered a potential client of the FDS;
- considering the likely benefit from the care and support the FDS may provide for a potential client; and
- the admission of a person to the FDS.

3. Scope

This policy applies to the FDS. The Administrator, Senior Practitioners, Authorised Practitioners and other persons performing a function or exercising a power under the Act must comply with this policy.

This policy must be implemented in a way that is consistent with the purpose and principles of the Act.

4. Authorising Legislation

Section 91 of the Act.

5. Background

A person can be detained to, or admitted to, the FDS by:

- an order of the MHC - Forensic Order (Disability) or

- a decision of the MHRT upon a review of a person subject to a Forensic Order (Disability); or
- agreement between the Director of Forensic Disability and the Chief Psychiatrist to transfer the responsibility for a Forensic Order (Disability) patient from an authorised mental health service (AMHS) to the FDS.

Before the MHC or MHRT can make an order to detain a person on a Forensic Order (Disability) to the FDS, the MHC or MHRT must have regard to:

- whether the person has a diagnosed intellectual or cognitive disability but does not require treatment or care for a mental illness under the MHA;
- whether the person would benefit from care and support offered by the FDS; and
- availability at the FDS evidenced by a certificate of availability issued by the Chief Executive of the Department in which the Act is administered that confirms the FDS has the capacity to detain and care for the person.

Only a person subject to a Forensic Order (Disability) may be detained to the FDS.

6. Policy

6.1 Referral to the Forensic Disability Service

6.1.1 Referral

Referrals to the FDS may be received in one of the following ways:

- a reference from the MHC; or
- a referral from a government service (e.g. an AMHS or correctional service).

Any referral received will be subject to initial screening to establish the minimum requirements for admission to the FDS. To meet the minimum requirements for admission to the FDS the person must:

- be between 18 and 65 years of age;
- have an intellectual disability or cognitive impairment;
- not require involuntary treatment and care for a mental illness under the MHA; and
- be subject to a Forensic Order (Disability).

Any referral should be accompanied by relevant supporting documentation to assist in determining eligibility and suitability for admission to the FDS.

For details about the types of supporting documentation to be provided to the FDS and/or the Director of Forensic Disability please refer to the *Director of Forensic Disability Procedure – Referral and Admission to the Forensic Disability Service*.

6.1.2 FDS Referral and Admissions Meeting

Any referral received will be listed for discussion at the FDS Referral and Admissions meeting convened by the FDS every two months, or more regularly if required. The purpose of the FDS Referral and Admissions meeting is to evaluate and prioritise potential clients for assessment and/or admission, identify further steps in relation to assessment, organise engagement with the client, and ensure communication with relevant stakeholders is planned and undertaken.

The FDS Referral and Admissions meeting is attended by the Administrator, Senior Practitioner, Principal Clinician and the Director of Forensic Disability.

Minutes of the FDS Referral and Admissions meeting must be recorded.

6.1.3 Assessment criteria, suitability and likelihood the person will benefit

In determining suitability for admission to the FDS, a range of factors including, but not limited to, the following will be considered:

- the physical capacity to accommodate the referred person;
- the person's requirement for a medium secure environment;
- the person has significant criminogenic needs that can be addressed through rehabilitative programs delivered at the FDS;
- the person's intellectual functioning/cognitive capacity and adaptive functioning is at a level where they will (with reasonable adaptations) be able to successfully participate in, and benefit from, evidence-based rehabilitative programs;
- the person does not have mental health needs that are likely to impact on their ability to participate effectively in the Model of Care provided at the FDS;
- the person's cultural needs can be supported;
- the person is likely to be able to co-tenant with other forensic disability clients and cohabit with the current cohort of clients at the FDS;
- the person is likely to benefit from supports and programs such that there will be a viable transition pathway from the FDS to the community; and
- the views of the client and/or guardian, family members and advocate (where relevant).

Where a potential client presents as suitable for admission, client engagement should be prioritised to seek the views of the client, further assess the client for suitability, and determine any responsibility issues or factors that will impact admission or planning for the client. Direct engagement may occur by either clinical team members from the FDS or representatives of the Director of Forensic Disability team where FDS involvement may present operational challenges (e.g. regional locations).

Further information regarding the client's suitability for admission to the FDS should be discussed at the FDS Referral and Admissions meeting.

6.2 Transfer to the Forensic Disability Service

6.2.1 MHC or MHRT hearings

The Director of Forensic Disability may choose to elect-in to a matter before the MHC (or seek leave to appear at a MHRT hearing). However, the Director of Forensic Disability will only elect-in to a matter when satisfied at a preliminary level that:

- the person meets the preliminary suitability requirements;
- the person is likely to benefit from the FDS model;
- the Administrator has provided a preliminary recommendation about the person's suitability for the FDS; and
- the FDS is likely to have availability and capacity to care for the person.

Any subsequent information regarding the person may further inform the suitability of the person for the FDS. The Director of Forensic Disability may decide to remain elected-in to the matter or may de-elect from the MHC or MHRT hearing based on this subsequent information.

Before the MHC (or the MHRT) may order that a person be detained to the FDS, the MHC (and the MHRT) must make a request to the Director of Forensic Disability for and be in possession of a certificate of availability.

The certificate of availability is signed and provided by the Director-General of the Department in which the Act is administered. Where a certificate of availability is provided, it is possible for the MHC (or the MHRT) to determine that the FDS is the most appropriate place for the person, and order the person be detained on a Forensic Order (Disability), inpatient category to the FDS. In the event that the Director-General indicates that the FDS does not have availability, the MHC (or MHRT) may not order the person detained to the FDS.

6.2.2 Director of Forensic Disability and Chief Psychiatrist agreement

The Director of Forensic Disability and the Chief Psychiatrist may agree to transfer the responsibility for the person on a Forensic Order (Disability) from an AMHS to the FDS. However, prior to any agreement, the Director of Forensic Disability must take into account, a recommendation by the Administrator as to whether the person is considered suitable for FDS, any issues raised by the FDS, and the **transfer considerations** contained in section 350 MHA. These include: (a) the person's mental state and psychiatric history; (b) the person's treatment and care needs; (c) whether the transfer is in the best interests of the person, including, for example, enabling the person to be closer to the person's family, carers or other support persons; and (d) if relevant, security requirements for the person.

If an agreement is reached, responsibility for the Forensic Order (Disability) and the person will be formally transferred to the FDS in accordance with section 353 MHA.

The Administrator of the FDS must give written notice of the transfer to the MHRT within **seven days** after the day of the transfer (see s358 MHA).

6.3 Admission

6.3.1 Development of an Admission Plan

Where a decision has been made to admit the referred person to the FDS, the Administrator of the FDS should ensure that an Admission Plan is prepared in relation to the referred person. The Admission Plan must be in place prior to any admission.

The Admission Plan should outline the programs and services to be provided to the future client by the FDS, the duration the future client is likely to remain at the FDS, and the agreed arrangements for the person to transfer to the FDS (see *Director of Forensic Disability Procedure – Referral and Admission to the Forensic Disability Service* for greater detail regarding the Admission Plan).

The Admission Plan should be developed in collaboration with the AMHS and it should be developed with an expectation/understanding that the referred person will transfer back to the oversight of the AMHS when assessed as able to return safely to their community.

Additionally, the referred person will be made aware of the Admission Plan and their responsibility to participate in programs offered at the FDS.

6.3.2 Admission and the development of an Individual Development Plan

The logistics of physically transferring and admitting a client to the FDS is a planned process negotiated and arranged by the relevant stakeholders. The logistical process of admitting the client must be outlined in the Admission Plan.

The Administrator of the FDS should ensure the admission of referred persons occurs in accordance with the process set out in the Admission Plan. Upon admission and in accordance with the Act, the referred person is detained to the FDS in the legal custody of the Administrator.

Upon admission the Administrator of the FDS must ensure an Individual Development Plan (IDP) is developed for the new client. The IDP must be developed by the Senior Practitioner within the first 21 days of the client's admission. The IDP must be informed by a multidisciplinary assessment, as stipulated in the Act, and should also take into account the Admission Plan.

The statutory requirements for an IDP are detailed in the *Director of Forensic Disability Policy – Individual Development Plans*.

6.3.3 Community based consumers participating in programs

There will be cases where it is concluded that a person may receive benefit from participating in the rehabilitative or habilitative programs at the FDS but not require inpatient admission. In such cases the Administrator of the FDS will decide whether or not to grant the person access to the FDS programs as a community based consumer.

Community based consumer participation in programs is assessed by the Administrator and FDS clinical team on a "case by case" basis and will involve close liaison between relevant services and stakeholders.



A person who is not a client of the FDS cannot be detained in the FDS or remain overnight. For community based consumers of the FDS programs, any and all attendance will require consent from the person and/or their decision maker.

6.3.4 Provision of information

The Administrator must ensure the new client, their allied person or guardian receives a copy of their Forensic Order (Disability) and a copy of the Statement of Rights.

Where a client does not have an allied person, the FDS will support the client to choose an allied person. If the Administrator considers the client does not have capacity to choose an allied person, a suitable allied person will be chosen on their behalf in accordance with the Act (refer to *Director of Forensic Disability Policy - Client Participation and Representation*).

The Forensic Order (Disability), including attached conditions and the Statement of Rights are to be explained to the client in a manner and format appropriate to support communication and understanding.

6.3.5 Photographs

The Administrator must ensure that identification photographs are taken for all new clients admitted to the FDS, and annually thereafter.

7.0 Confidentiality

The Administrator of the FDS must ensure that any FDS staff member who gains confidential information through the staff member’s involvement in the admission process manages that information in accordance with the Confidentiality of information provisions contained in section 122 of the Act.

Date of approval: 09 January 2023

Date of operation: 01 February 2023

Date to be reviewed: 01 February 2026

Designation: Director of Forensic Disability

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