



Director of Forensic Disability

PROCEDURE

Title: Transfer of Responsibility and Exit
from the Forensic Disability Service

Purpose

This procedure is issued by the Director of Forensic Disability in accordance with section 91 of the *Forensic Disability Act 2011* (the Act). The procedure aims to provide guidance to staff of the Forensic Disability Service (FDS) in relation to the transfer of responsibility and exit of clients from the FDS.

This procedure outlines:

- the process of creating a Transfer Plan to support a transfer of responsibility and exit of a client from the FDS;
- the process of stakeholder engagement in the creation of a transfer plan; and
- the role of the Director of Forensic Disability in the transfer of responsibility and exit of clients from the FDS.

This procedure is to be read in conjunction with the *Director of Forensic Disability Policy – Transfer and Exit from the Forensic Disability Service*.

Procedure

1. Eligible for transfer

When a client has demonstrably benefitted from the programs and services offered at the FDS and/or progressing towards the completion of the programs and services at the FDS and the client is no longer considered an unacceptable risk to the community, the Senior Practitioner should commence planning the transfer of responsibility and exit of the client from the FDS to an Authorised Mental Health Service (AMHS) and the community.

Alternatively, if the client has not benefitted from the programs and services at the FDS and is assessed as unlikely to in the future, the Senior Practitioner should provide evidence to the Director of Forensic Disability as to why this may be the case. The Director will consider whether the FDS should progress planning for a transfer of responsibility and exit of the client from the FDS to an AMHS.

Planning for the transfer of responsibility and exit of the client from the FDS should take the form of a Transfer Plan.

2. Manner of Transfer

A client may be transferred from the FDS one of two ways:

- via agreement between the Director of Forensic Disability and the Chief Psychiatrist to transfer responsibility for the client to an AMHS (section 353 MHA); or
- by order of the Mental Health Review Tribunal (MHRT) (section 456 MHA).

3. Purpose of Transfer Plan

The purpose of the Transfer Plan is to demonstrate to the decision maker/s (Director of Forensic Disability, Chief Psychiatrist or the MHRT) why FDS staff are seeking to transfer responsibility for the client from the FDS to an AMHS.

The Transfer Plan is a primary document upon which the decision maker will decide whether or not to approve a client's transfer and exit from the FDS.

4. Background information and the Transfer Plan

The Transfer Plan should be informed by FDS documents such as, but not limited to, the:

- Individual Development Plan (IDP);
- limited community treatment (LCT) records;
- current risk assessment;
- program outcome reports; and
- BIR data collection.

4.1 Individual Development Plan

The IDP is a document that is dynamic in nature, and regular IDP reviews occur in order to assess and record a client's progress and to ensure the client is continuing to benefit from the programs and services provided by the FDS (refer to *Director of Forensic Disability Policy - Individual Development Plans*).

The IDP and the progress shown therein, is a form of demonstrable evidence indicating whether the client is ready to exit the FDS. Accordingly, any conclusions contained in the Transfer Plan about the client's progress and readiness to exit the FDS should be consistent with, and supported by, conclusions contained in the IDP.

4.2 LCT records

Under section 20 of the Act, the purpose of LCT is to support the client's rehabilitation by transitioning the client to living in the community with appropriate care and support. Accordingly, the use of LCT and the client's response to LCT events is an integral component when assessing a client's progress whilst at the FDS (refer to *Director of Forensic Disability Policy – Community Treatment and Other Leave*).

LCT data should be collated and analysed, including the number and nature of LCT events, and the client's response to LCT, to inform the transfer plan. The Transfer Plan must contain reference to the client's use of and response to LCT and information about any risk management strategies required when on LCT.

4.3 Risk assessment

The Transfer Plan must contain information outlining the current risk and protective factors of the client. The information should be based on current risk assessment and, where necessary, be supported by demonstrable evidence.

4.4 Other documents

There will be other FDS documents that may or may not be relevant to informing a client's Transfer Plan. FDS staff should assess each document on a case by case basis to determine its relevancy to the Transfer Plan.

If an FDS staff member is unsure as to the relevancy of a document, they should consult the Senior Practitioner and act in accordance with the Senior Practitioner's advice.

5. Content of Transfer Plan

A Transfer Plan should contain sufficient detail to enable the decision maker/s to make an informed decision about whether or not it is appropriate for responsibility for the client to be transferred to an AMHS and for the client to exit the FDS. Accordingly, the Transfer Plan should provide the decision maker/s with, but is not limited to, the following information:

a) Stakeholders

- the client's name, date of birth and intellectual disability;
- names of stakeholders; and
- organisation represented by stakeholder; or capacity in which the stakeholder acts.

b) Progress made whilst at FDS

- the date the client was admitted to the FDS;
- the rehabilitative and habilitative programs undertaken by the client;
- details from program outcome or completion reports;
- the overall benefit/improvement the client has obtained from the support provided and their participation in programs at the FDS (e.g. observed behavioural changes; use of learnt skills and knowledge);
- changes in client's access to LCT over time at the FDS and the client's current use of LCT (e.g. participating in local community activities – state specific details);
- whether the client has been charged with any criminal offences since being detained at the FDS;
- current risk assessment findings (e.g. risk of re-offending, risk of harm to others/self, risk of non-compliance with Forensic Order and attached conditions);
- where a client has behaviours of concern, information about changes in the client's behaviour, the current approach to supporting the client at the FDS, and whether there is a need for a positive behaviour support plan when the client exits the FDS;
- progress made regarding attending to functional skills for daily living (e.g. self-care, social, safety, vocational skills, health care and managing health conditions) ;
- any outstanding needs or skills that would benefit from further development or maintenance outside the FDS;
- whether there are any assessments that still need to be undertaken to inform the client's needs or support arrangements in the community.

c) **Community based support needs (where applicable)**

- the name of the AMHS that will take responsibility for the client's forensic order;
- the client's NDIA plan, including the disability supports funded and the service providers engaged to provide supports;
- the client's accommodation upon return to the community (e.g. cite address);
- how the accommodation meets the client's needs and why it is considered appropriate;
- other relevant services are or will be engaged to provide required supports to the client when they have exited the FDS and are living in the community (e.g. alcohol and drug services, medication oversight, maintenance programs, health providers);
- how the client's risk factors will be mitigated by supports and services in the community;
- the client's capacity to attend to functional skills (e.g. activities of daily living) when in the community and any additional support requirements;
- the client's means of financial support when in the community (e.g. Public Trustee);
- nature of relationship with family members (protective and/or risk factors); and
- the logistics of returning the client to the community (e.g. transportation, escorting client, overnight interim accommodation, handover arrangements with AMHS etc.).

6. Stakeholder involvement

It is important that the Transfer Plan involves relevant stakeholders. NDIS planning, commencing from the time the client is admitted to the FDS, will involve the client, their guardian and, where consent is provided, staff from the FDS. The NDIS plan will outline the disability supports required by the client. As part of NDIS planning stakeholders will be asked to provide information regarding future community accommodation and the appropriateness of the proposed accommodation and community based service providers.

The FDS will take into account the NDIS plan and liaise with stakeholders to identify additional client support needs and risk management strategies required when the person transfers from the FDS. Stakeholders will vary depending on the client's circumstances but will include the client, their allied person, their guardian, and representatives of the receiving AMHS. Other stakeholders may include representatives from other government departments (e.g. health, housing), treating clinicians/Doctors, advocates and current and/or future service providers.

Involvement of the receiving AMHS will be necessary to determine which AMHS is to take responsibility for the client's forensic order and the level of future support and supervision to be provided by the receiving AMHS.

Contact with stakeholders should be organised by the FDS staff member co-ordinating the Transfer Plan and should occur in a manner considered appropriate. For example, contact between the FDS staff member and the relevant stakeholder may be on an individual basis or in a group setting with other stakeholders present.

7. FDS responsible for Transfer Plan

At the time of preparing the Transfer Plan, the client continues to be the responsibility of the FDS.

From a practical viewpoint, the Senior Practitioner, or an appropriate FDS staff member nominated by the Senior Practitioner, should seek assistance from stakeholders, co-ordinate and be accountable for the creation of the Transfer Plan.

8. Request for transfer to the Mental Health Review

The FDS treating team and any party to the MHRT review of the client's Forensic Order may request that the MHRT order the transfer of responsibility for the client's forensic order to an AMHS (section 456 MHA).

In deciding whether to make an order, the MHRT must have regard to each of the following:

- the person's mental state and psychiatric history;
- any intellectual disability;
- the person's treatment and care needs;
- the security requirements for the person;
- the capacity of the AMHS to which the client is to be transferred;
- to the greatest extent practicable the views, wishes and preferences of the client; and
- whether the transfer is appropriate in the circumstances.

In the event that the MHRT is minded to transfer responsibility for a client from the FDS to an AMHS, the MHRT will likely request information from the FDS to address the aforementioned considerations. In those circumstances FDS staff should comply with all reasonable requests for information from the MHRT.

Moreover, and in practical terms, the MHRT is reluctant to order the transfer of responsibility for a client to an AMHS in the absence of agreement from the proposed receiving AMHS. Therefore, it is important that the AMHS agrees to the proposed transfer and this should be evidenced in writing (email confirmation or a letter from the Clinical Director of the AMHS will suffice).

9. Role of the Director of Forensic Disability

When the FDS is seeking to transfer responsibility of the client from the FDS to an AMHS by way of agreement, the FDS will need to obtain first the support of the Director of Forensic Disability.

Support from the Director of Forensic Disability will only be obtained if the Transfer Plan is reasonable, justified and addresses the future needs of the client.

Once support is obtained from the Director of Forensic Disability, the Director of Forensic Disability will seek the agreement of the Chief Psychiatrist. If agreement is obtained, responsibility for the client will be transferred to the receiving AMHS and the client will exit the FDS on a nominated date.

In the absence of an agreement to transfer between the Director of Forensic Disability and the Chief Psychiatrist, the Director of Forensic Disability, as a party to MHRT hearings, has the option to make an application to the MHRT for the transfer of responsibility of a client to an AMHS. The Director of Forensic Disability will consider the merits of making such an application on a case by case basis.

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Designation: Director of Forensic Disability

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