

## Statement from the Commissioner

### Decision to lock Adult Acute Mental Health facilities in Queensland's public hospitals

Stigmatisation of mental illness remains a key community issue following the recent decision to secure mental health facilities operated by Queensland Health. There is particular concern that the way in which this directive has been reported in the media further stigmatises and portrays people with mental illness.

There is also concern from clinicians, people with mental illness and the community to ensure that the least restrictive form of care is adopted so that patients are treated with respect and dignity.

These changes in Queensland reflect legislative provisions in New South Wales, based on coronial recommendations following the death of a patient absent without permission<sup>1</sup>. This is an important issue addressing the safety of people who are acutely unwell but one that has not been raised by the people who have contacted me to date.

Over the last week, I have sought further information about the implementation of this directive and monitored feedback from the community and from professionals working in this area.

#### We must understand the facts

This directive<sup>2</sup> applies to authorised mental health services with acute units across Queensland.

As at 30 June 2013, there were just over 600 patients in these units. Of these, 36 were forensic patients and a further 6 had been sent from the courts or corrections.

More than a quarter were voluntary patients who had been admitted to hospital of their own free will to seek medical treatment. According to the Royal Australian & New Zealand College of Psychiatrists, most of these patients are getting medical help for debilitating conditions: postnatal depression, bipolar disorder or depression. They need care and consideration, and being made to feel fearful or feared will not aid their recovery.

There is a separate group of "special notification forensic patients" charged with unlawful homicide, attempted murder, dangerous operation of a motor vehicle involving the death of another person, rape or assault with the intent to commit rape but they and other dangerous offenders are accommodated at The Park in Wacol and in other secure High Dependency Units around the State.

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<sup>1</sup> NSW Government's Final Response Tracking Tragedy (2008). NSW Department for Health.  
[http://www0.health.nsw.gov.au/pubs/2009/final\\_response.html](http://www0.health.nsw.gov.au/pubs/2009/final_response.html)

<sup>2</sup> In part, the directive states that: *In particular, voluntary patients, visitors, persons who are not involuntary patients or involuntary patients who have a valid basis for departing the unit should be allowed to move freely in and out of the units subject to all appropriate steps being taken to ensure that persons who do not fall into one of these categories do not depart the unit.*

The use of police resources has also been quoted, further increasing the concern that these are dangerous people free in the community. Many of these calls to police are made when people are late back from a weekend's leave, or when people living in the community do not come for medical appointments as required by their order for involuntary treatment. To imply that the almost 2000 people who the police attended in the last year are dangerous is a misinterpretation of facts. The extent to which it is necessary to call police on these occasions is unclear. Nonetheless, I have been advised that in each of the past four months, an average of 23 forensic patients were reported absent without permission from the 16 units concerned. Without understanding the facts, I can appreciate that the community may be concerned.

The way in which this issue has been portrayed in the media perpetuates outdated myths about people with mental health problems whereas it is now well known globally that people with mental health problems are actually far more likely to be the victims of violence than be violent themselves.

### People with mental illness have rights

People with mental disorders are, or can be, particularly vulnerable to abuse and violation of rights. Internationally, the stigma and discrimination of those with mental illness has been identified and countries like Australia have signed and agreed to conventions to protect those with mental illness and ensure their rights as citizens are recognised like other citizens.<sup>3</sup>

As mental health policy and legislation has been reviewed around the globe, common principles have developed in laws and regulations. This has been supported by guidance from the World Health Organisation, which developed 10 principles in 1996, one of which is the "provision of least restrictive care".

Alongside of the laws and regulations, is the mounting research on the role of acute inpatient units as therapeutic, supportive care facilities, all of which embrace the philosophy of "recovery". Recovery means "people living well in the presence or absence of symptoms of mental illness". As in any other hospital inpatient unit, the premise is best care in the best environment delivered by the best skilled health professionals. Acute services should be guided by the best practice evidence. The global application of this now manifests in open door environments for adult inpatient units.<sup>45</sup> The recent Australian report, *Obsessive Hope Disorder*, highlights this.

However, research also shows both positive and negative outcomes from locked door policies in acute inpatient units.<sup>6</sup> For example, locked wards can prevent illegal substances from entering the ward and prevent patients from absconding and harming themselves or others. Conversely they can make patients feel depressed and confined and create extra work for staff.

<sup>3</sup> Universal Declaration of Human Rights (1948), along with International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966, together make up what is known as the "International Bill of Rights".

<sup>4</sup> Salisbury Centre for Mental Health (2006). *The search for acute solutions. Improving the quality of care in acute psychiatric wards*. London: Salisbury Centre for Mental Health

<sup>5</sup> Abas, M., Vanerpyl, J., Prou, T.L., et al (2003) Psychiatric Hospitalisation: reasons for admission and alternatives to admission in South Auckland, New Zealand. *Australian and New Zealand Journal of Psychiatry*

<sup>6</sup> Van der Merwe, M., et al (2009) Locked doors in acute inpatient psychiatry: a literature review. *Journal of Psychiatric and Mental Health Nursing*.

In Queensland, the *Mental Health Act 2000* provides for the involuntary assessment, treatment and protection of people with mental illness while safeguarding their rights and freedoms and balancing these with the rights and freedoms of other persons. A key principle underpinning the exercise of powers under this Act is that when the person's liberty and rights are adversely affected this is done in the least restrictive way to protect that person and others. It does not allow for the detention of people who do not meet the criteria for involuntary treatment and I have been advised by Queensland Health that procedures are being put in place to ensure voluntary patients on locked wards will be able to come and go.

The Act also permits an authorised doctor to allow limited community treatment as part of a person's treatment plan. This means it allows people short leave for absence from hospital as part of their return to wellness program. At any one time there are over 1000 such people on leave in the community. I have been assured that community treatment is protected under the new guidelines and will continue.

A prominent theme emerging from our consultations to develop a Queensland mental health and drug strategic plan has been difficulties experienced by individuals placed under forensic or involuntary treatment orders in navigating the system and the resulting harmful impact on their mental health and wellbeing. Access to independent legal representation and support for individuals presenting at the Mental Health Review Tribunal was consistently highlighted as a priority need.

According to statistics from the Mental Health Review Tribunal, legal representation was provided in only 243 of the 7266 matters heard in 2012/13 in Queensland compared with almost all forensic hearings in New South Wales and two thirds of civil hearings. The right to representation is a fundamental right for people who are being held against their wishes.

### Next steps

I have met with the Director-General of the Department of Health and will have further discussions in the New Year to discuss the practical application of these new acute mental health care treatment guidelines following representations about patients' rights and their portrayal in the community.

Good management requires a risk management approach, not a risk avoidance approach. A system that avoids all risk would be grid locked. Just as people who are well have the right to make choices, so too must people with mental illness be given the dignity of choice.

I would be interested to continue to receive feedback on the implementation of this directive over the coming weeks. Please email your views to [info@qmhc.qld.gov.au](mailto:info@qmhc.qld.gov.au). The Chair of the Mental Health and Drug Advisory Council intends to discuss this matter when the Council convenes in 2014 for its first meeting.

**Dr Lesley van Schoubroeck**  
**Commissioner**  
20 December 2013

This statement is made in accordance with the functions outlined in the Queensland Mental Health Act 2013, Section 11(1)(j) - promoting community awareness and understanding about mental health and substance misuse issues, including for the purposes of reducing stigma and discrimination.