

Primary Agency for Forensic Patients in Custody (Adults)

Policy Number 1.192

Policy Function Continuum of Care

Issue Date 8 March 2017

Summary This policy establishes a framework for allocating primary agency responsibility for adult forensic patients in custody, especially where there is uncertainty regarding the primary presenting problem. When a forensic patient presents to an agency (either Justice Health and Forensic Mental Health Network or Corrective Services NSW), responsibility, including case management, provision of reports and transfer of care planning must be allocated. Where it is clear that the primary presenting problem is either a mental health problem or cognitive impairment, then either Justice Health and Forensic Mental Health Network or Specific Needs, Corrective Services NSW, respectively, will be the primary agency.

Responsible Officers Executive Director Clinical Operations; and
Statewide Manager Specific Needs, Corrective Services NSW

Applicable Sites

- Administration Centres
- Community Sites (e.g. Court Liaison Service, Community Integration Team, etc.)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Juvenile Justice Centres)
- Long Bay Hospital
- Forensic Hospital

Previous Issue(s) Policy 1.192 (July 2015)

Change Summary Minor grammatical changes

TRIM Reference POLJH/1192
(CSNSW - D15/155672)

Authorised by Chief Executive, Justice Health & Forensic Mental Health Network; and
Commissioner, Corrective Services NSW

1. Preface

When a forensic patient enters the custody of Corrective Services NSW (CSNSW), the primary agency acting as provider of services, including case management, provision of reports and transfer of care planning, will be either Justice Health and Forensic Mental Health Network (JH&FMHN) where the primary presenting problem is mental health-related or CSNSW (Specific Needs (SN)), where the primary problem is cognitive impairment. A forensic patient is allocated to either agency following assessment in line with that agency's established protocols. Where one or both agencies believe that the primary presenting problem cannot be clearly delineated or is uncertain, the case must be referred to a *Forensic Patient Primary Agency Case Conference*. This policy establishes a framework for determining the primary agency, especially where there is uncertainty regarding the primary presenting problem.

The policy covers all adult forensic patients in CSNSW correctional centres, including Long Bay Hospital 1 (LBH 1).

2. Policy Content

2.1 Mandatory Requirements

All staff must operate within the legislative framework mandated by the [Health Records and Information Privacy Act 2002](#), [Mental Health Act 2007](#), [Mental Health \(Forensic Provisions\) Act 1990](#), [Crimes \(Administration of Sentences\) Act 1999](#), related JH&FMHN and NSW Ministry of Health policy and procedure (as outlined in section 5 *Legislation and Related Documents*), as well as related CSNSW policy and procedure (as detailed in the *Offender Classification and Case Management Policy and Procedure Manual*, *Operations Procedures Manual* and *Sentence Administration Procedures for Forensic and Correctional Patients*).

2.2 Implementation - Roles & Responsibilities

The Statewide Clinical Director Forensic Mental Health JH&FMHN (SCDFMH) is responsible for:

- informing the *Statewide Forensic Patient Flow Committee* of the decision by the *Forensic Patient Primary Agency Case Conference* regarding the primary agency; and
- resolving disputes, together with the Manager Statewide Disability Services CSNSW (MSDS), where a case conference conducted by the Clinical Director Custodial Mental Health (CDCMH) and SMSN (Statewide Manager Specific Needs CSNSW (SMSN) has been unable to achieve consensus.

The Clinical Director Custodial Mental Health JH&FMHN (CDCMH) is responsible for:

- implementing this policy for all forensic patients in the custody of CSNSW, with the exception of those patients in LBH 1;
- ensuring that all forensic patients are allocated to a primary agency;
- participating in the *Forensic Patient Primary Agency Case Conference* or nominating a delegate to attend;
- ensuring that the "Risk/Forensic Patient" alert is entered on the *Patient Administration System (PAS)*, with the comment reading either
 - CSNSW primary agency

- JHFMHN¹ primary agency

[This Alert will automatically be transferred to the *Offender Integrated Management System* (OIMS) or, in the event that a forensic patient is found fit to be tried, removing the alert]; and

- resolving disputes, together with the SMSN if the case conference was conducted by delegates.

The Deputy Clinical Director Forensic and Long Bay Hospitals (DCDFLBH) is responsible for:

- implementing this policy for all forensic patients in the custody of CSNSW who are resident in LBH 1;
- ensuring that all forensic patients are allocated to a primary agency;
- participating in the *Forensic Patient Primary Agency Case Conference* or nominating a delegate to attend;
- ensuring that the "Risk/Forensic Patient" alert is entered on the *Patient Administration System* (PAS), with the comment reading either
 - CSNSW primary agency
 - JHFMHN primary agency

[This Alert will automatically be transferred to OIMS]; and

- resolving disputes, together with the SMSN if the case conference was conducted by delegates.

The Forensic Mental Health Liaison Officer (FMHLO) is responsible for:

- receiving notification from the Mental Health Review Tribunal (the Tribunal), when aware, that a forensic patient has been received into CSNSW custody;
- notifying the CDCMH or DCDFLBH of new forensic patients; and
- advising the Tribunal of the decision regarding the primary agency for a forensic patient, once this has been decided.

The Statewide Manager Specific Needs CSNSW (SMSN) is responsible for:

- ensuring that all forensic patients are allocated to a primary agency;
- participating in the *Forensic Patient Primary Agency Case Conference* or nominating a delegate to attend;
- informing *Sentence Administration* of the decision by the Forensic Patient Primary Agency Case Conference regarding the primary agency; and
- resolving disputes, together with the CDCMH or DCDFLBH, if the case conference was conducted by delegates.

The Manager Statewide Disability Services CSNSW (MSDS) is responsible for:

- developing case plans, attending Tribunal hearings, provision of reports and managing placement of forensic patients where the primary agency is CSNSW in collaboration with case management teams and local CSNSW and JH&FMHN staff.

The Senior Project Officer (Forensic Liaison) Sentence Administration CSNSW (SPOFL) is responsible for:

- notifying the SMSN of any new forensic patients entering custody;

¹ The "&" (ampersand) does not transfer to OIMS

- notifying the MSDS of upcoming Tribunal hearings;
- ensuring placement of the forensic patient in accordance with the order; and
- maintaining a register in CSNSW of the primary agency for each forensic patient.

3. Procedure Content

3.1 Allocation of Primary Agency Responsibility

Forensic patients are generally identified within the CSNSW custodial system in the following ways:

1. notification from the Tribunal via the FMHLO,
2. notification from the Court via the SPOFL, or
3. identification at reception or assessment.

Patients are assessed according to each agency's usual protocols, including local case management of forensic patients across the centres. Where the assessment is carried out by a psychiatrist or mental health nurse, s/he must report their findings to the CDCMH or DCDFLBH. The CDCMH or DCDFLBH and the SMSN should review the assessment, case history and other relevant documents and agree on the primary agency. The FMHLO must notify the Tribunal when JH&FMHN is deemed to be the primary agency, as in the case of a mentally ill patient. The SPOFL must advise the Tribunal when the primary agency is CSNSW, as for a patient with cognitive impairment.

3.2 Forensic Patient Primary Agency Case Conference

Either agency may convene a Forensic Patient Primary Agency Case Conference (the case conference) when the primary presenting problem is uncertain.

The case conference must comprise the following members:

- CDCMH or DCDFLBH or delegate who must be a senior psychiatrist, and
- SMSN or delegate who must be a chief or senior psychologist or MSDS.

The case conference should be guided by:

- information about the forensic patient's case including:
 - initial case assessment by the referring agency,
 - the Tribunal documents, if available,
 - Court documents, and
- accepted guidelines from sources such as the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* and the *International Classification of Diseases, ICD-10*.

The case conference may elect to defer a decision, in order for further assessments to take place by either or both agencies, and then reconvene. A recommendation may be made that the reconvened case conference be conducted as a multidisciplinary conference.

3.3 Recommendations

The conference decision regarding the primary agency must be relayed to:

- CDCMH or DCDFLBH and SMSN, if not present at the conference,
- the Tribunal,
- the patient and their legal representative,
- the patient's primary carer,
- the patient's guardian if one has been appointed,
- the service provider in the community if one exists, such as *Ageing, Disability and Home Care* or *National Disability Insurance Agency*,
- the SCDFMH who must inform the *Statewide Forensic Patient Flow Committee* and
- the MSDS, SPOFL and the senior psychologists Statewide Disability Services (SDS).

3.4 Primary Agency Responsibility

Following the case conference, the allocated primary agency is responsible for directing the ongoing management of the case by:

- complying with their standard operational model, which may include referrals to the other agency for clinical input, while the primary agency continues to direct the case;
- initiating the development of a forensic patient case plan and updates; and
- providing reports as required by the Tribunal from time to time. Where such reports cannot be provided by the agency as a result of their operational guidelines, then the agency will advise the Tribunal of the source of the reports.

When the patient's primary presenting problem changes, then the primary agency should refer the patient to the other agency. If the other agency does not agree to this transfer, then the primary agency should convene a new case conference.

Following allocation of primary responsibility for case management to an agency, there may be occasions when the forensic patient becomes fit for trial. In such situations, responsibility for case management reverts to the correctional centre of classification.

3.5 Dispute Resolution

If a case conference cannot clarify the ambiguity regarding the primary agency, then the matter should be escalated to the next managerial level:

- If the case conference was conducted by delegates, then resolution should be referred to the CDCMH or DCDFLBH and SMSN, or
- If the case conference was conducted by the CDCMH or DCDFLBH and SMSN, then resolution should be referred to the SCDFMH and the DSS.

The final decision regarding the primary agency must be relayed to the same persons and entities listed under [section 3.3](#), as appropriate.

4. Definitions

Must

Indicates a mandatory action or requirement.

Should

Indicates a recommended action that needs to be followed unless there are sound reasons for taking a different course of action.

5. Legislation and Related Documents

Legislation	Crimes (Administration of Sentences) Act 1999 Health Records and Information Privacy Act 2002 Mental Health Act 2007 Mental Health (Forensic Provisions) Act 1990
JH&FMHN Policies and Guidelines	1.075 Clinical Handover 1.225 Health Assessments in Male and Female Adult Correctional Centres 1.231 Health Problem Notification Form (Adults) 4.020 Health Records 4.030 Requesting and Disclosing Health Information Guidelines on the Use and Disclosure of Inmate/Patient Medical Records and Other Health Information
NSW Ministry of Health Policy Directives and Manuals	PD2009_060 Clinical Handover – Standard Key Principles Privacy Manual for Health Information
CSNSW Policies and Procedures	<i>Offender Classification and Case Management Policy & Procedure Manual</i> (18.4.6) <i>Public interest inmates and the pre-release leave committee (PRLC)</i> (20.2.10) <i>External leave programs</i> (20.7) <i>Escorted external leave programs</i> (20.8) <i>Section 6 orders</i> <i>Operations Procedures Manual Section 1 Boards and Tribunals</i> <i>Sentence Administration Procedures for Forensic and Correctional Patients</i>

6. Acronyms

CDCMH	Clinical Director Custodial Mental Health JH&FMHN
CDFLBH	Clinical Director Forensic & Long Bay Hospitals JH&FMHN
CSNSW	Corrective Services NSW
DCDFLBH	Deputy Clinical Director Forensic and Long Bay Hospitals JH&FMHN

FMHLO	Forensic Mental Health Liaison Officer JH&FMHN
JH&FMHN	Justice Health and Forensic Mental Health Network
LBH	Long Bay Hospital
MSDS	Manager Statewide Disability Services CSNSW
OIMS	Offender Integrated Management System CSNSW
PAS	Patient Administration System JH&FMHN
SCDFMH	Statewide Clinical Director Forensic Mental Health JH&FMHN
SDS	Statewide Disability Services CSNSW
DSS	Director, Statewide Services CSNSW
SMSN	Statewide Manager Specific Needs CSNSW
SN	Specific Needs CSNSW
SPOFL	Senior Project Officer (Forensic Liaison) Sentence Administration CSNSW
The Tribunal	Mental Health Review Tribunal