

Procedure for relationships between Office of the Public Advocate–Community Visitors Program and Department of Human Services Mental Health Branch and Mental Health Services

This procedure is designed to foster good communication and relationships between the Department of Human Services (DHS) Mental Health Branch, the Office of the Public Advocate (Community Visitors Program) and mental health service providers. It outlines the roles and responsibilities of the Community Visitors and the Mental Health Service direct care staff and managers in relation to Community Visitor visits.

Endorsed by Mental Health Branch, Department of Human Services and Office of Public Advocate – May 2005

Background and context

1. The Community Visitors Program is managed by the Office of the Public Advocate (OPA).
The Office of the Public Advocate is located within the Victorian Department of Justice.
2. The *Mental Health Act 1986* requires that Community Visitors visit approved mental health services that provide residential services and 24 hour nursing care for people with a mental disorder (s.109).
3. Community Visitors are appointed by the Governor in Council under the Mental Health Act.
4. The functions of a Community Visitor are to inquire into and report on:
 - 4.1 the adequacy of services for the assessment and treatment of people with a mental disorder and
 - 4.2 the appropriateness and standard of facilities for the accommodation, physical well-being and welfare of persons receiving treatment or care for a mental disorder and
 - 4.3 the adequacy of opportunities and facilities for the recreation, occupation, education, training and rehabilitation of persons receiving treatment or care for a mental disorder and
 - 4.4 the extent to which people receiving treatment or care for a mental disorder are being given the best possible treatment or care appropriate to their needs in the least possible restrictive environment and least possible intrusive manner consistent with the effective giving of that treatment or care and
 - 4.5 any failure to comply with the provisions of this Act and
 - 4.6 any other matter as appropriate
 - 4.7 any complaint made to a Community Visitor by a person receiving treatment or care and
 - 4.8 any issue raised by a person receiving treatment or care with a Community Visitor (s.113)
5. Under section 112(1) of the Act a Community Visitor is entitled when visiting a mental health service to:
 - 5.1 inspect any part of the premises and
 - 5.2 see any person who is receiving treatment or care for a mental disorder unless that person has asked not to be seen and
 - 5.3 make enquiries relating to the admission, detention, care, treatment and control of persons receiving or care for a mental disorder and
 - 5.4 inspect any document or medical record relating to any person receiving treatment or care for a mental disorder if he or she has given consent in writing (*using the 'Authorisation to Inspect Documents' Form available from the community Visitors Program Unit*) and any records required to be kept by or under this Act.

6. When making inquiries and providing reports, Community Visitors will act according to the principles of natural justice including representing a complaint or issue to a mental health service for their response. In this process, the issue or complaint may be resolved.
7. Community Visitors are volunteers from a range of occupations and backgrounds and usually visit services in Panels of two or three people. For ease of administration, a Panel is allocated to particular service.
8. One Community Visitor in each region is nominated as a *Regional Convenor*, who has overall responsibilities for the activities of Community Visitors in the region, in addition to undertaking normal Community Visitor duties. In some regions, there may be more than one convenor appointed.

Visiting procedures

1. Community Visitors are concerned with promoting the objectives of the Department as set out in section 5 of the *Mental Health Act 1986*. These objectives are designed to promote good mental health services respectful of service users and their rights.
2. **Frequency of visits**
Under section 111 of the Act, Community Visitors may visit with or without previous notice and at such times and for such periods as they think is fit, but at least once a month.
3. **Responsibilities of mental health services**
In accordance with section 112 of the *Mental Health Act 1986* the mental health service staff members:
 - 3.1 must give a Community Visitor any reasonable assistance required to perform or exercise any powers or functions effectively
 - 3.1. must not unreasonably refuse or neglect to give assistance
 - 3.2. must not refuse or fail to give full and true answers to the best of their knowledge to any question asked by a Community Visitor in the performance or exercise of any power or function under the Act
 - 3.3. must not assault, obstruct, hinder, threaten or attempt to obstruct or intimidate a Community Visitor in the performance or exercise of any power or function under the Act.
4. Mental health services will provide Community Visitors with information regarding any concerns it may have as to the Community Visitors' safety when visiting the service or particular service users.
5. Mental health services will ensure that their staff members are informed of the role of Community Visitors and of the service's responsibilities in relation to them.
6. **Responsibilities of Community Visitors**
When visiting a mental health service, the Community Visitor(s) will:
 - 6.1 introduce themselves to the person in charge
 - 6.2 wear their Community Visitors' badge for identification
 - 6.3 produce further identification and explain the role of Community Visitors and the purpose of the visit, if required
 - 6.4 respect the rights of persons receiving treatment or care if they indicate that they do not wish to discuss anything with the Community Visitor
 - 6.5 complete a Report of Visit for each visit in the prescribed format
7. Community Visitors in each region will seek to meet on a regular basis, or on a needs basis, with the management of respective mental health services, to discuss issues identified through the reporting period.
8. **Issues resolution procedures**
The issues resolution procedures refer to the process used to address those issues that are raised by Community Visitors as part of their role and function, as defined under the Act.
9. The principle to be followed for issues resolution is that issues are to be resolved at the most local level possible.
10. Issues identified by Community Visitors during visits will initially be raised with the person in charge at the time of the visit. If the issue can be satisfactorily resolved then no further action will be taken. However, a Report of Visit will be completed which identifies the status of the issues resolution procedure.

11. If the issue cannot be resolved at the time of the visit, the Community Visitor or regional Convenor will raise the matter with the appropriate senior staff member nominated by the respective service. If the matter can be satisfactorily resolved then no further action will be taken.
12. If the issue remains unresolved the Regional Convenor should, after seeking advice from the Community Visitors Program Unit, raise the matter with the appropriate senior manager of the mental health service and request a meeting if required as soon as possible.
13. Where serious allegations are involved, the Community Visitors retain the right to report the matter to the appropriate authorities immediately. This includes any issue that places the physical or psychological health or well-being of a person receiving treatment or care at risk.
14. **Complaints procedure**
The complaints procedure is applied when due processes have not been followed and or when a service provider or Community Visitor considers the other party to have acted unfairly, unreasonably or inequitably and where the relationship between the parties is affected. The following procedure will be followed to resolve any such concerns.
15. As with Issues resolution procedures, resolution of a complaint should be sought at the most local level possible.
16. The identified matter of complaint should be raised by the Community Visitor or staff member on duty at the time of the visit where possible.
17. If discussion at this point does not adequately resolve the matter, the Community Visitor, supervisor, and on-duty staff member (as appropriate) will arrange a separate meeting in order to clarify the situation and resolve any outstanding issue.
18. If the matter is still unresolved, the Regional Convenor of the Community Visitors program and a nominated service manager will meet with the Coordinator to discuss it.
19. If the complaint remains unresolved, the Regional Convenor will advise the Manager, Community Visitors Program and refer the matter to the appropriate senior manager in the Department of Human Services in writing. Where the complaint is raised by the service, the service manager will refer the matter in writing to the appropriate senior manager in the Department of Human Services. The DHS manager may need to discuss the circumstances with the Manager, Community Visitors Program to affect a resolution.
20. If the matter of complaint continues to remain unresolved, it will be reported to the Public Advocate and the most senior officer in the Mental Health Branch, DHS, or their delegate. This will only occur after all previous stages in the complaints process have been undertaken.
21. The procedure detailed above will be implemented within timelines that are agreed upon by the parties involved.

Meeting between the Department of Human Services (DHS) Mental Health Branch and the Office of the Public Advocate (Community Visitors Program)

22. Regular meeting between the Community Visitors Program and the Mental Health Branch as deemed to be appropriate will occur in a timely manner in particular with respect to any changes within the mental health services or the Community Visitors Program.
23. The Community Visitors Program, including the Mental Health Community Visitors Board members will meet with the Mental Health Branch at the appropriate time to discuss the draft Community Visitors Mental Health Annual Report.
24. The Public Advocate and the Director of Mental Health, along with other Community Visitor staff as deemed appropriate, shall meet on a regular basis.
25. The Mental Health Branch and Community Visitors Program will be involved in ongoing education and other activities as necessary.