

# Criteria for searches to maintain safety in an inpatient unit – for patients, visitors and staff

health

Chief Psychiatrist's guideline

## Introduction

### Key messages

- As the safety of patients, visitors and staff of mental health services is paramount, patients should not have access to items that are dangerous or may lead to harm to self or others or assist in absconding during their inpatient stay.
- Searching a patient or their belongings may be required to help ensure the safety of the patient, other patients, visitors and staff.
- Since searches are intrusive and may impinge upon patients' rights, every effort should be made to prevent or defuse situations in which searches may need to be considered.

### Scope

This guideline aims to describe search processes that are permissible by law and can ensure clinical safety while respecting patients' rights. Services should develop local policies and procedures consistent with this guideline to promote safety for patients, visitors and staff in mental health inpatient units. This guideline aims to support mental health services in the search process and is not intended to provide comprehensive legal advice. If legal advice is required this should be sought by the mental health service.

The term 'patient' in this guideline refers to a person who is receiving any form of inpatient care from a mental health service provider and includes a person who is a compulsory patient, security patient or forensic patient as defined by the Mental Health Act 2014. The term 'clinical staff' refers to medical, nursing and allied health staff. Searches are part of a health response – not a security response – and would typically be initiated and undertaken by nursing staff.

The term 'authorised persons' is defined by Section 3 of the Mental Health 2014 and means a person who is employed or engaged by a designated mental health service and is a registered medical practitioner, registered psychologist, registered nurse, registered occupational therapist or social worker. Authorised persons also include police officers or ambulance paramedics.

This guideline is applicable to all inpatient units within Victorian mental health service providers including those for children and young people, adults and older people.

The following mental health services are not covered by this guideline:

- other bed-based or residential services, including prevention and recovery care services (PARCS) and community care units
- community-based clinical mental health services
- mental health community support services (formerly known as psychiatric disability rehabilitation and support services or PDRSS)
- Forensicare
- private psychiatric services

- mental health services located within correctional settings.

While this guideline makes reference to dangerous items that may lead to harm of self or others in order to illustrate aspects of the search process, it does not aim to provide a comprehensive listing of dangerous goods or substances, nor strategies for dealing with such goods within the context of mental health service provision.

It is expected that health services will have in place separate policies covering those areas. This guideline therefore needs to be read in conjunction with more specific local policies, such as those regarding weapons or illicit drugs.

The features that make an item potentially dangerous are to some extent related to the patient's clinical presentation, identified vulnerabilities and current mental state, particularly for patients at risk of suicide or self-harm.

## Overview

Mental health inpatient services are required to provide and maintain a safe therapeutic environment that promotes the safety, wellbeing and recovery of patients. The service should make every effort to protect patients from abuse and exploitation and minimise the risk of deliberate self-harm and suicide. In addition, the environment needs to meet occupational health and safety requirements by providing a safe workplace and environment for patients, visitors and staff. The Occupational Health and Safety Act 2004 makes clear that this is a duty not only of the service but also of its employees.<sup>1</sup>

This guideline provides advice to mental health services about the legal and practice framework for conducting searches of inpatients or their belongings where this is indicated following a risk assessment and permitted by law. It provides services with a framework for managing the identification and removal of dangerous and inappropriate items in an inpatient unit.

The need to undertake a search of the room or belongings of a patient admitted to a mental health inpatient service, or to undertake a physical search, must be based on an assessment of the patient and the level of clinical or environmental risk to the patient, other patients, visitors and staff. Based on this assessment, there will be times when it may be necessary to search a patient or their room and belongings to ensure their safety or the safety of others. This may occur at various points in an episode of care, for example, on admission to an inpatient unit, following any planned or unplanned leave, or prior to an episode of seclusion.

While safety is the primary concern, human rights such as respect, privacy, dignity and confidentiality must be taken into account. Searching a patient or their belongings is an intrusive intervention that must only be used when it is the only reasonable and practicable course of action to avoid or prevent a serious risk of harm to a patient or harm to others. When a search is undertaken, every effort should be made to observe the patient's rights to the greatest extent possible under the circumstances.

When determining whether to search a patient, issues that must be considered by the treating team include the patient's safety, past history of abuse/trauma, human rights issues, therapeutic relationship, environmental safety and occupational health and safety. If there are less intrusive options to ensure safety, then these must be considered and the reasons why these options were or were not adopted documented in the clinical record. Wherever possible, medical staff treating the patient should be involved in the decision making when consideration is being given to patient searches.

## Types of searches

Patient searches are part of a health response, not a security response. Where consideration is given to conducting an inpatient search, this will be a planned, nurse-led initiative.

Within that context, Section 354 of the Mental Health Act 2014 defines 'search' to mean a search of a person or of things in control of a person that may include -

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<sup>1</sup> Section 25 (1)(b) of Part 3 of the Occupational Health and Safety Act states that it is the duty of employees to 'take reasonable care for the health and safety of persons who may be affected by the employee's acts or omissions at a workplace'.

- (a) quickly running the hands over the person's outer clothing (a contact search) or passing a metal detector over or in close proximity to the person's outer clothing; and
- (b) requiring the person to remove only his or her coat, jacket or similar and items such as a hat, gloves or shoes.
- (c) an examination of those items of clothing; and
- (d) requiring the person to empty his or her pockets or allowing his or her pockets to be searched.

Within the legal framework described in this guideline, a search of the patient's belongings and room may also take place.

For searches in relation to the transportation of a patient into a mental health unit, between mental health units or from a mental unit this guideline should be read in conjunction with the Protocol for the transportation of people with a mental illness 2014.

## The legal framework

### Patients' rights

While the purpose of conducting patient searches in mental health inpatient units may be to protect the safety and security of patients, visitors and staff, it is important to remember that patient searches, particularly contact searches, can impinge upon the individual rights of patients.

First, being subjected to any type of search can impinge upon a patient's right to privacy. This right is enshrined in Section 13 of the Charter of Human Rights and Responsibilities Act 2006, which provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with. The term 'not arbitrarily interfered with' should be interpreted as requiring staff working in public mental health facilities to have reasonable grounds for performing a patient search. For example, it would be acceptable for clinical staff to perform a search of a patient's room, belongings or person if they had reasonable grounds to suspect that the patient was concealing something that could pose a danger to themselves or another person.

Second, the right to privacy encompasses the right to bodily privacy, that is, a person's right to determine what shall or shall not be done to their own body. A contact search of a patient's person can impinge upon their right to bodily privacy. The right to bodily privacy is reflected in the criminal law through the offence of assault, which can include touching the body or clothing of another person without lawful excuse. In conducting patient searches within public mental health facilities, a balance must be struck between the individual rights of patients and ensuring the safety and security of patients, visitors and staff. Generally, the more intrusive the search, the more this balance should be struck in favour of protecting the individual rights of patients.

### Mental Health Act

The Mental Health Act is silent on patient searches during an inpatient admission, including when a patient returns from leave. Section 354 of the Mental Health Act 2014 applies only to a person who is taken to or from a designated health service or any other place. Under the Mental Health Act 2014, a person may be searched before they are taken to or from a designated mental health service if there is a reasonable suspicion that the person is carrying anything that -

- a) presents a danger to the health and safety of the person or another person; or
- b) could be used to assist the person to escape. (The Mental Health Act uses the word escape; however abscond is the preferred term within health care settings).

If the patient is not being transported, the Mental Health Act 2014 cannot be used to support a search.

## Duty of care

Clinical staff may consider searching a patient to meet the standard of care the health service owes to its patients under its duty of care. Duty of care is a concept from civil law based on the principle that, under certain circumstances determined by the standard of reasonableness, those providing care owe a duty of care to those in their charge, and failure to observe duty of care may result in legal action for negligence being taken against those owing a duty of care.

## Lawful reason

In order to lawfully perform a contact search of a patient's person (that is, a search involving bodily contact or the removal of clothing), staff working in public mental health facilities must have a lawful reason.

In certain circumstances, staff working within public mental health facilities could rely upon sections of the Crimes Act or the Occupational Health and Safety Act to justify conducting an intrusive search of a patient's person:

- Under Part 3 of the Occupational Health and Safety Act 2004, public mental health services must take steps to reduce health and safety risks in public mental health facilities so far as is reasonably practicable. In some circumstances, the need to reduce health and safety risks to staff, patients and visitors may justify conducting a contact search of a patient's person. The action taken would need to be reasonable in the circumstances.<sup>22</sup>
- Section 463B of the Crimes Act 1958 provides that a person may use such force as is reasonably necessary to prevent the commission of a suicide or any act that would amount to suicide. In certain circumstances, staff could rely upon Section 463B to search a patient in order to prevent them from committing suicide. Again, the use of such force must be reasonable, necessary and proportionate to the risk posed by the patient.
- Section 462A of the Crimes Act 1958 provides that a person may use such force as is reasonably necessary to prevent the commission, continuance or completion of an indictable offence.<sup>3</sup>  
In certain circumstances, staff could rely upon Section 462A to search a patient in order to prevent them from committing an indictable offence, such as an assault. The use of such force must be reasonable, necessary and proportionate to the risk posed by the patient.

## Consent

All patients must be presumed to have capacity to give informed consent unless it can be demonstrated that the person lacks capacity at the time the decision needs to be made.

Clinical staff have the authority to search a patient's clothing and belongings if the patient gives informed consent to a search in circumstances where the patient is capable of giving informed consent.

Where the patient does not consent to a search, the search must not occur unless there is a lawful reason.

# Managing risk in clinical practice

## Effective communication

Health services communicate information to patients, visitors and staff in a number of ways: verbally, by information packages and by written notices posted on walls and doors. Communicating effectively is the first step to ensuring all parties are aware of the standards the health service seeks to maintain in its inpatient settings. Effective communication means that the health service is proactive in outlining its responsibility to

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<sup>2</sup> For example, whereas it may be reasonable to conduct a contact search of a patient's person on suspicion that they are concealing a weapon, conducting the same search on suspicion that the person is concealing cigarettes would be disproportionate.

<sup>3</sup> Indictable offences are those that are serious in nature and are contained within the Crimes Act.

establish a safe inpatient environment and in articulating what this means at a very practical level for patients, visitors and staff in terms of managing dangerous and inappropriate items and the potential for searches.

## Providing a safe environment

Health services need to provide a safe environment for patients, visitors and staff. Evidence from incident reviews and coronial inquests indicates that mental health inpatient services need to pay particular attention to a range of unit design and safety features and work practices.

Mental health services provide a therapeutic environment where recovery can be optimised and where harmful behaviours (including suicide attempts, assault and self-harm) can be prevented or minimised.

It is necessary for staff to convey these expectations to patients and visitors. If clinical staff remain concerned about an assessed risk, they may need to consult senior staff about the need to search patients for any dangerous and inappropriate items that may be in their possession.

## Dangerous and inappropriate items

Dangerous and inappropriate items are objects or substances that are seen as unacceptable possessions for patients receiving treatment and care from a public mental health service because they have the potential to place themselves, visitors and staff at risk of harm to self or others.

### Dangerous items

Dangerous items include:

- drugs of addiction
- weapons, potential weapons and firearms (including self-made weapons and kitchen utensils, such as knives)
- explosives
- chemicals and other hazardous substances.

For patients admitted to an inpatient service dangerous items may also include:

- prescription and over-the-counter medication (which should be declared and handed over to staff at admission)
- any objects that could be used to assist in a suicide attempt (for example, plastic bags, scarves, belts, shoe laces or headphone cords)
- any objects that could be used to cause harm to self or others (for example, blades, syringes, sharp objects or glue)
- any items or objects that could be used to damage the facilities, potentially placing others at risk (for example, lighter fluid).

### Inappropriate items

For patients admitted to an inpatient service inappropriate items include:

- alcohol
- illicit substances and associated paraphernalia
- tobacco and lighters (non-smoking policies are in place across the state).

Mobile phones, cameras or tablet computers equipped with a camera may be inappropriate if a patient's clinical assessment indicates that these items may be used to infringe the privacy of other inpatients, visitors or staff through inappropriate recording, photography or online communication. Explanation of the requirement to respect other patients' privacy by not taking photos should be part of the routine patient orientation to the unit and services may wish to consider restricting the use of mobile phones to personal bedrooms.

Sections 14 to 18 of the Mental Health Act 2014 refer to the rights of an inpatient to communicate and should be reviewed prior to making any decision to limit communication.

## Searches

### When to search

A search should only be considered when:

- clinical staff have undertaken a clinical risk assessment
- the risk assessment has identified a tangible risk to the patient, staff or anyone else
- staff have a reasonable belief that a search of the patient, their room or belongings may yield objects or substances that may cause significant harm.

Some of the risk factors clinical staff may consider when assessing the need to undertake a search include:

- risk of suicide or self-harm
- history of violence involving weapons
- history of illicit substance misuse
- forensic history, for example, arson
- suspicion of concealing a weapon or a dangerous item or substance
- risk of vulnerability leading to coercion or manipulation by another person to conceal a firearm, weapon, illicit drugs and the like.

There are several types of patient searches that can be considered (see Table 1). Nursing staff should always seek the patient's consent for a search and select the least intrusive search method where a search is seen as necessary and consent has not been forthcoming.

There should always be attempts to engage the patient before progressing to an intrusive search. These attempts should be clearly documented in the patient's clinical file.

**Table 1: Overview of search types**

Type of search	Description	Authorisation	Reporting/review
Search of a patient's belongings and room	Search of room and belongings only	Nurse unit manager or senior registered nurse of the shift	Document in clinical record and review within multidisciplinary team
Non-contact search of a person	Requiring the person to remove items of clothing such as a jacket, hat or shoes. Emptying pockets or allowing pockets to be searched.	Nurse unit manager or senior registered nurse of the shift	Document in clinical record and review within multidisciplinary team
Contact search of a person	Quickly running hands over the person's outer clothing or use of metal detector (a Pat-down search)	Authorised psychiatrist	Lodge incident report and review within multidisciplinary team
	Partial removal of clothing	Authorised psychiatrist	Lodge incident report and review within multidisciplinary team

*Note: Any search should trigger a clinical review of the antecedents, incident and post incident intervention*

The Chief Psychiatrist does not support body cavity searches as part of the range of intervention strategies for dealing with dangerous or inappropriate items.

## Seeking consent

### Capacity to consent

A person's capacity to consent is determined by their ability to understand and appreciate information that is material to a decision. In the context of consenting to a search of their person, a patient who has capacity would be able to understand what is being proposed, what they will be required to do and the consequences of their decision, and be able to communicate their decision. It must be presumed that all patients have the capacity to give informed consent unless it can be demonstrated that the person lacks capacity at the time the decision needs to be made.

Patients with a mental illness may lack the capacity to consent to necessary psychiatric treatment and meet criteria for involuntary treatment yet still have the capacity to consent to a search of their person. Capacity should be considered on a case by case situation depending on the patient and the circumstances.

In the case of minors, if a child has capacity then they themselves may consent to a search of their person. However, if the child is under the age of 16 years, parents should be involved.<sup>4</sup> If a parent of the child is not able to be present, another adult should be. A child's capacity to make decisions will depend on whether the child has sufficient understanding and intelligence to fully understand what is proposed and the consequences of their decision. If a child lacks capacity, their parents or guardians may consent to a contact search of their person on their behalf. A patient's capacity to consent should be assessed at the time that the decision is to be made.

### Always seek consent

In all cases the patient's consent must be sought before a search is undertaken. Consent should be sought respectfully, and staff should disclose all aspects of the search. Once the patient provides consent, the search should be carried out with due regard for the dignity of the patient and the need to ensure maximum privacy. The person conducting the search must ensure the patient to be searched is informed that the search is voluntary and that consent can be withdrawn at any time. Consent must not be obtained by duress, threats, granting or withdrawal of favours, or through misleading or intimidating conduct.

### If consent is refused

Two courses of action are open to staff in cases where a risk assessment indicates that the search of a voluntary patient is necessary in order to maintain safety in the inpatient unit for patients, visitors or staff, and the patient concerned refuses to consent to a search.

#### 1. Proceed with the search if there is a lawful reason to do so

When patients refuse, are unable or lack the capacity to consent – and discharge from hospital or refusal of service is unreasonable<sup>5</sup> – a search may be authorised without that person's consent provided the need for a search is indicated by the risk assessment (providing a lawful reason) and provided the treating clinician, or another senior clinician, authorises the search. Any search must also be proportionate to the level of risk assessed.

#### 2. Consider discharging the voluntary patient from the unit where there are safety concerns

Services may want to signal by means of signage and/or information sheets that consent to a lawful search where required is a condition of entry to the inpatient unit. A person who refuses to consent can be asked to

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<sup>4</sup> Involving parents or guardians in seeking consent is discretionary in the case of children aged between 16 and 18 years and would usually depend on the maturity of the young person. Parents and guardians should be informed of any decision to search the young person, irrespective of whether they were involved in decision-making about consent.

<sup>5</sup> For example, a person who requires life-saving medical treatment and would die if discharged or denied treatment, or for people who are suicidal or homicidal, or who are involuntary patients under the Act.



leave, and a subsequent refusal to leave upon request may amount to the summary offence of trespass. The police should be called if the risk is considered to be significant and there are fears for the safety of staff or other patients.

Alternatively, consideration should be given as to whether to discharge the patient or deny him/her access to unit. This should only be considered after consultation with the authorised psychiatrist and the treating team.

Any suggestion to discharge a patient because of safety concerns would have to be weighed against duty of care considerations. The patient's family or carer should also be consulted to ensure that adequate support arrangements can be put in place should the patient be discharged.

Given the need to exercise duty of care, the acuity with which patients typically present at admission to an inpatient unit and the difficulties in arranging satisfactory discharge arrangements at short notice, the option of discharging a voluntary client because of their refusal to consent to be searched should be regarded as a measure of last resort, which in all instances would require the authorised psychiatrist's written authorisation.

In all other instances, staff should inform the authorised psychiatrist or the senior manager on call that a situation has arisen where a patient refuses to consent to a search that is indicated on the basis of a risk assessment.

## Respecting patient privacy and dignity

### Privacy issues

Every care should be taken to ensure that a search, where it cannot be avoided, does not become a traumatic experience for the patient. Staff must ensure the patient's right to privacy, dignity, safety and confidentiality is preserved during the search.

This can be achieved by ensuring the following:

- Do not undertake the search in a public place, except in case of emergency.
- Do not undertake the search in the presence of other patients.
- Do not discuss the search outcomes with other patients.

### Gender issues

Staff must consider gender issues so that the needs of patients can be fully met.

This can be achieved by considering the following:

- Gender issues should always be a consideration, even where the search is of the patient's room or belongings.
- Any search that requires the patient to remove items of clothing or where there will be contact with their body should be undertaken by staff members of the same gender as the patient.
- A past history of trauma should be considered and discussed with the patient. Staff should be very aware that any search may trigger previous experiences of trauma.

### Cultural and religious issues

Staff must consider cultural and religious issues so that the needs of patients can be fully met.

This can be achieved by:

- effectively communicating to all patients and visitors the requirement to provide a safe environment on the inpatient unit
- using on-site interpreters (or the telephone interpreter service) and information brochures in community languages to facilitate effective communication with patients and visitors from culturally and linguistically diverse communities.



## Searching minors

Special conditions apply regarding searching patients who are 16 years or younger. Where minors are admitted on the basis of the consent of their parent(s) or guardian, the consent of a parent or guardian to searching should be obtained. As outlined in section 355 of the Mental Health Act 2014, those 16 years old or younger should be searched in the presence of a parent of the person or, if it is not reasonably practicable for a parent to be present another adult. In the case where a minor has a history of self-harm and concealing dangerous items, the extent to which they can be searched will need to be proportional to the age of the person, the degree of risk and the capacity of the patient. Any search where a minor's clothes are partially removed should only take place with the approval of the consultant psychiatrist.

## How to search

Standards and procedures for the different types of searches are outlined below. All patient searches need to meet these standards and procedures. This is to protect patient rights and to minimise the risk that the search becomes a traumatic experience for the patient. If in doubt, staff considering searching a patient should consult with senior medical staff.

### Search of a patient's room or belongings

#### Before the search

- Discuss the proposed search with the shift leader.
- Identify two suitably experienced clinical staff to conduct the search.
- Give the patient adequate explanation for the search before the search is undertaken, including discussing what you are searching for, allow the patient to ask any questions and ask them to consent to the search.
- Remember that this type of search must not involve any bodily contact with the patient.

#### How to conduct a search of a patient's room or belongings

- The safety of staff conducting the search is of utmost importance.
- Consider the need to wear appropriate protective clothing (for example, gloves).
- When searching belongings, ask the patient to empty containers (such as pockets, bags or backpacks) and ask him or her to disclose any dangerous or inappropriate items.
- Never put your hands in blindly to areas that you cannot see or cannot see into, for example, bags, pockets or the sides of couches.
- Remove any dangerous or inappropriate items and either dispose of them or store them appropriately in accordance with local policies.
- On completion of a room search, assist the patient to reorganise their room.

#### Upon completion of the search

- Offer the patient a debriefing (see page 17 for suggestions).
- Document the search in the clinical record, clearly stating:
  - the reasons for the search
  - whether and how patient consent was obtained
  - staff involved in the search
  - actions taken (description of the search)
  - the outcomes of the search
  - whether a debriefing was offered and accepted
  - arrangements for storing or disposing of any objects or substances found.
- Where indicated, record the search as an incident.

## **Non-contact search of a patient's person**

### **Before the search**

- Discuss the proposed search with the shift leader.
- Identify two suitably experienced clinical staff to conduct the search; these should ideally be the same gender as the patient.
- Give the patient adequate explanation for the search before the search is undertaken and ask them to consent to the search.
- Remember that this type of search must not involve any direct contact with the patient.

### **How to conduct a non-contact search of a patient's person**

- Consider the need to wear appropriate protective clothing (for example, gloves).
- Advise the patient that the search can be undertaken in the presence of a person nominated by the patient if they wish.
- Explain the search process to the patient and ask him/her to disclose any dangerous or inappropriate items.
- Take the patient to a private area and check the patient's person using a handheld metal detector or similar non-invasive screening device near the person.
- Remove any items that may pose a risk of safety to the patient or others.
- Store or dispose of confiscated items appropriately and in line with the Mental Health Act 2014 described further this guideline.

### **Upon completion of the search**

- Offer the patient a debriefing (see page 17 for suggestions).
- Document the search in the clinical record, clearly stating:
  - the reasons for the search
  - whether and how patient consent was obtained
  - staff involved in the search
  - actions taken (description of the search)
  - the outcomes of the search
  - whether a debriefing was offered and accepted
  - arrangements for storing or disposing of any objects or substances found.
- Where indicated, record the search as an incident.
- Consider the need to don protective gloves or clothing

## **Contact search of a patient's person**

### **Level 1: Pat-down search**

#### **Before the search**

- Discuss the proposed search with the shift leader.
- Identify two suitably experienced clinical staff to conduct the search; these should be the same gender as the patient.
- Give the patient adequate explanation for the search before the search is undertaken and ask them to consent to the search.

#### **How to conduct a pat-down search**

- Consider the need to wear appropriate protective clothing (for example, gloves).
- Advise the patient that the search can be undertaken in the presence of a person nominated by the patient if they wish.

- Explain the pat-down search process to the patient and ask him/her to disclose any dangerous or inappropriate items.
- Take the patient to a private area and, in the presence of two staff, conduct a pat down of pocket areas and any areas that could be used for concealing items.
- Avoid the genitals and breast area unless previously agreed with the senior registered nurse and authorised psychiatrist and conducted in the presence of clinical staff of the appropriate gender.
- Remove any items that may pose a risk of safety to the patient or others.
- Store or dispose of items appropriately.

#### **Upon completion of the search**

- Offer the patient a debriefing
- Document the search in the clinical record, clearly stating:
  - the reasons for the search
  - whether and how patient consent was obtained
  - staff involved in the search
  - actions taken (description of the search)
  - the outcomes of the search
  - whether a debriefing was offered and accepted
  - arrangements for storing or disposing of any objects or substances found.
- A pat-down search must be recorded as an incident.

### **Contact search of a patient's person**

#### **Level 2: Partial removal of clothing search**

This is not a strip search. Even so, a partial removal of clothing search without consent can trespass upon the rights of patients and therefore must only be considered in circumstances where there is a clear and present risk of serious harm to the patient, staff or visitors, and reason to believe items may be concealed on the patient's person.

#### **Before the search**

- Discuss with the shift leader and senior medical staff whether a removal of clothing search is warranted. Consider alternatives, such as a pat-down search or using a metal detector.
- It is not appropriate to conduct a removal of clothing search in response to a suspicion of theft or concealment of stolen property. Alternative interventions should be considered, which may involve the police.
- Give the patient adequate explanation for the search before the search is undertaken and ask for their consent to the search.
- If the patient withholds consent, explain the proposed search procedure and request disclosure of harmful items.
- Unless there is a serious and imminent risk of harm to the patient or another person, re-assess whether it is appropriate to conduct a search involving the partial removal of clothing and, if it is deemed to be so, provide the patient with an opportunity to reconsider giving consent.
- If the patient is a minor, a parent/carer should be asked to be present at the search and if this is not possible consideration should be given to postponing the search until the parent/carer is able to be present.
- If the search proceeds, it should be conducted by two suitably experienced clinical staff members; these should be the same gender as the patient.

#### **How to conduct a partial removal of clothing search**

- Consider the need to wear appropriate protective clothing (for example, gloves).

- Advise the patient that the search can be undertaken in the presence of a person nominated by the patient if they wish.
- Explain the search process to the patient and ask him or her to disclose any dangerous or inappropriate items.
- Take the patient to a private area and provide him or her with alternative clothing prior to and for the duration of the search.
- Ask the patient to remove all clothing except underwear so that the clothing can be examined by staff to ensure it does not contain dangerous or inappropriate items. Ensure that only part of the clothing is removed at any one time. Patients must not be physically handled during this process.
- Where there are reasonable grounds to suspect that the patient has concealed a potentially harmful object or substance in their underwear, a search of the underwear may be required. Such a search needs to be authorised by senior medical staff. Personal dignity and gender sensitivity are to be maintained while the patient removes their underwear so a search of the underwear can take place. Appropriate arrangements should be made to ensure patient modesty in such circumstances. This may include providing a dressing gown, towel or new underwear. Every effort should be made to prevent this from being a debasing experience for the patient.
- Remove any items that may pose a risk of safety to the patient or others.
- Store or dispose of items appropriately.

#### **Upon completion of the search**

- Offer and arrange a patient debriefing as soon as practicable
- Document the search in the clinical record, clearly stating:
  - the reasons for the search
  - whether and how patient consent was obtained
  - staff involved in the search
  - actions taken (description of the search)
  - the outcomes of the search
  - whether a debriefing was offered and accepted
  - arrangements for storing or disposing of any objects or substances found.
- A partial removal of clothing search must be recorded as an incident.

## **Specific situations**

### **Admission to the inpatient unit**

Health services are entitled to determine what items can be brought onto the premises. Mental health inpatient services are encouraged to communicate expectations in this area using signage, information brochures provided to new patients and visitors and when meeting with patients and visitors.

As part of the admission process, staff should routinely review (with the patient) any possessions a patient has brought into the unit. The nursing staff may ask the patient to hand over any valuable items for safe keeping, and any dangerous or inappropriate items for safe keeping or disposal, as appropriate. All items removed should be documented in detail and stored appropriately.

This review of possessions at admission can be a collaborative, non-threatening process that may render a formal search of possessions unnecessary.

Patients should not be subjected to a contact search of their person or possessions on admission unless there is a lawful reason to do so.

## **Return from leave**

Where there is a significant risk of a patient returning from leave with items not permitted on the unit, or items that present a risk to the safety of patients, visitors and staff, consideration should be given to making a 'search on return' part of the conditions of leave.

## **Patient-to-patient exchange of possessions**

Effective communication is required between patients, visitors and staff to ensure there is no patient-to-patient exchange of possessions or items considered to be dangerous for the receiving party.

If staff become aware that such an exchange has occurred, the item will be returned to the original owner, if appropriate. If the exchange happens again, the item may need to be confiscated and returned to the original owner upon discharge.

## **Admission or transfer to the high-dependency unit or seclusion room**

Patients may need to be searched on being admitted or transferred to the high-dependency unit (HDU) for any prohibited or dangerous items in order to ensure their personal safety and that of the HDU environment.

They should be asked if they have any dangerous or inappropriate objects in their possession. Where a search is indicated on the basis of assessed clinical risk, the patient will be asked to consent to a search.

If the patient does not consent, clinical staff need to discuss the situation with the most senior nurse on the shift and review whether a lawful reason for the search exists. This deliberation (including a review of risks and benefits and the outcome) needs to be documented in the patient's clinical record.

The search should be carried out by a minimum of two clinical staff members, with at least one staff member of the same gender as the patient. The search must be conducted in a way that ensures the dignity and privacy of the patient at all times.

## **When restraint is used**

Every attempt should be made to establish and maintain a therapeutic environment that minimises factors that contribute to patient distress and where the use of intrusive interventions is kept to a minimum.

In spite of this preventive work it may at times be necessary to consider the use of bodily or mechanical restraint in situations where:

- a contact search of a patient's person is indicated in order to maintain safety in the inpatient unit
- the patient refuses to consent to the proposed search
- the patient is displaying violent behaviour, or such behaviour can reasonably be expected on the basis of the patient's history

Any use of restraint under those circumstances must be in accordance with the Act and the Chief Psychiatrist 2014 guideline focused on restrictive interventions. Restraint must be documented and reported to the Chief Psychiatrist in accordance with statutory and departmental requirements. Any use of bodily or mechanical restraint should be documented in the patient's clinical record and an incident report completed.

At times it may be necessary to involve, under clinical leadership, security staff employed by the health service in order to ensure that the patient can be restrained safely. Health services that expect to involve security staff in cases of bodily or mechanical restraint should ensure that induction and refresher aggression management training provided to security staff includes training modules covering communication skills, preventive techniques, de-escalation skills and the provision of prone-free and pain-free restraint.

## **Visitors to the unit**

As a hospital is a public place, there is an implied permission to come onto the premises for particular purposes at particular times. Permission to enter may be subject to particular conditions, and may be revoked if a visitor behaves inappropriately. All health services should have in place pamphlets or signage that reflects such an

understanding. If a visitor fails to comply and refuses to leave the premises, security personnel can be requested to remove him or her. Any exclusion should be thoroughly documented, providing the reasons for exclusion and the details of any incidents.

If a visitor's belongings are excluded from entry the visitor must be provided with a clear explanation of the reason for such exclusion, and a secure place (such as a locker or a safe) in which to store the visitor's belongings. It is suggested that if staff believe there is a reason to search a visitor's bags, that they should not touch the contents but request that the visitor remove them for inspection. Searching should be with the express consent of the visitor. If a visitor refuses to consent to an inspection of his or her belongings, the visitor can be refused entry to the inpatient unit and, if necessary, asked to leave the facility.

In considering any action that may prevent a visitor or their belongings entry to the unit, the service should take into account the level of risk to the patient and the responsibility of the service to prevent harm to patients and staff. The level of intrusion or exclusion contemplated should be proportionate to the potential harm to be prevented.

The service should document this policy clearly and communicate it to patients and visitors in order to maximise compliance.

## **When to involve police**

In 2010 the Department of Health and Victoria Police issued the *Protocol for mental health*.<sup>6</sup>

The protocol acknowledges that, in most circumstances, clinicians will support a person requiring assessment, examination or treatment guided by local clinical guidelines and procedures.

The disclosure of any health information must be made in accordance with section 346 of the Mental Health Act 2014. Disclosure of information is permitted under Health Privacy Principle 2.2(h) if it is necessary to lessen or prevent:

- A serious and imminent threat to a person's life, health, safety or welfare.
- A serious threat to public health, safety or welfare.

The protocol lists a number of circumstances that may lead clinicians to request police assistance. These include:

- there is a genuine and immediate risk of self-harm and injury to any person
- a person is violent towards the clinician or any other person
- a person is causing significant damage to property and if not contained may cause further damage
- a person is believed to have committed a criminal offence
- a person is armed with any weapon
- there are other parties present who pose a threat, or are abusive or violent towards the clinician or any other person
- the clinician has knowledge or experience of a person's recent history of violence and a police presence is reasonably necessary for the clinician's safety.

When deciding whether to request police assistance, a number of factors will need to be considered. These include the seriousness and likelihood of the risk, the availability of local supports and the likely impact upon the therapeutic relationship with the patient.

It is important, in making this decision, to understand the range of response options police have at their disposal when contacted:

- Police can be called and asked to provide telephone advice on a situation. When police provide advice to a clinician over the telephone this may not require any follow-up action by police.
- Police can be asked to attend and prevent a breach of the peace or the commission of a serious offence.

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<sup>6</sup> Department of Health and Victoria Police 2010, Protocol for mental health

- Police can be asked to investigate a report of a crime.

Calling police is an option of last resort. Police officers must not be called to provide security or to facilitate restraint associated with a patient search – that is the role of security staff employed by the health service and acting under clinical leadership.

Police are also required to be notified and provided with any seized items related to drugs of dependence or dangerous items that were found in a search.

## Search outcomes

If any dangerous item or any drug of dependence is found as defined in the relevant legislation and included in this guideline, the authorised person must give the items seized to a police officer as soon as practicable.

For items not given to a police officer, the authorised person must take reasonable steps to return any item to the person from whom it was seized when the reason for the seizure of the item no longer applies.

## Documenting the search

All patient searches must be documented in the patient's clinical record and signed by the two staff members who conducted the search.

## Objects found as part of a search conducted under section 354 of the Act

Under Section 354 of the Mental Health Act 2014, authorised persons have the power to seize and detain things in specific instances directly related to risk to the patient or other people or that may be used to abscond. Thorough documentation must accompany any decision to seize and detail items seized from a patient. The authorised person must securely store items seized.

## Weapons and firearms

If a prohibited weapon, controlled weapon or a dangerous item as per the Control of Weapons Act (1990) or a firearm under the Firearms Act (1996) is found by the staff member they should notify the shift or team leader immediately and follow the procedures detailed in the health service's weapons policy. Under section 354 of the Mental Health Act 2014, the firearm must be given to a police officer as soon as practicable.

## Alcohol, illicit or dangerous substances

If a drug of dependence or items used for the purposing of trafficking within the meaning of the Drug, Poisons and Controlled Substances Act (1981) is found by a staff member they should notify the shift or team leader immediately and follow the procedures detailed in the health service's policies pertaining to alcohol, illicit substances and dangerous goods. Drugs of dependence or items used for trafficking found during a search conducted under section 354 of the Mental Health Act must be given to a police officer as soon as possible. Alcohol is not required to be reported to police.

In addition, discharge planning for the patient should include appropriate referral and effort directed towards engagement with alcohol and other drug (AOD) services.

## Personal effects

On occasions clinical staff may decide to confiscate a patient's personal belongings that are intrinsically harmless but potentially dangerous within the context of the patient's illness, or inappropriate within the context of an inpatient admission. Alternatively some items may pose a direct danger to the patient or others.

For example:

- Scarves, belts, headphone cords, mobile phone or laptop chargers and sharp objects may need to be removed as they can be used in self-harm or suicide attempts.



- Mobile phones, tablets and cameras may need to be removed if a patient's risk assessment indicates they have been, or may be used to inappropriately photograph or record other inpatients, visitors or staff.

Any items removed from the patient following a search should be clearly marked with a patient ID label, registered in a log, stored in a safe or a secure area for patient belongings and returned to the patient upon discharge. Care should be taken that items are not damaged in storage. The senior registered nurse or unit manager will be responsible for the proper disposal or storage of confiscated items, including documentation of how the items were stored or disposed of.

## Debriefing

Where a search has occurred, the patient must be offered a debriefing. Whenever possible this debriefing should be conducted within 24 hours of the search concluding. Clinical staff should make a note in the clinical record indicating whether a debriefing was offered and/or provided.

Under some circumstances a debriefing may also need to be offered to the patient's carer or family, to fellow patients, or to staff on the inpatient unit.

In providing a debriefing to patients, clinical staff should consider the following:

- Arrange for a NAATI-accredited interpreter to be present if the person needs help with English.
- Arrange for a support person to be present if this is requested by the patient and if this can be arranged at short notice.
- Restate why a search was considered necessary (but do not let the debriefing turn into a 'justification after the fact' session; the primary focus should be upon emphatic listening to the patient).
- Clearly state the outcomes of the search.
- Determine what the experience was like for the person, how they feel following the search and whether they have any questions about the process.
- Reassure the patient that staff will continue to work with him/her to support their recovery.
- Ask whether the patient wants to discuss any additional issues.

## Notification of other people

Consideration should be given to informing other people involved in the treatment of the patient that the search will take place or has taken place. This person may be the patient's nominated person, guardian, carer or parent if the patient is a young person.

## Complaints related to searches

Patients or visitors may wish to lodge a complaint about the search process or about personal items lost or damaged as a result of it. Health services are expected to have in place an open, accessible and transparent mechanism to report and review complaints. Information about the local complaints mechanism should be incorporated in inpatient admission information brochures or kits.

## Related policies and guidelines

### **Acts of Parliament**

*Charter of Human Rights and Responsibilities Act 2006*

*Crimes Act 1958*

*Mental Health Act 2014*

*Occupational Health and Safety Act 2004*

### **Victorian Government policies**

Protocol for the transportation of people with a mental illness 2014

*Deter, detect and manage. A guide to better management of weapons in health services* (Department of Human Services, 2009)

Department of Health and Victoria Police 2010, Protocol for mental health

### **Chief Psychiatrist guidelines**

<http://www.health.vic.gov.au/mentalhealth/cpg/>

Chief Psychiatrist's guideline on restrictive interventions in designated mental health services 2014

## About Chief Psychiatrist's guidelines

The information provided in this guideline is intended as general information and not as legal advice. Service providers should obtain independent legal advice if they have queries about individual cases or their obligations under the Mental Health Act 2014.