

Mental Health Act 2014

Community Visitors

Code of practice

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Purpose

The purpose of this code of practice is to promote best practice by providing practical guidance to any person or body exercising powers or performing functions and duties under the Act in relation to community visitors.

Introduction

Community visitors are established under part 9 of the *Mental Health Act 2014 (Act)*. They are an important safeguard in the Act to protect and promote the health, safety, wellbeing and rights of people receiving mental health services at prescribed premises. Their role is to monitor the services and facilities provided at prescribed premises and identify issues of concern.

Community visitors work collaboratively with consumers, carers and staff and management of the prescribed premises to resolve particular concerns. The prompt resolution of issues at the local level requires active and timely discussion between all the parties in a spirit of goodwill. Broader or more serious issues may be referred to the Community Visitors Mental Health Board and the Office of the Public Advocate.

Community visitors are an integral part of the legal framework for oversight and service improvement under the Act, which also includes the Chief Psychiatrist and the Mental Health Complaints Commissioner. Together, these bodies are intended to promote continuous improvements in the quality and safety of mental health services.

Community visitors program

Community visitors are volunteers who are appointed by the Governor in Council for periods of three years and can be reappointed at the end of their term of office.

The Community Visitors Program is managed by the Office of the Public Advocate. The program provides volunteers with comprehensive training and support. Community visitors are typically allocated to a particular region and usually work in pairs.

Role of community visitors

The role of community visitors helps to protect and promote the health, safety, wellbeing and rights of people receiving mental health services at prescribed services. The functions of community visitors are to visit prescribed premises and inquire into:

- the adequacy of services and facilities provided at the prescribed premises, including but not limited to:
 - the appropriateness and standard of facilities for the accommodation, physical wellbeing and welfare of persons receiving mental health services at the premises
 - the adequacy of opportunities and facilities for recreation, occupation, education, training and recovery at the premises
- whether the mental health services provided at the prescribed premises are provided in accordance with the objectives of the Act and the mental health principles
- any failure to comply with the Act or the Mental Health Regulations 2014 (Regulations)
- any other matter that a community visitor is satisfied is appropriate, having regard to the objectives of the Act and the mental health principles.

In addition, community visitors assist persons receiving mental health services at prescribed premises to:

- resolve issues identified in the course of making an inquiry
- seek support from other relevant bodies or services
- make complaints to the Mental Health Complaints Commissioner.

Mental health principles

Any person performing duties or functions or exercising any powers under the Act must have regard to the mental health principles, including mental health service providers and community visitors.

One of the principles, in section 11(1)(c) of the Act, is that persons receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make or participate in those decisions, and their views and preferences should be respected.

When community visitors assist a person to resolve an issue, it is intended that their work should enable and support the person to self-advocate wherever possible. This model encompasses the principles of self-determination and individualised treatment and care that underpin the Act.

It is expected that the mental health principles will align the objectives of service providers and community visitors and lead them to work cooperatively to achieve the best possible outcomes and promote participation and recovery for persons receiving mental health services at prescribed premises.

Quality improvement

The work of community visitors can help the management of prescribed services to identify issues of concern, contributing factors and system errors that may have caused or contributed to these issues. Preventative measures can then be put in place to minimise the risk of similar issues occurring in the future.

Management of prescribed premises should ensure records of visits by community visitors are analysed and the information used to:

- promote continuous improvement in the quality and safety of services provided
- promote opportunities for people to be involved in decisions about their individual assessment, treatment and recovery
- facilitate processes to actively involve people in planning, service delivery and evaluation.

Powers of community visitors

The Act gives community visitors broad powers in order to perform their role.

Visit and inspect premises

Community visitors may visit and inspect any part of prescribed premises at any time, except a person's bedroom unless the person has given consent.

Visits are usually unannounced.

Community visitors may talk to any person receiving mental health services at the visited premises who wishes, or has asked, to speak with a community visitor. A person can refuse to be interviewed and refuse to accept assistance from a community visitor.

Inspect documents

Community visitors can inspect any document relating to a person receiving mental health services at prescribed premises, except the person's clinical record (see below).

Access to this information is critical to enable community visitors to effectively perform their role under the Act. For example, a key function of community visitors is to monitor whether services are provided in accordance with the Act and the mental health principles. Documents such as incident reports enable community visitors to better understand a person's experiences while receiving mental health services at the prescribed premises and determine whether services are provided consistent with the objectives of the Act.

Access to documents should not be limited or information deleted or redacted because a document contains personal information (within the meaning of the *Privacy and Data Protection Act 2014*) about other people such as other consumers, members of staff or management of the prescribed premises, or visitors to the prescribed premises. Access to documents is specifically permitted by the Act and it is not necessary to seek the consent of third parties to release information to community visitors in these circumstances.

It is important to note that community visitors are subject to secrecy provisions under the Act which means they cannot disclose any information acquired in their role unless:

- it is necessary in connection with the performance of their duties or functions or the exercise of powers under the Act
- the person to whom the information relates consents
- it is disclosed to a court in the course of criminal proceedings or proceedings under the Act.

Clinical record

Community visitors can inspect a person's clinical record if the person gives consent. Consent may be given verbally or in writing, however written consent provides documented evidence of the person's decision.

The requirement for consent also applies to discussions between clinical staff and community visitors about information that is only available in the person's clinical record, for example if a community visitor wants to discuss the specific details of a person's treatment with their clinician.

Persons receiving mental health services at prescribed premises should be presumed to have capacity to consent to give community visitors access to their clinical record, regardless of their age or legal status under the Act. The capacity principles in section 68(2) of the Act give guidance.

The Act uses the term 'clinical record' to reflect the modern multidisciplinary practice of mental health service provision in preference to the out-dated term 'medical record'. A 'clinical record' is a record that contains health information (within the meaning of the *Health Records Act 2001*) relating to an individual that is created as evidence of the delivery of mental health services to the person. It includes clinical notes made by members of the treating team including doctors, nurses and allied health professionals. Examples of 'health information' includes assessment reports, treatment orders, examination and pathology/diagnostic records, drug or medication orders, second opinions, imaging records, photographs and videos, reports and documents created in accordance with the Act.

A clinical record does not include documents created for the purpose of service management, planning, development, monitoring, improvement or evaluation, even where those documents may include health information about a person. For example, incident reports are an important management tool to improve the quality and safety of mental health services provided at prescribed premises. While incident reports may include health information about an individual, they do not constitute part of the clinical record and must be disclosed to a community visitor if required in the exercise or performance of powers or functions of the community visitor.

Records kept under the Act

Community visitors can also inspect any record that is required to be kept under the Act or the Regulations. The Act and Regulations do not currently specify any such documents or records.

Staff to provide any reasonable assistance

Staff of prescribed premises must give community visitors any reasonable assistance that the community visitor requires to perform or exercise any of the community visitor's powers or functions effectively.

This includes facilitating access to the prescribed premises and to people receiving mental health services at the premises, providing places for private conversations between community visitors and consumers, being available to discuss issues and facilitating access to documents, regardless of whether the documents are paper based or in electronic format, for example incident reports are typically stored in electronic incident reporting systems such as Victorian Health Incident Management System (VHIMS).

Management of prescribed premises should ensure community visitors are proactively supported to effectively perform their role when visiting the prescribed premises, for example by:

- providing copies of summary service performance reports to assist community visitors to understand the service delivery context and support their role to monitor the services and facilities provided at prescribed premises
- appointing a liaison person to coordinate and respond to questions and concerns
- conducting regular liaison meetings to address operational issues
- developing protocols for improved cooperation and coordination
- involving community visitors in training and information sessions, including induction sessions for new staff.

Person can request to see community visitor

A person receiving mental health services at prescribed premises, or someone on their behalf such as a family member or carer, may request the person in charge of the prescribed premises to arrange for the person to be visited by a community visitor. Within two business days after receiving a request, the person in charge of the prescribed premises must notify the Office of the Public Advocate Advice Service on **1300 309 337** that a visit from a community visitor is required.

Management of each prescribed premises must establish accessible and 'easy to use' procedures for a person or someone on their behalf to request a visit. These should take into account that some people may need assistance to seek the support of a community visitor. This would include people who have sensory impairments, are from culturally and linguistically diverse communities, or are under 18 years of age. The procedures should clearly identify the staff members who will be responsible for performing functions on behalf of the person in charge of the prescribed premises, including notifying the Office of the Public Advocate Advice Service.

More information

Mental Health Act 2014 handbook www.health.vic.gov.au/mentalhealth/mhact2014

Victorian legislation and parliamentary documents www.legislation.vic.gov.au

Office of the Public Advocate <http://www.publicadvocate.vic.gov.au/>



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Secretary

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The information contained in this publication is intended to be a practical guide to assist in compliance with the *Mental Health Act 2014*.

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