



ACT
Government
Health

Mental Health, Justice Health and Alcohol & Drug Services (MHJHADS)

Emergency Apprehension and Detention



Emergency Apprehension

A police officer or authorised ambulance paramedic may apprehend a person and take them to a mental health facility if they believe that they have a mental disorder or mental illness and are likely to attempt suicide, or to seriously harm themselves or another person.

A doctor or mental health officer may apprehend a person and take them to an approved mental health facility if:

- the person has a mental disorder or mental illness; and
 - the person requires immediate treatment, care or support; or
 - the person’s condition will deteriorate within three days to the extent that they would need immediate treatment, care or support; and
- the person has refused treatment, care or support;
- detention is necessary for the person’s wellbeing or for the protection of someone else or the public; and
- adequate treatment, care or support cannot be provided in a way that involves less restriction of the person’s freedom of choice and movement.

Transfer to the mental health facility

If it is not possible to persuade the person to go to the facility, only the police are empowered to physically make the person go. After the person is taken to the facility, the doctor, mental health officer, police officer or ambulance paramedic (i.e. whoever took the person to the facility) must write a detailed statement which includes the person’s name and address, the process that they used to take person to the facility, and anything that happened to the person during the process that might have affected their physical or mental health.

A doctor or mental health officer is also able to detain a person who has attended a mental health facility voluntarily, provided that the person meets the criteria for apprehension (as described above).

What will happen at the facility?

When a person is taken to an approved mental health facility under emergency detention, they should be assessed by a doctor within four hours. If the assessment has not occurred within four hours, the person may be detained for a further two hours if the person in charge of the facility believes that the person's health or safety would be at risk, or the person is likely to do significant harm to another person or to public safety if released.

If the person continues to be detained, the Chief Psychiatrist (or their delegate) must assess the person as soon as possible, and within two hours.

If the person is not assessed within this time period, they must be released. Exceptions to this include the following:

- if the person has been detained under the section 309 of the Crimes Act 1900 they must be released into the custody of the police;
- if a court order states that a person is to be detained at a correctional centre, the person must be released into the custody of the Corrections Director-General.

The Public Advocate must be advised if the person is not assessed within six hours.

Authorisation of Involuntary Detention

A doctor may authorise involuntary detention at a mental health facility for a period of no more than three days if, after conducting an initial examination, the doctor believes that:

- the person requires immediate treatment, care or support; and

- the person has refused treatment, care or support; and
- detention is necessary for the person's wellbeing or for the protection of someone else or the public; and
- adequate treatment, care or support cannot be provided in a less restrictive environment.

In addition, another doctor should also examine the person and agree with the above points.

During the three day period of detention the Chief Psychiatrist (or their delegate) may apply to the ACAT for an extension of the period of detention for a maximum of a further 11 days, if the person continues to meet the criteria for having a mental disorder or mental illness.

A person can apply to the ACT Civil and Administrative Tribunal (ACAT) for a review of involuntary detention, in which case, the ACAT must conduct a review within two working days. A hearing does not have to be conducted for the ACAT to make a decision.

What happens during detention?

If a person is involuntarily detained, they must receive a thorough physical examination by a doctor and a thorough psychiatric examination by a Psychiatrist or Registrar within 24 hours of being detained (this must be done by a different doctor to the one who conducted the first examination). The person will also be provided with treatment, care or support necessary to treat their condition.

During a person's detention in the mental health facility, a person may be given treatment, care or support, and in very rare circumstances a person may be 'secluded or even 'restrained'. However, any of these interventions must occur only when necessary and must be one in the least restrictive way that is necessary and reasonable to prevent the person from causing harm to themselves or someone else.

For other more substantial treatment (beyond what is the minimum necessary) then a psychiatric treatment order or a community care order is required.

There are strict requirements around the use of both seclusion and restraint which seek to both minimise their use and also ensure if used, they are done so appropriately.

Who will be notified of the detention?

- The ACAT;
- those who have parental responsibility, if the person is a child;
- the Guardian;
- the Attorney;
- the Nominated Person; and
- the Health Attorney.

Review of emergency (involuntary) detention

A person can make an application to the ACAT to review their detention which may or may not involve a hearing. If the ACAT overturns the decision, then they will order the person to be released from the facility.

Release from detention

A doctor, the Chief Psychiatrist (or their delegate) or the ACAT must order that a person be released from the place where they are being detained if the justification for being detained no longer exists. It must be ensured that a person is released if an order is made to do so or once the period of time for their detention has ended.

Feedback

Mental Health, Justice Health and Alcohol and Drug Services encourage and support consumer and carer participation and feedback. If you wish to provide comments your first point of contact should be the team leader of the Mental Health Team you are working with. This will allow you to confidentially discuss the matter, and in the case of a complaint seek a resolution at this point. If your complaint is not resolved to your satisfaction at this point, the Team Leader will provide you with the Consumer Listening and Learning Feedback Form. The form should then be sent to the Consumer Engagement and Feedback Team.

If assistance is required to complete the form and ensuring the relevant information is provided, please contact the Consumer Engagement Feedback Team.



Phone 6244 2740



Fax 6244 4619



Hours 8.30 am to 5.00 pm Monday to Friday



Mail Consumer Engagement Feedback Team, GPO Box 825 Canberra ACT 2601



Email HealthFeedback@act.gov.au

Translation Services: MHJHADS is committed to providing services that are culturally sensitive and which are easily accessible by consumers from diverse cultural and linguistic backgrounds. Access to interpreter facilities is available throughout the service with 24 hours notice. If an interpreter is required, or you have specific cultural care requirements, please contact your regional team.

Mental Health Justice Health Alcohol and Drug Services (MHJHADS) is a smoke free environment in line with the ACT Health's Smoke Free Workplace Policy.

For more information on the smoke-free environment initiative go to:

<http://www.health.act.gov.au/health-services/mental-health-act/smoke-free-environment>

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If you are Deaf, or have a speech or hearing impairment and need the teletypewriter service, please phone 13 36 77 and ask for 13 22 81.

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