Australian Capital Territory

Mental Health (Secure Facilities) Use of Force Secure Mental Health Facility Direction 2016

Notifiable instrument NI2016–623

made under the

Mental Health (Secure Facilities) Act 2016, s 9 (Directions—secure mental health facilities) and s 60 (Managing use of force)

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1 Name of instrument

This instrument is the *Mental Health (Secure Facilities) Use of Force Secure Mental Health Facility Direction 2016*.

2 Commencement

This instrument commences on the day after notification.

3 Direction

I make the attached Canberra Hospital and Health Services Clinical Policy in relation to use of force at Dhulwa Mental Health Unit as a SMHF direction.

Nicole Feely
Director General
ACT Health
8 November 2016

Canberra Hospital and Health Services Clinical Policy

Dhulwa Mental Health Unit (DMHU) - Use of Force by Authorised Health Practitioners, Security Officers, Court Security Officers and Escort Officers

Contents

Policy Statement

The Dhulwa Mental Health Unit (DMHU) aims to support the treatment, care and recovery of consumers with moderate to severe mental illness who are or are likely to become involved with the criminal justice system (forensic) and those civilian consumers who cannot be treated in a less restrictive environment. It will fundamentally be a therapeutic setting, underpinned by contemporary, evidence-based multidisciplinary mental health care to ensure the highest quality of person-focused care which enables recovery of the consumer's mental illness which played a functional role in the offending or difficult behaviour.

To ensure a safe and secure environment for all consumers, staff and visitors it may be necessary, at times, for Authorised Health Practitioners, Security Officers or Escort Officers to exercise the use of force.

Force will only be used as a last resort and proportionate to the given situation; after all less restrictive options have been exhausted. Only the minimum amount of force required to ensure the safety of all will be used.

For those consumers and visitors who are subject to a use of force, limitations on their human rights are permissible only to the extent to which they were necessary to protect the safety and security of the DMHU.

All episodes of physical restraint in DMHU must be:

- documented in the appropriate registers;
- reviewed in the DMHU Clinical Governance meeting (including outcomes and learnings from reviewed Riskman reports).

Purpose

The purpose of this Policy is to ensure that the use of force is exercised proportionately in accordance with ACT Legislation and wider duty of care principles. The use of force is only used:

- as a measure of last resort;
- to protect the safety and security or good order of the DMHU;
- when the force used is in line with legislative requirements; and
- when any consequent breach of human rights is reasonable and proportionate to the risks being addressed, and is for the minimum extent and time necessary.

This policy provides DMHU Authorised Health Practitioners, Security Officers, Court Security Officers and Escort Officers direction on the circumstances and by whom force may be used, the kinds of force that may be used, and their obligations in relation to reporting, documenting and reviewing any use of force applied to a consumer, visitor or member of the public.

Scope

This Policy pertains to all Authorised Health Practitioners, Security Officers, Court Security Officers and Escort Officers who are engaged to carry out duties at the DMHU or whilst conducting escort duties to and/or from the DMHU in accordance with the *Mental Health (Secure Facilities) Act 2016,* the *Mental Health Act 2015,* the *Security Industry Act 2003,* and the *Court Procedures Act 2004.*

Section 60 of The *Mental Health (Secure Facilities) Act 2016* requires the Director-General to make a Direction outlining the use of force within a secure mental health facility and the circumstances and by whom force may be used. This Policy has been notified as the Director-General's Direction on the use of force under s. 60.

This Policy should be read in conjunction with the DMHU Use of Force Procedure, the DMHU Search Policy, and the DMHU Search Procedure.

The *Mental Health Act 2015* and the *Mental Health (Secure Facilities) Act 2016* authorises the use of force in certain circumstances by different categories of people:

- **Authorised Health Practitioners**, who are AHPRA-registered health practitioners employed to work at DMHU*;*
- **Security Officer**, who are persons who hold a license under the *Security Industry Act 2013* who have been appointed as Security Officers at DMHU;
- **Court Security Officer,** who are Security Officers, appointed under the *Court Procedures Act 2004,* performing security duties in relation to an ACAT Hearing at the DMHU*;*
- **Escort Officers,** who are appointed by the Director-General under *s.* 144F of the *Mental Health Act 2015* to escort a consumer to or from DHMU to another health facility. The types of people who may be appointed as Escort Officers include, but are not limited to Authorised Health Practitioners and Security Officers.

Roles and Responsibilities

All staff must comply with this policy and related policies and legislation to ensure their professional and legal obligations are met, and that they provide evidence based quality care.

Managers must ensure staff have access to, and are able to interpret and apply this policy and related legislation. Managers must provide staff with education related to the use of force.

Section 1 - Security Principles

Safety is the responsibility of all staff. A safe environment provides a framework in which the treatment and management of acute agitation and behavioural disturbance can be undertaken in the least restrictive environment, with person centred care at the fore and offered in the safest and most respectful manner possible.

A consistent approach from staff is required to maintain a safe environment, to establish safe work systems and safe work practices, and build team confidence in each other's support in the event that a problem occurs.

The DMHU Security Procedural Framework (SPF) has been developed to provide a framework for the security procedures and personnel in the DMHU. The three principles of security central to the framework are:

- **Physical**–security systems, such as Closed Circuit Television (CCTV), swipe cards, biometric identification, electronic door alarms etc;
- **Procedural**–security, which refers to integrated security procedures, which complement clinical requirements; and
- **Relational**–security, which refers to the positive, constructive and therapeutic relationships between all staff in DMHU, clinical and security, and the people who are admitted to DMHU.

Physical Safety

Physical security in the health care environment refers to the management of an environment that keeps people safe by the use of duress alarms, fences, locks, bedroom access, egress and electric swipe cards, uniformed security and CCTV systems.

Environmental factors are important determinants in managing aggressive and violent behaviour. The aim is to promote a therapeutic environment which allows the consumer to enjoy safety and security, privacy, dignity, choice and independence, without compromising the clinical objectives of their care. Comfort, noise control, light, colour and access to space will all have an impact on a consumer's care and, if not managed, can contribute to frustration and heightened levels of agitation by the consumer.

Factors which contribute to the environmental safety of consumers, staff and visitors can include, but are not limited to:

- supporting safe clinical practices and taking responsibility for personal safety and the safety of others;
- the monitoring of restricted and prohibited items;
- maintaining visual observations of consumers, visitors and the environment;
- conducting environmental checks and risk assessments;
- being cognisant of consumers, staff and visitor whereabouts;
- ensuring staff are trained in the use of all relevant equipment and procedures that support safety systems;

- staff acting immediately to respond to any identified risks or escalate concerns; and
- understanding and being confident in initiating and responding to emergency procedures.

Staff must conduct regular environmental checks, including regular searches, to identify hazards, assess risk and implement controls (see *Dhulwa Mental Health Unit Search Procedure*).

Procedural Security

Procedural security relates to all of the policies and procedures and work practices which have been developed to maintain safety and security in DMHU.

Staff working in DMHU are required to:

- understand and comply with ACT Health Policy, Operational Procedures and Clinical Guidelines relating to Aggression and Violence located on the Canberra Hospital Health Services (CHHS) Policy Register;
- undertake ACT Health, MHJHADS and DMHU mandatory training as outlined in the Essential Education Policy;
- wear personal duress alarms in accordance with DMHU Duress Procedure;
- understand code and de-escalation options and apply interventions when confronted with violence or aggression;
- apply safe work practices that involve proactive assessment, mitigation and, management of risk and the completion of associated documentation as a record of clinical intervention;
- supervise the clinical environment at all times;
- promptly report all incidents of violence and aggression using Riskman; and
- participate in clinical review of incidents to support a culture of learning and quality improvement.

Relational Security

Relational security is about the formation of safe and effective therapeutic relationships between staff and consumers which are purposeful and support ongoing assessment and risk management. Relational security is described as the understanding and knowledge that staff have of a consumer and their environment and how this information translates in order to guide and support appropriate responses and treatment. Relational security is interactive and requires a sound therapeutic use of self and a repertoire of interpersonal skills. Relational security is also concerned with staff to consumer ratios.

Four key areas that help staff maintain relational security are:[1]

1. The whole care TEAM–e.g. establishing boundaries and therapeutic relationships;
2. OTHER people–on the unit e.g. people mix and dynamics;
3. INSIDE WORLD–the milieu experienced by the person e.g. physical environment and personal world; and
4. OUTSIDE WORLD–the connections the person has to the outside world e.g. visitors and outward connections.

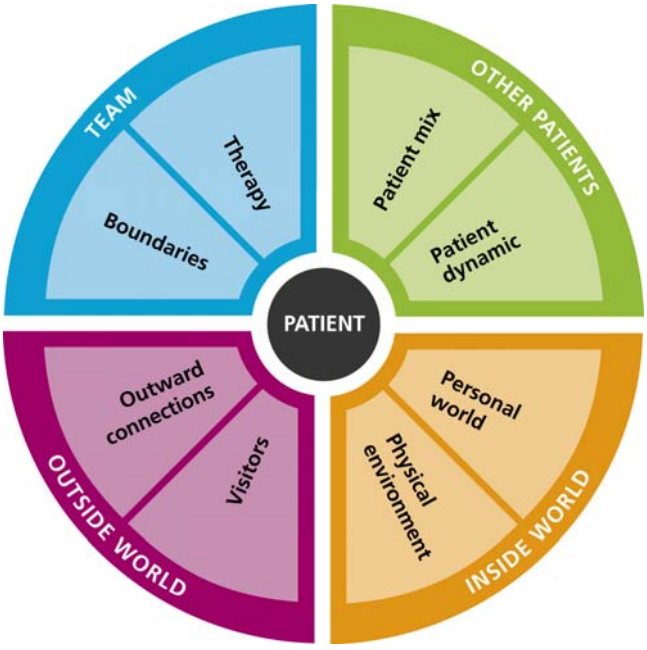


Figure 1 – *See, Think, Act (Royal College of Psychiatrists, 2015)*[1]

Section 2 - Predicting Risk

Predicting risk and the possibility of an in incident occurring is not always possible. It is possible however, to identify some of the many factors which can lead to an episode of aggression or violence.

Comprehensive assessment from a bio-psycho-social perspective is vital in the identification and care planning for all people in order to increase awareness of potential for aggression and violence.

When the risk of aggression and violence is assessed there are two main types of risk which can be considered–static risk and dynamic risk.

Static Risks

Static Risks are those factors that are relatively stable or do not change over time. These include factors such as age, gender and previous history. Static risks make up a consumer's long term risk of aggression and can provide clinicians with an indication of a consumer's capacity for tolerating dynamic risk factors. Essentially a consumer who has a high level of static risk factors present will be able to tolerate less dynamic risk factors, than a consumer who has low static risk.[2] Static risk factors are captured by the facilitation of a comprehensive bio-psycho-social assessment and should be clearly documented in the consumer's clinical record at the time of assessment.

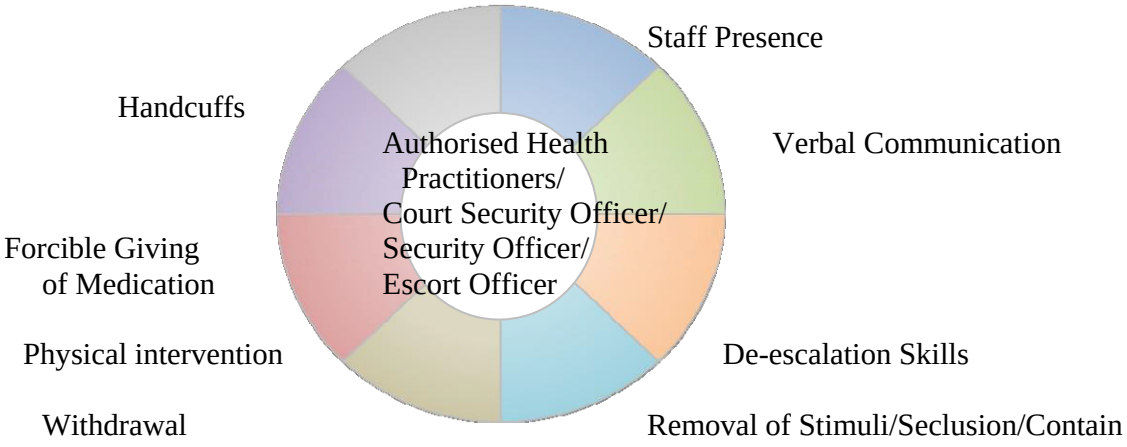
Dynamic Risk

Dynamic risk factors are those that fluctuate and when present cause a consumer to move away from their base-line behaviours toward increased risk. Application of interventions can reduce the nature of the dynamic risk factors, reducing a consumer's risk of aggressive behaviours.

Section 3 - Security Use of Force Model

ACT Health has adopted the *Situational Use of Force Model* as a guide to assist all DMHU Authorised Health Practitioners, Security Officers, Health Security Officers and Escort Officers when dealing with an aggressive, violent and resistive person(s).

The *Situational Use of Force Model* visually represents the responses which may be available to Authorised Health Practitioners, Security Officers, Court Security Officers or Escort Officers. These range from de-escalation strategies such as verbal communication and staff presence through to physical interventions involving the use of force, such as physical restraint, the use of handcuffs, or seclusion.



ACT Health Situational Use of Force Model

De-escalation strategies feature heavily in the *Situational Use of Force Model* and aim to reduce the tension in the situation, removing the need for more restrictive interventions or the use of force.

Key de-escalation strategies include:

- communication and response strategies;
- diversionary techniques;
- negotiation;

- reassurance;
- specific psychological strategies;
- an urgent MDT review.

See *Identification, Mitigation and Management of Aggression and Violence for Mental Health Justice Health Alcohol and Drug Services Inpatient Units Clinical Guideline* and the *DMHU Clinical Risk Assessment and Management Procedure* for further information.

Section 4 – Circumstances in which force can be used

In circumstances where the use of force cannot be avoided, the least restrictive option, necessary to gain control of the situation must be used. The person using force must believe on reasonable grounds, that the level of force used to be necessary, proportionate and justifiable to the level of resistance encountered, i.e. too little force would be ineffective; too much force would be excessive.

A range of interventions involving the use of force may be available to Authorised Health Practitioners, Security Officers, Court Security Officers or Escort Officers. These are set out in the Table one:

Table One: Use of force interventions available to Authorised Health Practitioners, Security Officers, Court Security Officers or Escort Officers

Who can Use force? / Circumstances	Authorised Health Practitioner	Security Officer	Court Security Officer	Escort Officer
Search of consumer	• Personal search • Pat-down search	• Assistance to authorised health practitioner conducting search	N/A	N/A
Clinical risk or necessity (where force is used incidental to treatment, care or support to a consumer)	• Physical restraint (other than handcuffs) • Forcible giving of medication • Seclusion	• Assistance to authorised health practitioner	N/A	N/A
Imminent danger to the safety, security	• Physical restraint (other than	• Assistance to authorised health	• Physical restraint (including	• Physical restraint (including

or good order of the person or the facility (eg risk of, or actual, assault)	handcuffs) • Forcible giving of medication • Seclusion	practitioner, including use of handcuffs	use of handcuffs)	use of handcuffs)
Escape	N/A	• Physical restraint (including use of handcuffs)	• Physical restraint (including use of handcuffs)	• Physical restraint (including use of handcuffs)
Transport	N/A	N/A	N/A	• Physical restraint (including use of handcuffs)

Searches of a consumer may involve the necessary and reasonable use of force. Force may be an unavoidable part of the search process (especially for personal searches if the person is not compliant) but must still be proportionate, justifiable and in the least intrusive and invasive, and most dignified method. Force can also be used as part of a search to prevent the loss, destruction or contamination of anything seized, or that may be seized, during the search (see DMHU Search Procedure for more information).

Physical restraint of a consumer in DMHU may only occur with application of the minimum restraint that is necessary and reasonable. Physical restraint can only be used as a last resort, when all other reasonable efforts at meeting the consumer's clinical need without restraint have been unsuccessful. The restraint intervention must be proportionate to the risks being averted and be the least intrusive and invasive, and most dignified method available.

Forcible Giving of Medication is medication given to a person against their will by an appropriately qualified clinician. This can only be done if all other reasonable efforts have been unsuccessful and medication is considered immediately necessary by the treating team for a consumer's health and safety or the safety of others (see *Identification, Mitigation and Management of Aggression and Violence for Mental Health Justice Health and Drug Services Clinical Guideline* for more information). Security Officers may provide assistance to an Authorised Health Practitioner on request which may involve the incidental but reasonable use of force.

Seclusion is only to be used as a planned intervention when all standard methods for keeping a consumer and/or others safe have failed, or as an emergency measure in extreme circumstances to ensure the immediate safety of a consumer and/or others (see Seclusion of

Persons with Mental illness or Mental Disorder Detained under the *Mental Health Act 2015* for more information about the use of seclusion).

Handcuffs may be used to assist in managing risks associated with escorting consumers, predominantly outside DMHU. The use of handcuffs is intended to ensure the safety and security of consumers being escorted externally from DMHU, and to protect Escort Officers and members of the public (see DMHU Leave Procedure*)*. Only Security Officers, Court Security Officers and Escort Officers who have been trained and assessed as competent in their use may use them in justified circumstances (see the DMHU Use of Force Procedure for more information on the use and application of handcuffs).

Authorised Health Practitioner, Security Officer, Court Security Officers, or Escort Officer training pertaining to the use of force will be in accordance with the *Situational Use of Force Model* and the training doctrine adopted by ACT Health. In the DMHU this training is— *Violence Prevention and Management (VPM)*.

General powers of arrest during or after a commission of a criminal offence In addition, s. *218 (Power of arrest without warrant by other persons)* and *s. 221 (Use of force in making arrest)* of the *Crimes Act 1900*, outlines further allows any person (including an Authorised Health Practitioner, Security Officer, Court Security Officer or Escort Officer) to use force if they believe on reasonable grounds that the other person is committing or has just committed an offence. However, the Authorised Health Practitioner, Security Officer, Court Security Officer or Escort Officer arresting the other person must not use more force, or subject the other person to greater indignity, than is necessary and reasonable to make the arrest or to prevent the escape of the other person after the arrest.

Section 5 – Examination of a Consumer Following the Use of Force

If a consumer is subject to the use of force, they must be examined by a Doctor as soon as practicable following the use of force and any appropriate health care given (s. 63 *Mental Health (Secure Facilities) Act 2016)*.

Section 6 - Documentation Requirements for of Use of Force

A record must be kept of any incident involving the use of force (s. 64 *Mental Health (Secure Facilities) Act 2016)*. This record must be available for inspection by any Commissioner exercising functions under the *Human Rights Commission Act 2005.*

The record must include:

- the name of the consumer involved in the incident;
- the name of each person during the incident;
- the date force was used on the consumer;
- the reason for the use of force;

- the force used;
- the injury caused; if any;
- if someone died as a result of the use of force, the date and circumstances of the death;
- anything else the Director-General considers relevant; and
- anything else prescribed by regulation.

The following registers, as relevant, will be used to document the use of force used in clinical settings:

- *DHMU Seclusion Register;*
- *DMHU Involuntary Restraint and Forcible Giving of Medication Register;*
- *Riskman Security Activity Register;* and
- *Security Officer Physical or Mechanical Restraint Register.*

Any incidence of the use of force used by Security Officers, Court Security Officers or Escort Officers must document the incident in their Security Officer's notebook.

Documentation of searches will also be entered on each occasion into the consumers' clinical record, including the reasons for the use of force and the outcomes of the use of force.

Related Policies, Procedures, Guidelines and Legislation

Policies

- ACT Health Protective Security Policy
- Restraint of a Person-Adults Only Policy
- ACT Health Policy Use of Force by Security Officers
- DMHU Security Procedural Framework (SPF)
- DMHU Search Policy

Procedures

- Unauthorised Leave of Admitted People from MHJHADS Inpatient Units Clinical Procedure
- Seclusion of Persons with Mental illness or Mental Disorder Detained under the *Mental Health Act 2015* Clinical Procedure
- DMHU Use of Force Procedure
- DMHU Search Procedure

Guidelines

- ACT Health Guidelines: Use of Force by Security Officers
- ACT Health Protective Security Guidelines
- Identification, Mitigation and Management of Aggression and Violence for Mental Health Justice Health and Drug Services Clinical Guideline

Legislation

- *Security Industry Act 2003*
- *Court Procedures Act 2004*
- *Crimes Act 1900*
- *Mental Health Act 2015*
- *Mental Health (Secure Facilities) Act 2016*
- *Human Rights Act 2004*
- *Human Rights Commission Act 2005*

Definition of Terms

ACT Health Security Staff: is an employee of ACT Health who perform a security function within Health and posses a security license as defined in the *Security Industry Act 2003.*

Authorised Health Practitioner: is an AHPRA registered health practitioner providing care or treatment for consumers who is authorised by the Director-General under the *Mental Health (Secure Facilities) Act 2016*.

Court Security Officer: is a Security Officer, appointed under the *Court Procedures Act 2004,* performing security duties in relation to an ACAT Hearing within DMHU.

Escort Officer: is

- an authorised health practitioner under the *Mental Health (Secure Facilities) Act 2016*; or
- an authorised person under the *Mental Health (Secure Facilities) Act 2016*; or
- a police officer; or
- a corrections officer if the Corrections Director-General has agreed to the officer having the function of escorting the person under this chapter; or
- a youth detention officer if the Children and Young People Director-General has agreed to the officer having the function of escorting the person under s. 144F(3)(e) of the *Mental Health Act 2015*.

Forcible Giving of Medication: is medication given to a person against their will when under restraint. This is considered immediately necessary by the treating team for a person's health and safety and/or the safety of others.

Restraint: is the interference with, or restriction of, an individual's freedom of movement. Restraint is defined as any device, material or equipment attached to or near a person's body and which cannot be controlled or easily removed by the person and which deliberately prevents or is deliberately intended to present a person's free body movement to a position of choice and/or a person's normal access to their body. Restraint by threat is the direct or implied threat to use restraint against a person.

Seclusion: is involuntary placing of a patient alone in a locked room from which free exit is prevented.

Security Officer: is an Authorised Officer appointed by the Director-General under s. 69 *Mental Health (Secure Facilities) Act 2016.*

Treating Team: includes the Medical Officer, Consultant Psychiatrist, Senior Nurse, nursing staff, Emergency Medicine Specialist, interdisciplinary team and other relevant healthcare providers

References

1. Royal College of Psychiatrists (2015). *Your Guide to Relational Security: See, Think, Act* (2nd ed). United Kingdom: London.

2. NSW Health (2010). *Clinical Risk Assessment & Management.* NSW Government: Sydney.

Search Terms

Use of force; escape, abscond, handcuffs, forcible giving of medication, restraint

Date Amended	Section Amended	Approved By
Eg: 17 August 2014	*Section 1*	*ED/CHHSPC Chair*