

Mental Health (Secure Facilities) Strip Searches Secure Mental Health Facility Direction 2016

Notifiable instrument NI2016–624

made under the

Mental Health (Secure Facilities) Act 2016, s 9 (Directions—secure mental health facilities) and s 44 (Strip searches—when may be conducted)

1 Name of instrument

This instrument is the *Mental Health (Secure Facilities) Strip Searches 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 Operational Policy in relation to searching at Dhulwa Mental Health Unit as a SMHF direction.

Nicole Feely
Director General
ACT Health
8 November 2016

Canberra Hospital and Health Services Operational Policy Dhulwa Mental Health Unit (DMHU) – Searching

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Policy Statement

Authority to conduct searches in accordance with this Policy is made under the provisions s. 39-59 (consumers) and s. 36-38 (visitors) of the *Mental Health (Secure Facilities) Act 2016*.

On admission to Dhulwa Mental Health Unit (DMHU), consumers must be informed of all search procedures and the rationale for conducting searches in DMHU. In regards to visitors to the Unit, the search process upon entry will be explained when visits are planned, as well as on entry to the reception area. Processes regarding staff searches will be explained on appointment, during induction and when a search is required.

Searches are conducted regularly in a planned, methodical, systematic manner in order to maintain the safety of DMHU. Staff should ensure that searches are conducted with minimal disruption to the consumer, the Unit routine and general operation of the DMHU. Searches conducted will facilitate the detection of prohibited and restricted items, damaged property, and any item which may compromise the security of the DMHU.

As searches by their nature intrude on the privacy of people, Authorised Health Practitioners and Security Officer's have a responsibility to ensure searches of consumer's are carried out in a manner that is consistent with the principles of care, treatment and support set out in the *Mental Health (Secure Facilities) Act 2016*. That is, any interference with the consumer's rights, dignity, and privacy is kept to the minimum necessary in the circumstances. The therapeutic security of consumers within the DMHU remains paramount. When conducting searches, religious and cultural beliefs should be respected. This policy is supported by the DMHU Search Procedure and other associated procedures.

Searches are never to be used as a punitive act. Advance warning of a search should not be provided to consumers, but on each occasion an explanation must be given before the search commences, and consent must be sought for the search to proceed.

Purpose

The purpose of this policy is to ensure that Authorised Health Practitioners (see Definition section below) and Security Officers working within DMHU meet their professional and legal obligations when conducting searches of:

- consumers;
- visitors;
- staff;
- personal property;
- mail; and
- DMHU premises, including consumer's rooms.

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Scope

This policy pertains to all Authorised Health Practitioners and Security Officers authorised to conduct searches of consumers, visitors and staff at DMHU.

In accordance with the requirements of s. 60 of The *Mental Health (Secure Facilities) Act 2016*, the Director-General is required to make a Direction outlining the use of strip search within a secure mental health facility. This policy has been notified as the Director-General's Direction on the conduct of searches at DMHU under s. 60(2) of The *Mental Health (Secure Facilities) Act 2016*.

Note:

- Division 4.3 of The *Mental Health (Secure Facilities) Act 2016* refers to a 'strip search'. For the purpose of this policy and all associated procedures, such a search will be referred to as a 'personal search'.
- Section 39 of The *Mental Health (Secure Facilities) Act 2016* refers to a 'frisk search', which is referred to as a 'pat down' search for the purpose of this policy and all associated procedures.

Compliance with this policy is mandatory.

Roles & Responsibilities

The *Mental Health (Secure Facilities) Act 2016* provides authority for various categories of people to exercise search functions within DMHU and the surrounding perimeter.

Authorised Health Practitioner

The Director-General may direct an Authorised Health Practitioner to conduct:

- a personal search of a consumer where there are reasonable grounds for believing that the consumer is concealing a seizable item on their person and a less intrusive search will not detect the item (s. 44(2) of The *Mental Health (Secure Facilities) Act 2016*);
- a pat down, scanning or ordinary search of a consumer where there are reasonable grounds for believing that:
 - it is prudent to conduct the search to protect the safety of anyone at the secure mental health facility or the security or good order of the secure mental health facility (s. 40(1) of The *Mental Health (Secure Facilities) Act 2016*).
 - the consumer is carrying a prohibited thing or anything else that creates, or is likely to create, a risk to the safety of anyone at the secure mental health facility or the security or good order of the secure mental health facility (s. 40(2) of The *Mental Health (Secure Facilities) Act 2016*);
- a search of any part of a secure mental health facility, including the personal property or bedroom of a consumer where there are reasonable grounds for believing that it is

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necessary to conduct the search to protect the safety of anyone at the Unit or the security or good order of the Unit(s. 50(1) of *The Mental Health (Secure Facilities) Act 2016*); and

- a search of a consumer's mail, where there are reasonable grounds for believing that the contents of the consumer's mail includes a prohibited thing or a thing that may affect the security or good order of the Unit, or the safety of the consumer or anyone else in the Unit (s. 25 of *The Mental Health (Secure Facilities) Act 2016*).

Necessary and reasonable force may be used to carry out a search to prevent the loss, destruction or contamination of anything seized, or that may be seized, during the search (s. 52 *Mental Health (Secure Facilities) Act 2016*). The Director-General may only authorise the use of force in accordance with *Division 4.8* of the *Mental Health (Secure Facilities) Act 2016*.

Security Officers

The Director-General may appoint a person who holds a license under the *Security Industry Act 2013* as an Authorised Person (s. 69 *Mental Health (Secure Facilities) Act 2016*).

The Director-General may direct a Security Officer to:

- assist in the search of a consumer, under clinical direction;
- a scanning search, pat down search or ordinary search of a visitor in a secure mental health, with the visitor's consent:
 - if it is deemed necessary to conduct the search to protect the safety of anyone at the Unit or the security or good order of the Unit (s. 40(1) *Mental Health (Secure Facilities) Act 2016*);
 - if the Security Officer suspects on reasonable grounds that the visitor is carrying a prohibited thing or anything else that creates, or is likely to create, a risk to the safety of anyone at the Unit or the security or good order of the Unit (s. 40(2) *Mental Health (Secure Facilities) Act 2016*).

All Authorised Health Practitioners and Security Officers working at DMHU, who conduct searches should be aware of the:

- principles of searching;
- considerations regarding privacy, dignity and the respect of religious and cultural beliefs; and
- legislative requirements pertaining to search procedures.

Section 1 - Search of Consumers

1.1 Consent

Authorised Health Practitioners will always endeavour to gain a consumer's consent prior to conducting an ordinary, scanning, pat down search or personal search.

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On induction to the Unit, the consumer's allocated nurse will explain all procedures involved in a search will give the consumer a Consumer Orientation Brochure.

The consumer will be asked to sign a form showing that search procedures have been explained to them and that they have had the opportunity to ask questions about searches. Confirmation of the provision of verbal and written advice is to be documented in the consumer's clinical record. If the consumer refuses to sign, staff are required to document the consumer's refusal, including the reasons given, in the consumer's clinical record.

Where the consumer appears to have difficulty in understanding the search process, or its rationale, due to impaired hearing, communication difficulties or altered mental capacity then staff involved must make every reasonable effort to explain the process of the search and to obtain their consent, where possible. This may involve the use of interpreters or advocates.

On an ongoing basis, before commencing a scanning search, pat down search or ordinary search, the reason for the search must be explained and every effort should be made to obtain the consumer's verbal consent and cooperation. Consent may be withdrawn at any stage; the consumer should be informed of this at the outset.

1.2 Refusal of Consent

Where consent to a scanning, pat down or an ordinary search is refused, or withdrawn by a consumer, the Nurse in Charge (NIC) can authorise the search to proceed. For the search to proceed without the consumer's consent, there must be a reasonable concern that an unacceptable risk to the consumer or others exists.

In making any decision to proceed, the NIC should consult with the consumer's allocated nurse and consider the safety of the individual and the safety, security and good order of the Unit as a whole. The decision must be justified by the immediate risk (to either the consumer or others) where the consumer to remain in possession of the item in question and documented in the consumers clinical record. See DMHU Search Procedure for further details.

1.3 Types of Search

1.3.1 Ordinary Search

The Director-General's delegate may direct an Authorised Health Practitioner to conduct an ordinary search of a consumer if there are reasonable concern that the consumer is in possession of a prohibited or restricted item that could pose a threat to the safety and security of the DMHU.

An Ordinary Search is defined as a search of a person, or of articles in the person's possession that may include:

- requiring the person to remove an overcoat, coat or jacket and any gloves, shoes or hat; and

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- an examination of those items (s. 39 *Mental Health (Secure Facilities) Act 2016*).

The Authorised Health Practitioner conducting the search should be of the same sex of the consumer to be searched or, if this is not practicable, another person of the same sex or a sex nominated by the consumer must be in the room while the search is conducted (s. 41 *Mental Health (Secure Facilities) Act 2016*). An Authorised Health Practitioner may request the assistance of a Security Officer in conducting an ordinary search of a consumer. An Authorised Health Practitioner may be expected to justify why the use of security personnel was necessary.

The Authorised Health Practitioner must conduct the least invasive kind of search practicable, in a way that provides reasonable privacy for the consumer and completes the search as quickly as possible (s. 42 *Mental Health (Secure Facilities) Act 2016*).

1.3.2 Scanning Search

The Director-General's delegate may direct an Authorised Health Practitioner to conduct a scanning search of a consumer if there are reasonable concern that the consumer is in possession of a prohibited or restricted item that could pose a threat to the safety and security of the DMHU.

A scanning search is a search of a person and their personal items by electronic or other means that does not require the person to remove their clothing or to be touched by someone else. This may include scanning by x-ray and/or Walk Through Metal Detector (WTMD) (s. 39 *Mental Health (Secure Facilities) Act 2016*).

The Authorised Health Practitioner conducting the search should be of the same sex of the consumer to be searched or, if this is not practicable, another person of the same sex or a sex nominated by the consumer must be in the room while the search is conducted (s. 41 *Mental Health (Secure Facilities) Act 2016*). An Authorised Health Practitioner may request the assistance of a Security Officer in conducting a scanning search of a consumer. An Authorised Health Practitioner may be expected to justify why the use of security personnel was necessary.

The Authorised Health Practitioner must conduct the least invasive kind of search practicable, in a way that provides reasonable privacy for the consumer and completes the search as quickly as possible (s. 42 *Mental Health (Secure Facilities) Act 2016*).

1.3.3 Pat Down Search

The Director-General's delegate may direct an Authorised Health Practitioner to conduct a pat down search of a consumer if there are reasonable concern that the consumer is in possession of a prohibited or restricted item that could pose a threat to the safety and security of the DMHU.

A pat down search is defined as a search conducted by quickly running the hands over the persons' outer garments and examining anything worn or carried by the person is

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conveniently and voluntarily removed by the person (s. 39 *Mental Health, (Secure Facilities) Act, 2016*).

The Authorised Health Practitioner conducting the search should be of the same sex of the consumer to be searched or, if this is not practicable, another person of the same sex or a sex nominated by the consumer must be in the room while the search is conducted (s. 41 *Mental Health (Secure Facilities) Act 2016*). An Authorised Health Practitioner may request the assistance of a Security Officer in conducting a pat down search of a consumer. An Authorised Health Practitioner may be expected to justify why the use of security personnel was necessary.

The Authorised Health Practitioner must conduct the least invasive kind of search practicable, in a way that provides reasonable privacy for the consumer and completes the search as quickly as possible (s. 42 *Mental Health (Secure Facilities) Act 2016*).

1.4 Suspicion that a consumer has ingested an item which may jeopardise health or wellbeing or conceal an item

If there are reasonable grounds to believe that a consumer has ingested or inserted something in their body that may jeopardise their health or wellbeing or is a prohibited thing that may pose a risk to the security or good order of the Unit, the consumer must be examined by a Doctor to determine whether they have ingested or inserted something in, or concealed a prohibited thing in or on their body. Any treatment considered necessary and appropriate must be administered (s. 48(2) *Mental Health (Secure Facilities) Act 2016*). See DMHU Search Procedure for further details.

1.5 Documentation

An Authorised Health Practitioner conducting the pat down, scanning or ordinary search must record the following in the consumer's clinical record (s. 42 *Mental Health (Secure Facilities) Act 2016*) and the search register (s. 59 *Mental Health (Secure Facilities) Act 2016*):

- date and time of search;
- the reason for the search; and
- the outcome of the search.

Section 2 – Personal Search

2.1 Consent

Authorised Health Practitioners will always endeavour to gain a consumer's consent prior to conducting a personal search.

On an ongoing basis, before commencing a personal search of a consumer, the reason for the search must be explained and every effort should be made to obtain their verbal consent and cooperation. Consent may be withdrawn at any stage; the consumer should be informed of this at the outset.

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2.2 Refusal to consent

Where a personal search is refused by a consumer the decision about whether to proceed should be referred to the Forensic Mental Health Clinical Director, Justice Health Services (JHS) Operational Director, ADON, or Psychiatrist of ACT Health or the Director on call (after hours) for authorisation.

If there are compelling grounds to believe that a consumer has anything in their possession that may pose an immediate risk to their own safety or that of others.

In making the decision to proceed with the search, the Forensic Mental Health Clinical Director, Justice Health Services Operational Director, ADON or Psychiatrist of ACT Health should consider the safety of the consumer and the security of the Unit. The decision must be justified by the immediate risk (to either the consumer or others) were the consumer to remain in possession of the item in question.

Authorised Health Practitioners may use force to carry out a personal search, as prescribed in division 4.8. In circumstances where force is not required, Authorised Health Practitioners are permitted to touch any part of a consumer's body.

2.3 Search

Due to the intrusive nature of the search, a personal search will only be conducted as a last resort, where there is a reasonable belief that a consumer is concealing a seizable item (see definitions) on their person and a less intrusive search has not detect the item (s. 44(2) *Mental Health (Secure Facilities) Act 2016*).

A personal search may be conducted immediately after a scanning search, pat down search or ordinary search of the consumer (s. 44 (3) *Mental Health (Secure Facilities) Act 2016*) and will only ever be undertaken after less intrusive searches have failed to detect an item staff have reasonable grounds to believe has been concealed.

The Forensic Mental Health Clinical Director, Justice Health Services Operational Director, ADON or Psychiatrist of ACT Health, or after hours the Director on call, may direct an Authorised Health Practitioner to conduct a personal search of a consumer.

A personal search can only be conducted by Authorised Health Practitioners of the same gender as the consumer, or a gender nominated by the consumer. The number of Authorised Health Practitioners present during the search must be no more than necessary or reasonable to ensure that the search is carried out as safely and effectively as possible (s. 45 *Mental Health Secure Facilities) Act 2016*).

Personal searches must be conducted in private (s. 46(1) *Mental Health (Secure Facilities) Act 2016*). In practice, personal searches will be conducted within the privacy of the Seclusion Room or, if this is occupied, within the consumer's own bedroom. The room must be searched beforehand to create a 'sterile zone'. Until the consumer is

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escorted to the room he/she should be kept under constant nursing observation on the Unit, in an area away from other consumers.

Those in charge of the search must ensure that no more clothing than is necessary and reasonable to conduct the search is removed. Specifically, both the upper and lower parts of the consumer's body must never be uncovered at the same time (s. 46(2) *Mental Health Secure Facilities Act 2016*).

As far as possible, the search should be done as quickly as possible, in a way as to minimise embarrassment to the consumer. The consumer should be given time to dress in private at the conclusion of the search.

If any clothing is seized from the consumer during the personal search, the consumer must be given appropriate clothing to wear.

2.3 Documentation

All personal searches must be recorded in the Search Register (s. 59 *Mental Health (Secure Facilities) Act 2016*). A copy of the Search Register must be made available to the Public Advocate and Official Visitor (s. 64(3) *Mental Health (Secure Facilities) Act 2016*).

An Authorised Health Practitioner involved in the search must record the following in the consumer's clinical record:

- date and time of search;
- the reason for the search; and
- the outcome of the search, including the nature of any seizable item(s) found (s. 45 *Mental Health (Secure Facilities) Act 2016*).

If a personal search continues without a consumer's consent, clear documentation regarding the decision to proceed without consent and any risk factors that influenced the decision and the outcome of the search must be documented in the consumer's clinical record. Any use of force used in conducting the personal search must be recorded in the *Use of Force Register* (s. 65 *Mental Health (Secure Facilities) Act 2016*).

Any personal search will require a Riskman incident report to be completed.

Section 3 - Premises and Personal Property Search

The Operation Director JHS, the Clinical Director JHS, or after hours the Director on call, may authorise a search of any part of the Unit if they have reasonable grounds to believe that it is prudent to conduct the search to protect the safety of anyone at the Unit or to maintain the security or good order of the Unit (s. 50 *Mental Health (Secure Facilities) Act 2016*).

A search of premises and personal property may include:

- the personal property or bedroom of a consumer;

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- a vehicle used to transport a consumer;
- common areas of DMHU; and
- external area/grounds of DMHU.

Authorised Health Practitioners will have responsibility for searches of consumers' personal property, bedrooms, and clinical areas, including therapy rooms and internal courtyards.

Security Officers generally have responsibility for the searching of non clinical areas, including the grounds, perimeter, tribunal rooms and all persons and items entering the facility. However, the ADON or NIC may request the assistance of Security Officers in searching any part of the Unit. Clinical teams may well be required to justify the decision to involve security staff in searching of clinical areas.

Premises and personal property searches may be either:

- Routine (proactive)—these are planned and may be either random or regular. Routine searches are necessary to deter, prevent and detect any security breach. They are both regular (e.g. every instance—return from unescorted leave) and random, searching of individuals, property or areas.
- Targeted (reactive)—in response where there is reasonable concern that an item has been secreted. Reactive searches will be carried out in response to information received or following an incident where there are reasonable grounds for believing that a consumer has secreted or possesses an item (or items) that are prohibited or restricted or which might otherwise pose a threat to safety, security or the good order of the Unit.

3.1 Consumer personal property and bedroom search

3.1.1 Consent

Authorised Health Practitioners will always endeavour to gain a consumer's consent prior to conducting a personal property and/or bedroom search.

The Director-General's delegate may direct an Authorised Health Practitioner to search a consumer's personal property, including their bedroom.

An Authorised Health Practitioner who searches a consumer's personal property or bedroom must tell the consumer that they believe that the consumer may be concealing a prohibited item and that their personal property and/or bedroom will be searched. The consumer must be offered the opportunity to be present when their personal property and/or bedroom is searched. The consumer's personal property and/or bedroom may be searched with an electronic device, other technology or physical means (s. 52 *Mental Health (Secure Facilities) Act 2016*).

The use of force, in accordance with division 4.8 of the *Mental Health (Secure Facilities) Act 2016* may be used to carry out the search in order to prevent the loss, destruction or

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contamination of anything seized or that may be seized during the search (s. 52 *Mental Health (Secure Facilities) Act 2016*).

An Authorised Health Practitioner may seek the assistance of Security Officers, who will operate under clinical direction, in conducting a search of a consumer's personal property and/or bedroom.

Regular room searches of all consumer bedrooms should be completed by Authorised Health Practitioners in a random pattern spread across the month.

Every consumer must have their room searched at least once per month.

3.2 Documentation of personal property or bedroom searches

A register must be kept regarding all searchers of consumer's personal property or bedrooms (s. 59 *Mental Health (Secure Facilities) Act 2016*). The register must include:

- the name of the consumer/or the area searched;
- the name of each person conducting the search;
- if consent was or was not consent given (if not who authorised the search);
- the date;
- the reason for the search (including the decision to proceed without consent and any risk factors that influenced the decision);
- the kind of search; and
- comments and actions taken regarding: whether a prohibited item or item that may affect the safety and security of the facility and those in it or anything was seized during the search and, if so, any details, or information about the commission of an offence.

This register must be available for inspection by a commissioner exercising functions under the *Human Rights Commission Act 2005* (s. 59(5) *Mental Health (Secure Facilities) Act 2016*).

Details of consumer personal property and bedroom searches will also be entered on each occasion into the consumers' clinical record and the search register, including items removed and actions taken.

A Riskman incident report is also required when consent is refused or a prohibited item or item that may affect the safety, security or good order of the facility and those in it is found.

3.3 Environmental Searches

Authorised Health Practitioners have responsibility for searches of all common areas within DMHU, including therapy rooms, dining rooms, lounge room, socialisation spaces and internal courtyards.

All common areas of DMHU that consumers have access to will be searched weekly as a minimum.

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A record of all types of environmental searches will be kept for each Unit, i.e. Lomandra and Cassia/Mallee. This record will:

- provide evidence of the procedures used and staff involved in the search;
- confirm appropriate measures were taken during the search; and
- allow monitoring and auditing of common area searches to take place.

3.4 External Area/Ground Search

Security Officers are responsible for searches of the external ground areas and perimeter fences. External area and ground searches will be conducted on at least a daily basis. The Justice Health Services Operational Director or Forensic Mental Health Clinical Director, or the Director on call (after hours) may request Security Officers to conduct additional searches at any time if there are reasonable grounds to believe the search is necessary or warranted (see DMHU Perimeter and Facilities Security Procedure for additional information).

Section 4 – Vehicle Search

Vehicles may be required to enter the DMHU for the purposes of deliveries, trades repairs, waste collection, provision of services (such as the dental van) and consumer escorts/transfers.

Security Officers are responsible for searches of all vehicles entering and exiting DMHU as specified in the DMHU Perimeter and Facilities Security Procedure.

Section 5 – Mail Search

The Director-General's Delegate may direct an Authorised Health Practitioner to search a consumer's mail, where there are reasonable grounds for believing that the contents of the consumer's mail includes a prohibited a thing that may affect the safety of the consumer or another person, or the security or good order of the Unit (s. 25 *Mental Health (Secure Facilities) Act 2016*).

5.1 Exemptions

Any mail sent or received between consumes and accredited people (see definition of term) cannot be searched (s. 25(2) *Mental Health (Secure Facilities) Act 2016*).

Consumers will be advised that mail raising concern, excluding mail from an accredited person, **may** be opened, but not read, in the presence of an Authorised Health Practitioner to ensure that the safety and security of the DMHU is maintained. The consumer, or a representative of the consumer, must be offered the option of being present while their mail is being searched.

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If no prohibited items are found after a search of a consumer's mail, the consumer's mail must be delivered to the consumer as soon as practicable. Prohibited items detected will be documented, removed and reported to the ADON.

If a search of a consumer's mail reveals information about the commission of a serious offence, this information, including the mail itself, must be given to the Chief Police Officer (s. 26(3) *Mental Health (Secure Facilities) Act 2016*).

Any search of a consumer's mail must be documented and a copy of the mail kept on the consumer's clinical record. The consumer must be informed of that the mail has been provided to ACT Policing and of any subsequent outcomes, if appropriate.

5.2 Documentation

A register of all mail searched must be maintained (s. 25, *Mental Health (Secure Facilities) Act 2016*). This register must include:

- the name of the consumer whose mail was searched;
- the date of the search;
- whether the mail contained a prohibited thing;
- whether the search revealed information about the commission of a serious offence and, if so, whether the information was given to the Chief Police Officer;
- the date the mail was given to the addressee; and
- anything else prescribed by regulation.

This register must be available for inspection by a commissioner exercising functions under the *Human Rights Commission Act 2005* (s. 27(5) *Mental Health (Secure Facilities) Act 2016*).

In addition, any search of a consumer's mail must be documented in the consumer's health record, including:

- the date of the search;
- the reason for the search; and
- the outcome of the search (s. 25(5) *Mental Health (Secure Facilities) Act 2016*).

Section 6 - Search of Visitors

Security Officers are authorised to conduct a scanning search, pat down search or ordinary search of visitors and any belongings that they wish to bring into the Unit, upon entry to the DMHU or while they are in DMHU, if there are reasonable grounds to conduct the search to protect the safety of anyone in the Unit or the security or good order of the Unit (s. 36 *Mental Health (Secure Facilities) Act 2016*).

A list of prohibited and restricted items will be included in the Consumer Orientation Brochure, displayed in the foyer of DMHU and published in the Visitor Brochure. Visitors will be advised that these items, e.g. mobile phones, cigarettes, etc, should be left in their

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vehicle or stored in the lockers available. Security Officers are not permitted to search lockers or items stored in lockers.

Note: Visitors includes a person working at the Unit, including staff and tradespeople (s. 36(7) of the Act).

6.1 Consent

A scanning search, pat down search or ordinary search of visitors will only ever be done with the active and ongoing consent of the visitor (s. 36(3) *Mental Health Secure Facilities) Act 2016*).

6.2 Refusal or Withdrawal of Consent

A visitor may refuse a scanning search, pat down search or ordinary search, or withdraw consent for the same search at any time during the search (s. 36(4) *Mental Health Secure Facilities) Act 2016*).

If the visitor refuses to allow a Security Officer to conduct a scanning search, pat down search or ordinary search, or withdraws consent during the search, the Security Officer may refuse to allow the visitor to enter the Unit or if the visitor is in the Unit, direct the visit to leave the Unit (s. 36(5) *Mental Health Secure Facilities) Act 2016*).

6.3 Search

A scanning search, pat down search or ordinary search can only be conducted by a Security Officer of the same gender as the visitor or, if this is not practicable, another person of the same sex, or sex nominated by the visitor, must be present while the search is conducted (s. 37(1) *Mental Health Secure Facilities) Act 2016*).

The search must be conducted in a way that provides reasonable privacy to the visitor, as quickly as possible, in the least invasive way.

6.3 Search of a visitor who is a child

If the visitor is a child, the Security Officer may only conduct a scanning search of the child and must not conduct any other search (s. 38(1) *Mental Health Secure Facilities) Act 2016*).

If the Security Officer suspects, on reasonable grounds, that the child may be carrying a prohibited thing or anything else that creates, or is likely to create, a risk to the personal safety of a person or the security or good order of the Unit, the Security Officer may direct the person with parental responsibility for the child that the child cannot enter the Unit or must leave the Unit. The Security Officer must tell the person with parental responsibility for the child the reasons for this direction.

6.4 Documentation

If a Security Officer directs an adult visitor not to enter the Unit or to leave the Unit, a record must be kept of this direction (s. 34(4) *Mental Health Secure Facilities) Act 2016*).

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If a Security Officer directs a visitor who is a child not to enter the Unit or to leave the Unit, the Security Officer must advise the Director-General, in writing, of the direction and the reasons for it (s. 38(2) *Mental Health Secure Facilities) Act 2016*) (see DMHU Visitor Procedure for more detail).

Related Policies, Procedures, Guidelines and Legislation

Policies

- ACT Health Work Health and Safety Policy
- ACT Health Work Health and Safety Management System
- ACT Health Incident Management Policy

Procedures

- ACT Health Incident Management Procedure
- ACT Health Significant Incident Procedure
- ACT Health Language Services – Interpreters Procedure
- CHHS Clinical Handover Procedure
- CHHS Healthcare Associated Infections Procedure
- CHHS Mobile Electrical Equipment including Clinical Equipment
- MHJHADS Director on Call Roles and Responsibilities Procedure
- MHJHADS Clinical Handover Procedure
- MHJHADS Significant Incidents Reporting Procedure
- MHJHADS Assessment and Intervention for People Vulnerable to Suicide Procedure
- MHJHADS Confidentiality, Privacy and Access to MHJHADS Clinical Records
- MHJHADS Daily Clinical Meetings in Community Mental Health Settings Procedure
- MHJHADS Clinical Management for Mental Health Services Procedure
- DMHU Control of Tools, Cutlery, Equipment and Material Procedure
- DMHU Prohibited and Restricted Items and Items requiring approval Procedure
- DMHU Search Procedure
- DMHU Valuables, Property and Access to Mail Procedure
- DMHU Visitor Procedure
- DMHU Perimeter and Facilities Security

Frameworks

- DMHU Security Procedural Framework

Standards

- Australian Charter of Healthcare Rights
- National Standards for Mental Health Services 2010
- National Safety and Quality Health Service Standards 2012

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Legislation

- *Mental Health Act 2015*
- *Mental Health (Secure Facilities) Act 2016*
- *Children and Young People Act 2008*
- *Human Rights Commission Act 2005*
- *Human Rights Act 2004*
- *Health Records (Privacy & Access) Act 1997*
- *Guardianship and Management of Property Act 1991*
- *Crimes Act 1900*
- *Work Health and Safety Act 2011*
- *Corrections Management Act 2007*
- *Official Visitor Act 2012*
- *Territory Records Act 2002*
- *Health Act 1993*
- *Security Industry Act 2003*
- *Court Procedures Act 2004*

Definition of Terms

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*.

Accredited People: in relation to a patient, means each of the following:

- if the patient has a guardian under the *Guardianship and Management of Property Act 1991*—the guardian;
- if the patient has a nominated person—the nominated person;
- if the patient is a child or young person—the CYP director-general;
- a lawyer acting in a professional capacity;
- an official visitor;
- the health services commissioner;
- the human rights commissioner;
- the public advocate;
- a police officer acting in a professional capacity;
- a member of the Commonwealth Parliament;
- a member of the Legislative Assembly;
- a person prescribed by regulation.

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

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Seizable Item: includes anything that:

- is a prohibited thing;
- may be used by a consumer in a way that may involve:
 - intimidate anyone else;
 - an offence;
 - a risk to the personal safety of the consumer or anyone else; or
 - a risk to the security and good order at the facility (s. 43 *Mental Health (Secure Facilities) Act 2016*).

Search Terms

Search, DMHU, Dhulwa Mental Health Unit, Routine Searches, Reactive Searches, Targeted Unit Search, Scanning Search, Pat down Search, Personal Search, Room Search, Common Area Searches, Ingested, Inserted, Visitors.

Attachments

Attachment 1 – Types of searches that may be conducted by various categories of people

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Date Amended	Section Amended	Approved By
<i>Eg: 17 August 2014</i>	<i>Section 1</i>	<i>ED/CHHSPC Chair</i>

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Attachment 1 – Types of searches that may be conducted by various categories of people

<i>Type of Search</i> →					
Who can be searched ↓	<i>Personal</i>	<i>Pat Down</i>	<i>Scanning</i>	<i>Ordinary</i>	<i>Mail</i>
<i>Consumer</i>					
<i>Staff</i>					
<i>Visitor–Adult</i>					
<i>Visitor–Child</i>					