



# Director of Forensic Disability POLICY

## **Title:** Community Treatment and Other Leave

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### **1. Policy Statement**

Access to treatment in the community and other approved temporary leave under the *Forensic Disability Act 2011* (the Act) promotes the individual development, rehabilitation and transition to the community of forensic disability clients.

Limited Community Treatment (LCT) under the Act is treatment in the community for forensic disability clients on a forensic order (disability). The purpose of LCT is to support the client's rehabilitation by transitioning the client to living in the community with appropriate care and support.

A forensic disability client may be granted temporary absence from the Forensic Disability Service (FDS) under section 32A of the Act at the discretion of the Director of Forensic Disability. This absence may be approved to meet health and legal requirements or as considered appropriate on compassionate grounds.

### **2. Purpose**

This policy outlines the relevant provisions of the Act, and the Director of Forensic Disability Policy regarding LCT and other leave.

This policy ensures forensic disability clients are able to access community treatment to attend programs and activities that assist with their rehabilitation and habilitation (including vocational, communication, social, practical and life skills), encourage positive behaviour and promote opportunities for participation and inclusion in the community.

Furthermore the policy ensures clients are able to access temporary leave to:

- receive medical, dental or optical treatment;
- appear before a court, tribunal or other body; and
- access other leave that the Director of Forensic Disability considers appropriate on compassionate grounds.

### **3. Scope**

This policy applies to forensic disability clients who are inpatients of the Forensic Disability Service. It does not apply to forensic disability clients subject to a forensic order (disability) where the category of the order is community.

This policy must be implemented in a way that is consistent with the purposes and principles of the Act.

### **4. Authorising Legislation**

Section 91 of the Act.

### **5. Background**

If a client is subject to a forensic order, the Mental Health Court (MHC) or the Mental Health Review Tribunal (MHRT) may order, approve or revoke LCT in accordance with conditions the MHC or MHRT considers appropriate. A Senior Practitioner, under section 20 of the Act, may authorise LCT only if the MHC or the MHRT has approved the use of LCT and only within the parameters set by the MHC or MHRT.

LCT conditions provide the primary mechanism for a forensic disability client to access community treatment and rehabilitation.

Where forensic disability clients do not have approved LCT conditions, they may be granted temporary leave of absence under section 32A of the Act at the discretion of the Director of Forensic Disability to meet health and legal requirements, or as considered appropriate on compassionate grounds.

### **6. Policy**

#### **6.1 Definitions**

*'Limited community treatment'*, means - the provision of some care and support for the forensic disability client in the community for up to 7 days.

*'Temporary Absence Approval'* means - a written approval given under section 32A of the Act by the Director of Forensic Disability.

#### **6.2 Limited Community Treatment**

LCT may be approved by the MHC or the MHRT to enable persons detained under a forensic order inpatient category to access treatment and rehabilitation services in the community. The MHC or MHRT place limits on the amount of LCT that a client may access, based upon factors relevant to each client. For example, the MHC or MHRT when deciding whether to approve LCT will assess the client's clinical needs, logistical capacity of the service, client safety, community safety etc. The LCT approved by the MHC or MHRT and set out in the conditions attached to each client's forensic order is the maximum amount of LCT that may be accessed by the client.

The conditions of the LCT attached to the client's forensic order will determine the manner in which a forensic disability client may access community-based care and support. The Senior Practitioner must ensure LCT is utilised to:

- promote the client's individual development, including assisting the person to achieve rehabilitative and habilitative goals;
- promote quality of life;
- enable the client to participate and be included in the community;
- enable the client to enjoy, maintain, protect and develop their identity and cultural heritage; and
- assist in transition planning for the client's safe return to the community.

Where the MHC or MHRT has approved LCT for a client, it is an important element of the client's rehabilitation and an expectation that the Senior Practitioner, where clinically justified, will give effect to the MHC or MHRT decision and facilitate appropriate access to the community treatment. All FDS staff are responsible for contributing and facilitating safe opportunities for the client to access the community. This may involve identifying community activities related to client goals, undertaking risk assessments, completing LCT event plans, managing resources and preparing and supporting the client to access the community.

#### *Individual Development Plan (IDP) and LCT*

Where the MHC or MHRT has approved LCT for a client, and the Senior Practitioner supports the clinical application of LCT for the client, the client's Individual Development Plan (IDP) must give effect to the MHC or MHRT order (see sections 20 and 21 of the Act).

When planning for a client's use of LCT the Senior Practitioner should consider, but is not limited to, the following issues:

- the purpose and frequency of the LCT
- the duration of LCT, including whether or not it is continuous;
- any conditions to manage the client's care and support in the community; and
- any conditions required to protect the client health and safety or the safety of others during the LCT including required escort or supervision.

#### *Limited Community Treatment Event Plan*

Forensic disability clients with approved LCT must have an LCT Event Plan that complies with the LCT conditions approved by the MHC or the MHRT. The LCT Event Plan must be authorised by a Senior Practitioner. For information pertaining to the LCT Event Plan content, see the *Director of Forensic Disability Procedure – Community Treatment and Other Leave*.

### 6.2.1 Categories of LCT

A client may access LCT on the following basis:

- **Escorted absence** – is absence with staff from the FDS.
- **Supervised absence** – is absence with any other person, approved by the Senior Practitioner, who is not a clinical staff member of the FDS.
- **Unsupervised absence** – the client is not accompanied by anyone acting in a supervisory or escort nature while on LCT.

The Senior Practitioner is responsible for authorising all LCT, and for ensuring, where applicable, that an appropriately qualified person escorts or supervises the client when the client is participating in LCT.

### 6.2.2 Duration of LCT

The duration of LCT will be determined by an assessment of the client's risk, needs and progress towards identified rehabilitation and habilitation outcomes. It may comprise:

- specified periods during the day or days;
- overnight leave; and
- more than overnight leave.

The duration of any LCT must not exceed the maximum period approved by the MHC or MHRT.

### 6.2.3 Authorising LCT – Senior Practitioner

A Senior Practitioner may authorise LCT for the client only if the MHC or MHRT has approved or ordered the LCT.

The duration of any LCT authorised by the Senior Practitioner must not exceed the maximum level of LCT approved by the MHC or MHRT.

While the Act empowers a Senior Practitioner to authorise the clinical use of LCT for a forensic disability client where it has been approved by the MHRT, it is important to recognise the significance of the client's risk and detention status under the Act. This not only applies to all forensic disability clients but is a particularly important consideration in relation to LCT for clients who have committed prescribed offences (refer *Director of Forensic Disability Policy - Clients for whom the offence leading to the Forensic Order is a prescribed offence*).

A Senior Practitioner:

- may authorise LCT only if they are satisfied, having regard to the matters stated in subsection 20(3) of the Act, there is not an unacceptable risk to the safety of the community, including the risk of serious harm to other persons or property; and
- must have regard to the matters stated in section 20(3) of the Act in deciding the nature and conditions of the LCT.

Matters to which the Senior Practitioner must have regard (section 20(3) of the Act) when authorising LCT include:

- the purpose of the LCT is to support the client's rehabilitation by transitioning the client to living in the community with appropriate care and support;
- the client's current mental state and intellectual disability;
- the offences and offending behaviour leading to the making of the forensic order taking into account the rehabilitative treatment that has been received, and the time since the offences occurred;
- the client's social circumstances, including, for example, family and social support;
- the client's response to care and support including, if relevant, the client's response to care and support in the community; and
- the client's willingness to continue to receive appropriate care and support.

Additional matters the Senior Practitioner must have regard to:

- previous episodes of LCT;
- any previous episodes of absence without permission;
- current risk assessments and management plans;
- the support and supervision that is appropriate and available;
- client, staff and community safety; and
- any victim and community concerns

A Senior Practitioner must also ensure:

- the decisions made regarding a client's LCT are communicated to all relevant community services (government and non-government) involved in the care of the client; and
- the client understands what is to happen when they are on LCT.

#### **6.2.4 Who cannot authorise LCT**

Only a Senior Practitioner can authorise LCT. Other staff members cannot authorise an LCT event to occur. Following a Senior Practitioner's authorisation of LCT, the role of the Authorised Practitioner or the operational staff member is to complete a dynamic risk assessment prior to the LCT event going ahead and assist the client to undertake LCT.

The purpose of the dynamic risk assessment is to identify current risk indicators that inform whether it is safe for the LCT event to occur. Where an Authorised Practitioner identifies relevant dynamic risk factors prior to LCT that may place the client, escorting staff or the community at risk, they must notify the Senior Practitioner of their concerns and await the Senior Practitioner's decision as to whether the LCT should proceed.

### **6.3 Temporary Absence Approvals**

The Director of Forensic Disability may approve, by written notice, temporary leave for a forensic disability client for (section 32A of the Act):

- medical, dental or optical treatment;
- appearance before a court, tribunal or other body; and
- another purpose the Director considers to be appropriate on compassionate grounds.

A request for approval for a client's temporary absence from the FDS should be made by the Administrator of the FDS to the Director of Forensic Disability.

Each request will be assessed on a case by case basis. If granted the approval of temporary absence may be subject to conditions the Director of Forensic Disability considers appropriate.

A client's temporary absence from the FDS, including conditions attached to the approved temporary absence, nature of escort and approved period of absence from the FDS must be recorded in the client's file.

### **6.4 LCT or temporary leave outside Queensland**

The Act and the *Mental Health Act 2016* (MHA) provide for the MHRT to hear applications and make orders, to transfer clients outside of Queensland.

There is no provision in either the Act or the MHA which explicitly provides the Director of Forensic Disability with the power to approve the absence of a client from Queensland pursuant to the Temporary Absence provision in section 32A of the Act. Consequently, a client should make an application to the MHRT for a condition granting them LCT outside of Queensland if they are seeking this leave.

If the MHRT reviews a client's LCT while the client is outside of Queensland, and decides that the client's LCT should be revoked and if the client does not come back voluntarily, the Interstate Agreement provisions in the MHA will likely be enacted to detain and return the client to Queensland. However, these arrangements will involve transferring the client to an authorised mental health service (AMHS) (an administrative arrangement which is subject to agreement between the Director of Forensic Disability and the Chief Psychiatrist) before return to the FDS.

### **6.5 Absenteeism and/or non-compliance with conditions of LCT**

Forensic disability clients are considered to be absentees or non-compliant with the conditions of LCT and temporary leave if they:

- abscond while being transported to the venue where the LCT will be provided;
- leave the premises where the LCT is being provided; and/or
- extend the period of LCT beyond that stipulated in their IDP without authorisation.

The Senior Practitioner must provide a written notice to a client on LCT to return to the FDS in the following circumstances:

- to give effect to a change in their LCT Event plan;
- to give effect to a decision on the order of the MHC or the MHRT to revoke LCT; or
- if the Senior Practitioner reasonably believes the client has not complied with the conditions of their LCT Event plan and it is necessary for them to return in the interests of the health and safety of the client or others.

If it is not practicable to return a client to the FDS, then the client may be taken to an AMHS for temporary detention, but only if the Director of Forensic Disability and the Chief Psychiatrist are informed and have reached an agreement pursuant to section 113 of the Act.

### 6.6 Cessation of approval for Community Treatment

LCT will cease when the LCT ordered or approved by the MHC or MHRT for a forensic disability client is revoked. The forensic disability client's IDP must be amended by the Senior Practitioner to reflect this change. The Senior Practitioner will oversee alternative arrangements to continue to develop the client's skills that meet their rehabilitative goals while LCT is ceased.

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