



# Director of Forensic Disability

## PROCEDURE

**Title:** Working with Allied Persons

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### **Purpose**

This procedure is issued by the Director of Forensic Disability in accordance with section 91 of the *Forensic Disability Act 2011* (the Act) and provides guidance to staff of the Forensic Disability Service (FDS) in relation to working with allied persons.

The procedure:

- recognises the statutory role the allied person holds in the life of the client and ensures they are provided with all the information they require to fulfil that role; and
- outlines how FDS staff are to work in partnership with a client's chosen or nominated allied person and their guardian/s to:
  - ensure they are provided with opportunities to contribute to the development of an Individual Development Plan (IDP);
  - ensure clients are supported to the greatest extent practicable by their allied person and/or guardian, to participate in decision making and are informed and supported to exercise their rights under the Act; and
  - ensure an allied person and/or guardian is provided with opportunities to participate in decision-making as required and as appropriate, including those decisions to support the client's reintegration into the community.

This procedure is to be read in conjunction with the *Director of Forensic Disability Policy – Client Participation and Representation*.

### **Background**

The function of the allied person is to help represent the client's views, wishes and interests relating to the client's assessment, detention, care, support and protection. The allied person role assists in safeguarding the rights of clients under the Act.

The Act promotes allied person involvement in decision making in order to ensure that the Mental Health Review Tribunal (MHRT) and the clinical team are able to make the best possible decisions in relation to each client's individual needs.

Specifically, the allied person may:

- help the client understand their rights throughout the time they are detained in the FDS, and can assist them in exercising those rights;
- help the client make applications to the MHRT for a review of their status;
- attend MHRT hearings to help the client through the process and to understand the implications of any decisions made by the MHRT;
- help the client express their views and wishes to the clinical team;
- support the client in the development and review of their IDP; and
- attend the regular IDP review meetings with the client.

## **Procedure**

### **1. Supporting the forensic disability client to choose an allied person**

A forensic disability client can choose to have a person appointed as an allied person to help them represent their views, wishes and interests.

The Director of Forensic Disability directs that a client is presumed, at first instance, to have capacity to choose their allied person. However, where there is evidence to indicate the client may not adequately understand the role and requirements of the allied person, consideration must be given as to whether or not the client has the capacity to make a valid choice (refer to section 2 below for action to be taken when the client does not have capacity to choose).

A client may choose their own allied person from the following list of people (section 25 of the Act) if the person chosen is willing, readily available, capable and culturally appropriate:

- a) if the client has a personal guardian – the personal guardian;
- b) if the client has a personal attorney – the personal attorney;
- c) an adult relative or adult close friend of the client;
- d) adult carer of the client; or
- e) another adult.

A forensic disability service employee or former forensic disability employee should not be chosen or appointed as a client's allied person.

The Administrator is to write to the new allied person to inform them they have been nominated as allied person for the client. Where the person accepts the role, the clinical team should inform the client that the person has accepted the nomination to be their allied person. The Administrator should obtain verbal or written confirmation that the person has accepted the nomination and record this confirmation on the client file.

The Administrator is to work collaboratively with the client to ensure the client has an allied person of their choice. The Administrator must attempt, wherever possible, to support the client's choice of allied person and work with the client to manage any concerns about the choice of allied person.

### **1.1 Client chooses not to have an allied person**

Provided that a client has capacity to make a decision about choosing an allied person, a client may choose not to have an allied person. The Administrator must be satisfied the client had the capacity to make this decision and make a record of the client's decision in the client file.

### **1.2 The person declines the role of allied person**

If the nominated person declines the nomination either verbally or in writing, a record should be made in the client's file.

The clinical team should inform the client of the outcome and engage with the client about nominating another person to be their allied person.

### **1.3 The allied person decides not to continue their appointment**

At any time the allied person may decide not to continue their appointment as allied person for the client. When made aware that the person no longer wishes to continue their appointment, the clinical team should engage the client about choosing another person to be their allied person as soon as practicable.

The Administrator should be informed that the allied person appointment has ended and an entry should be made in the client's file and update the Allied Person on the Forensic Disability Service Act Information System (FDAIS).

### **1.4 Change of allied person**

Where there is a change of allied person, the Administrator is to write to the former allied person advising them that their appointment as allied person for the client has ceased.

The Administrator is to write to the new allied person to inform them they have been nominated as allied person for the client.

The Administrator must ensure the details of the client's allied person are up to date on FDAIS.

## **2. Appointment of allied person by the Administrator if the client does not have capacity to choose**

If the Administrator believes the forensic disability client does not have capacity to choose their allied person, the following process applies:

- If the client has an advanced health directive that directs that a stated person be the allied person, the stated person is the client's allied person.
- If the client does not have an advance health directive, the Administrator must choose the allied person for the client. The Administrator must choose the first person in the list who is willing, readily available, capable and culturally appropriate:
  - a) if the client has a personal guardian – the personal guardian;
  - b) if the client has a personal attorney – the personal attorney;
  - c) an adult relative or adult close friend of the client;
  - d) adult carer of the client; or
  - e) another adult.

The Administrator **must not** choose a person who is a forensic disability service employee,

- if the Administrator is unable to identify a person who is willing, capable, readily available and culturally appropriate to be the allied person, then the Administrator must choose the Public Guardian to be the allied person.
- if the Administrator has nominated an allied person for the client, the Administrator may revoke the appointment if no longer satisfied the person is willing, readily available, capable and culturally appropriate to be the client's allied person. If this occurs, the Administrator must advise the allied person in writing of the cessation of their appointment.

The Administrator must advise the client as to who their allied person is and arrange an initial meeting between the client and allied person for the purpose of explaining the role to the client.

### **3. When an allied person ceases to be an allied person**

The allied person appointment ends when:

- the client chooses another person to be their allied person;
- the client tells the Administrator they no longer wish to have an allied person and the Administrator is satisfied the client has the capacity to make that decision;
- the Administrator has chosen a person to be an allied person for a client but is no longer satisfied the allied person is willing, readily available, capable and culturally appropriate to be the allied person; or
- the allied person informs the Administrator that they no longer wish to be the client's allied person.

The Administrator must ensure the details of the client's allied person are up to date on FDAIS including any changes of allied person and the reasons for any changes.

### **4. Information to be given to the allied person**

To enable the allied person to assist the client, the Administrator must ensure the allied person is:

- notified of the client's admission to the FDS;
- provided with a copy of the Statement of Rights;
- notified of the time and dates of MHRT hearings to enable their attendance to help the allied person represent the client's views, wishes and interests;
- given a copy of the MHRT's decisions following a review of the client's forensic order (disability);
- provided with an explanation of the purpose and process of developing an IDP including, where required, the need for assessments to be undertaken;
- notified of the time and dates of planning meetings for the client, where the client is also present (e.g. IDP reviews, transition meeting, planning meetings), to help the client represent their views, wishes and interests; and
- provided with a copy of the client's IDP.

## **5. Client admission process and allied person's involvement**

The allied person is to be included in all aspects of the client's admission process. This should involve being included in the initial meeting with the client on the day of admission which should focus on how the service operates and reviewing the key aspects of the Agreed Plan.

Within the first 21 days, the allied person must be provided with the Statement of Rights and be engaged in the process of developing the client's IDP.

## **6. Individual Development Plan review meetings and allied person's involvement**

The Senior Practitioner must ensure the client's allied person is invited to be involved in the client's IDP review meetings. This need not be attendance in person but could involve a phone link or other method of involvement. It is important that the allied person has the opportunity to contact the client prior to meetings or hearings to understand their views, wishes, interests, and any other relevant areas that the client may need assistance in representing their views.

The Senior Practitioner must ensure the allied person is included in other relevant discussion and correspondence concerning the client's assessment, detention, care and support, so that they can fulfil their duties as allied person for the client. The allied person must be provided with the opportunity to raise any issues or to provide feedback about the care and detention of the client.

## **7. Notice of client's transfer from FDS**

When responsibility for a client is transferred from the FDS to an authorised mental health service (AMHS) (or vice versa), the Administrator must give the allied person notice of the transfer of responsibility.

## **8. Recordkeeping**

Where contact is made with the allied person, the staff member involved must document:

- the purpose of the contact;
- any decisions or views expressed by the allied person; and
- any agreed actions.

This information must be recorded in the client file. Details for the allied person should be maintained on FDAIS.

In the event that an FDS staff member is uncertain as to whether or not to document their conversation with the allied person, the staff member should consult the Administrator and act in accordance with the Administrator's advice.

## 9. Confidentiality of information – allied persons

Under section 121 of the Act, an allied person who is, or has been, in receipt of information about a forensic disability client must not disclose or give access to any documentation to anyone else, unless:

- it is required or permitted by law; or
- the forensic disability client to whom the information relates agrees to the disclosure or giving of access.

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**Designation:** Director of Forensic Disability

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