

Mental Health Act, 2015 (ACT)

Sections focused on Carers

This information sheet is designed to support health professionals navigate carer specific information from the Mental Health Act, 2015 (ACT). [Click here to download the entire Mental Health Act, 2015 for ACT.](#) Information included below are direct quotes from the Mental Health Act and include page numbers where you can find further information. The information was sourced via the Private Mental Health Consumer Carer Network (Australia) Limited.

Meaning of a carer

- (1) *“For this Act, a person is a carer if the person provides personal care, support or assistance to a person who has a mental disorder or mental illness.*
- (2) *However, a person is not a carer for another person—*
- (a) in relation to care, support or assistance that is provided—*
 - (i) under a commercial arrangement, or an arrangement that is substantially commercial; or*
 - (ii) in the course of doing voluntary work for a charitable, welfare or community organisation; or*
 - (iii) as part of a course of education or training; or*
 - (b) just because the person is the domestic partner, parent, child or other relative, or guardian of the other person; or*
 - (c) just because the person lives with the other person” (p.29-30).*

Services provided to a person with a mental disorder or mental illness should

- (ix) “facilitate appropriate involvement of close relatives, close friends and carers in treatment, care or support decisions in partnership with medical professionals; and*
- (x) acknowledge the impact of mental disorder and mental illness on the close relatives, close friends and carers of people with a mental disorder or mental illness; and (xi) recognise the experience and knowledge of close relatives, close friends and carers about a person’s mental disorder or mental illness; and*
- (xii) promote inclusive practices in treatment, care or support to engage families and carers in responding to a person’s mental disorder or mental illness” (p.25).*

Nominated Person

“A person with a mental disorder or mental illness, who has decision-making capacity, may, in writing nominate someone else to be the person’s nominated person.

Examples

- 1) a close relative or close friend*
- 2) a carer*
- 3) the person’s neighbour” (p.35).*

Mental Health Order

“Before making a mental health order in relation to a person who has a carer, the ACAT must, as far as practicable, tell the carer in writing that—

- (a) a hearing will be held in relation to making a mental health order for the person; and*
- (b) the carer may do either or both of the following:*
 - (i) make a submission to the ACAT in relation to making a mental health order for the person;*
 - (ii) apply to the ACAT to attend the hearing.*

Psychiatric Treatment Order

“Before making a determination in relation to a person, the chief psychiatrist must take all reasonable steps to consult the following:

(v) if the person has a carer—the carer” (p.60-61).

“Action if psychiatric treatment order no longer appropriate—no longer person in relation to whom ACAT could make order

(2) The chief psychiatrist must take all reasonable steps to give notice to —

(a) if the person has a carer—the carer; and

(b) if the person has a nominated person—the nominated person.

(3) The notice must—

(a) include the reasons why the chief psychiatrist is satisfied of the matter mentioned in subsection (1)

(b); and ask whether the carer or nominated person is aware of any other information that may be relevant to whether the psychiatric treatment order or restriction order continues to be appropriate for the person

(c) state that, subject to consideration of any information given under paragraph (b), the chief psychiatrist must tell the ACAT and public advocate of the matter mentioned in subsection (1) (b) and the ACAT must review the psychiatric treatment order or restriction order; and

(d) tell the carer that the carer is entitled to do either or both of the following:

(i) make a submission to the ACAT review of the psychiatric treatment order or restriction order;

(ii) apply to the ACAT to attend the hearing; and

(e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the psychiatric treatment order or restriction order” (p.81-82).

Role of care coordinator—community care order

“The care coordinator is responsible for coordinating the provision of treatment, care or support for a person to whom a community care order applies.

Before making a determination in relation to a person, the care coordinator— (a) must take all reasonable steps to consult the following:

(v) if the person has a carer—the carer

Action if community care order no longer appropriate

(2) “The care coordinator must give written notice to—

(a) if the person has a carer—the carer; and (b) if the person has a nominated person—the nominated person.

(3) The notice must—

(a) include the reasons why the care coordinator is satisfied of the matter mentioned in subsection (1) (b); and

(b) ask whether the carer or nominated person is aware of any other information that may be relevant to whether the community care order or restriction order continues to be appropriate for the person; and

(c) state that, subject to consideration of any information given under paragraph (b), the care coordinator must tell the ACAT and public advocate of the matter mentioned in subsection (1) (b) and this will lead to an ACAT review of the community care order or restriction order; and

(d) tell the carer that the carer is entitled to do either or both of the following: (i) make a submission to the ACAT review of the community care order or restriction order; (ii) apply to the ACAT to attend the hearing; and

(e) tell the nominated person that the nominated person is entitled to make a submission to the ACAT review of the community care order or restriction order” (p.91-92)

Action if forensic psychiatric treatment order no longer appropriate

(2) “The chief psychiatrist must give written notice to the following (the notified people): (a) if the person has a carer—the carer” (p.129).

Interstate transfer—person under forensic psychiatric treatment order or forensic community care order

(4) “Before making an interstate transfer order in relation to a person, the ACAT must take into account—

(a) the views and wishes of the person in relation to the proposed order, so far as they can be found out; and (b) as far as practicable, the views in relation to the proposed order of the following:

(i) if the person has a nominated person—the nominated person;

(x) if the person has a carer—the carer” (p.278-279).

Transfer to interstate mental health facility—emergency detention

(3) “Before giving a direction under subsection (2), the chief psychiatrist must—

(a) as far as practicable, notify the following that a direction under this section is being considered:

(i) if the person has a nominated person—the nominated person;

(vii) if the person has a carer—the carer; and

b) take into account—

(i) the views and wishes of the person in relation to the proposed direction, so far as they can be found out; and

(ii) as far as practicable, the views in relation to the proposed direction of the people notified under paragraph (a).