



Justice Health and
Forensic Mental Health Network

Family & Carer Rights & Responsibilities

This brochure has been adapted from Northern Sydney & South Eastern Sydney Local Health Districts. It is for families and carers of people with mental illness who are in the criminal justice system, Forensic Hospital, Long Bay Hospital or the mental health step-down units.

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Definitions

Who are the 'Carers'?

The word 'carer' is relatively new in health and social care, though the concept of what a carer is or does is more widely understood. Some people who 'care' are relatives, and prefer to use that word. Others have close friendships with the mentally ill person, but may not necessarily see themselves as carers. Thus carer can be any family member, partner or a friend who provides ongoing support (mental wellbeing, spiritual guidance, advocacy or generally support) to the mentally ill person.

In some cultures, the term 'carer' is shunned, and carers do not accept they are a carer, even though they may provide significant support to a mentally ill person. If someone is involved with, and can give support to another person, irrespective of whether they live with that person or not, he/she can be considered to be a 'Carer'.

For the purpose of this document, a 'carer' will refer to any family and carer, or partner or friend of the person receiving mental health care.

Who is the Patient?

For the purpose of this document, a 'person' who is receiving a mental health service within Justice Health and the Forensic Mental Health Network (Justice Health NSW) will be referred to as a 'patient'. This could be any individual within the custodial system or in a declared mental health facility who is receiving or requires mental health care and/or treatment.

1. Family & Carer Rights

[Justice Health & Forensic Mental Health Network](#) (Justice Health NSW) recognise and value the contribution carers make to the assessment, treatment, ongoing management and recovery of a patient with mental illness and the improved outcomes that come from working in partnership with carers. Justice Health NSW also recognises that caring for someone with a mental illness is complex, often requiring substantial commitment and understanding and that carers of mentally ill people may experience their own needs separate to that of the patient's needs.

Note: For those withholding consent for family or carer involvement, consideration must be given to the patient's capacity to make this decision, including those subject to the Guardian Act and NSW Mental Health or the Mental Health and Cognitive Impairment Forensic Provision Acts.

Families and carers of a patient who come into contact with the forensic mental health or criminal justice systems have the right to:

- Be treated with care, consideration, respect and dignity;
- Receive services which respect your privacy and confidentiality;
- Receive services which respect your culture, beliefs, gender, sexuality and disability;
- Act as an advocate for your relative or friend to ensure that their mental health rights are upheld;
- Know how to navigate the forensic mental health service including what services are available, and when, for their relative or friend;
- Have an interpreter present to assist you in understanding the services, treatment and care available;
- Talk to Justice Health NSW staff about information concerning the patient's illness/health and to receive information from us that is not new information to you (with or without the informed consent of the mentally ill patient)
- Be heard by those providing the treatment, care and management for your relative or friend where the patient with the mental illness has provided informed consent;
- Be provided with a few additional rights if they are the [Nominated Designated Carer](#) and/or the [Principal Care Provider](#) of the patient receiving mental health treatment.
- Participate in the mentally ill patient's assessment, care planning and delivery, including their discharge pathway if:
 - the patient consents and/or
 - the patient is being treated under the [NSW Mental Health Act 2007](#), or the [Mental Health and Cognitive Impairment Forensic Provisions Act 2020](#), or they are the Nominated Designated Carer or Principal Care Provider;
- Be referred by Justice Health NSW or the Local Health District to the [NSW Family and Carer Community Managed Organization](#) and/or other Non-Government

organization in your area (within NSW). If carers live in another state or territory, please speak to [Mental Health Carers NSW](#) or the Family and Carer Consultant for further details;

- Be provided with support, information and education to assist carers in their caring role;
- An assessment by a forensic mental health team member, or the Family and Carer Consultant or the Community Managed Organizations about carers' own needs relating to their carer's role;
- Provide feedback or comment using the [Carer Experience Survey](#) of service/s received as a family member or carer, without fear of reprisal towards themselves or their relative or friend. They may also assist their relative or friend to comment on their healthcare using the [Your Experience Survey](#) (the patient).

2. Carer (Recognition) Act 2010

In 2010 NSW enacted the Carer (Recognition) Act which promotes the recognition of carers through:

- A carers charter that recognises the role and contribution of carers to our community and to the people they care for, and
- Acknowledging and increasing awareness of the valuable contribution that carers make to our community.

A key focus of the Act is to ensure that the public service sector agencies take action to reflect the principles of the NSW Carer's Charter when providing services that affect carers. The further details of the NSW Carer's Charter can be found in:

https://www.adhc.nsw.gov.au/data/assets/file/0007/259144/Carers_Recognition_Act_Carers_Charter_poster_-_plain_English.pdf

3. Family & Carer Responsibilities

Families and carers associated with Justice Health NSW have the responsibility to:

- Be considerate and respectful towards the patient using the service, their families and carers and Justice Health NSW staff;
- Ensure their actions do not compromise the safety of the patient being treated by Justice Health NSW or its staff;
- Respect the need of staff to comply with legislation, such as with regard to the information that they can share with families and carers about the person;
- Provide timely and relevant information about the person's mental illness, which in turn can assist the clinicians to provide the most appropriate assessment, treatment and support;

- Liaise with the appropriate organization ([Corrective Services NSW Correctional Centres](#) or [the Forensic Hospital](#)) if they would like to bring children into the facility to visit their relative or friend. Children are welcome however the service needs to be prepared for their visit, so that appropriate rooms can be booked and activities can be made available;
- Let the health professional know of any religious and/or cultural beliefs likely to have an impact on the support provided to them, their relative or friend;
- Consider the opinions of professional staff regarding the treatment and care of their relative or friend as well as to consider participating in the person's health care plan, with their consent.

4. Family and Carer Mental Health Program

NSW Health developed the framework for [Family & Carer Mental Health Program](#). The rationale of the Family-Inclusive Mental Health Service, together with the support of the [Family and Carer mental health Community Managed Organizations \(CMO\)](#) was to provide a structured and systematic approach to addressing and supporting families and carers needs. The program aims to improve the outcomes for mental health patients by enhancing and supporting the role that families and carer's play within mental health services. It sought to respond to carer's needs by providing a comprehensive and holistic and 'family-inclusive' approach to treatment involving all stakeholders focusing on:

- Family-Inclusive work practices;
- Provision of education, training packages and individual support through specialist [Family and Carer CMO](#);
- Provision of [generic Family and Carer Supports](#) by improving awareness of, and access to, mainstream care support services.

The role of Justice Health NSW is to improve the health status of those who come into contact with the forensic mental health and the criminal justice system, while minimising negative health consequences to the individual and of their families.

The core role of the Family & Carer CMO is to provide individual advocacy, support, education and training programs to families and carers supporting a person with a mental illness.

Together both organizations will work collaboratively with families and carers to ensure that everyone's needs are considered in order to provide the best possible outcomes for the person receiving the mental health care/treatment.

NSW Mental Health Act (2007) and Mental Health and Cognitive Impairment Forensic Provisions Act (2020)

Information sharing

The [NSW Mental Health Act \(MHA\) 2007](#) is an Act of Parliament that governs the care, treatment and control of people in NSW who experience a mental illness or mental disorder. The Act recognises that carers and family members need greater access to information about the person living with a mental illness, in order to assist them to provide care; whilst at the same time balancing the need for people to have some control about who receives information about them.

Nominated Designated Carer and/or Principal Care Provider

People who receive mental health care under the above Acts must have a nominated Designated Carer and/or are nominated a Principal Care Provider. The Mental Health Act 2007 (NSW) allows a mental health patient to appoint up to 2 carers to automatically receive certain information about his or her care and treatment. The person/s appointed are called the Designated Carer. There can be two Designated Carers, and the person living with a mental illness may nominate these people, vary the nomination or exclude certain people from this role.

If no-one is nominated the treating team will make a nomination on the person's behalf to appoint a Principal Care Provider using one of the following:

- The guardian
- The spouse or partner, or
- Any person who is primarily responsible for providing support or care, or
- A close friend or relative
- A parent if the person is under 14

The designated carer nomination will stay in force for 12 months if there is no change requested by the person living with a mental illness.

The Principal Care Provider is not time limited.

Statutory Requirements for Notification of Designated Carers & Principal Care Providers

The Carer must be notified of their relative or friend's admission to and discharge from an inpatient unit, invited to be involved in their care, and given access to information including diagnosis, treatment and medication. They can attend case review (if invited) and the Mental Health Review Tribunal hearings along with other significant family members.

5. Providing Feedback

Justice Health NSW is committed to meeting the health needs of people living with mental health issues. Carers can provide comment about the care and/or service they or their relative or friend receives in a hospital or correctional community. This may be in the form of Carer Experience Survey, a comment or complaint. Your feedback is used to improve the services we offer.

If you have a comment, complaint or compliment about our service, you may:

- Speak with, or write to the relevant healthcare professional, Nursing Unit Manager, Shift Leader or Mental Health Service Director
- Request an interpreter to assist you with your concern or compliment.

If you have made a complaint and it has not been resolved to your satisfaction, you may contact:

Justice Health and Forensic Mental Health Network
PO Box 150
Matraville, NSW 2036
Telephone (02) 9700 3000

If you are still not satisfied by the response you received from the health service, you may contact:

Health Care Complaints Commission
Locked Bag 18
Strawberry Hills, NSW 2012
Telephone: 9219 7444 or 1800 043 159
Web: www.hccc.nsw.gov.au

6. Mental Health Information

The following documents may give you more information about your rights and responsibilities. Alternatively, one of the mental health workers or the Family & Carer CMO's may be able to provide a copy if you would like one:

- [NSW Mental Health Act 2007 fact sheet for families and carers](#)
- [National Standards for Mental Health Services \(2010\)](#)
- [Privacy Leaflet for Patients](#)
- [Your Healthcare Rights](#)
- [Australian Charter of Healthcare Rights \(2nd edition\)](#)
- [Resolving healthcare concerns, Health Care Complaints Commission](#)