

Community Referral to Justice Health Procedure

Essential Summary:

This document outlines the procedures when a young person comes into contact with Youth Justice (YJNSW) during court proceedings and discloses or is suspected of having a mental health or cognitive impairment.

Audience

- Assistant Manager (Community)
- Youth Justice Caseworker (Community)
- Bail Intake / Court Support Officers (Community)

When to use this procedure:

Use this procedure when a young person is to appear before the Court and has been diagnosed with or is suspected of having a mental health and/or cognitive impairment and may benefit from an assessment by Justice Health and Forensic Mental Health Network (JH&FMHN).

This procedure can also be used when a young person has been sentenced to a supervised legal order without a background report to facilitate an appeal where a mental health or cognitive impairment may be revealed during initial contact with the young person or their parents / carers. Caseworkers should discuss a referral to JH&FMHN with the young person, their carer(s) and legal representative at the first opportunity after becoming aware of or suspecting a mental health or cognitive impairment and cease supervision upon confirmation of an appeal being lodged.

When using CIMS refer to [CIMS](#) [CLICK] for step by step instructions

DOCUMENT DETAILS

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Ensure you have the latest version before using this document.

1 Purpose

This procedure outlines the steps for YJNSW community employees when a young person appearing before Court discloses or is suspected of having a mental health or cognitive impairment and a referral for a further assessment by JH&FMHN is recommended.

JH&FMHNs Adolescent Court and Community Team (ACCT) undertake assessments for young people across New South Wales who come into contact with YJNSW and the Courts where a mental health or cognitive impairment may be present. These assessments, which can occur during any stage of court proceedings, may assist a young person to be diverted from the criminal justice system through applications made under Division 2, Section 14 or Division 3, Section 19 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*.

This process is an additional referral pathway. Young people can also be referred to a YJNSW Psychologist. YJNSW Psychologists complete a Court requested Confidential Psychological Report when a young person is in custody. This is completed by a community based YJNSW Psychologist where possible.

This procedure also includes how officers of the Department are to carry out their functions under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*.

2 Definitions

Under Section 4 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*;

A person has a mental health impairment if –

- (a) the person has a temporary or ongoing disturbance of thought, mood, volition, perception or memory, and
- (b) the disturbance would be regarded as significant for clinical diagnostic purposes, and
- (c) the disturbance impairs the emotional wellbeing, judgment or behaviour of the person.

A mental health impairment may arise from any of the following disorders but may also arise for other reasons—

- (a) an anxiety disorder,
- (b) an affective disorder, including clinical depression and bipolar disorder,
- (c) a psychotic disorder,
- (d) a substance induced mental disorder that is not temporary

Under Section 5 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*;

A person has a cognitive impairment if—

- (a) the person has an ongoing impairment in adaptive functioning, and
- (b) the person has an ongoing impairment in comprehension, reason, judgment, learning or memory, and
- (c) the impairments result from damage to or dysfunction, developmental delay or deterioration of the person's brain or mind that may arise from a condition set out in subsection (2) or for other reasons.

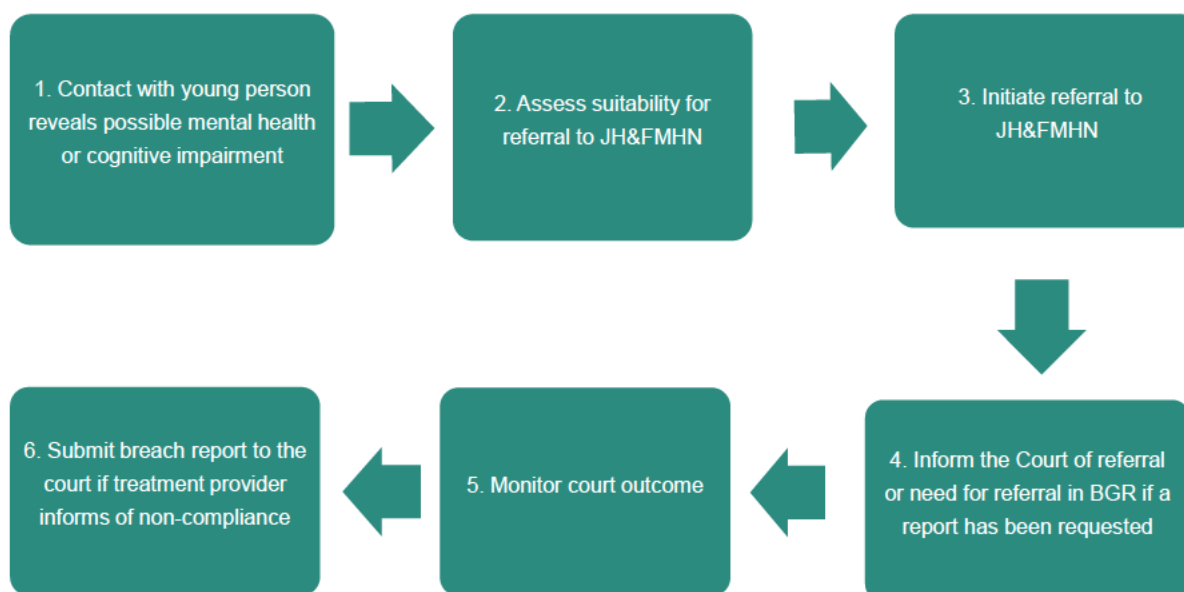
A cognitive impairment may arise from any of the following conditions but may also arise for other reasons—

- (a) intellectual disability,
- (b) borderline intellectual functioning,
- (c) dementia,
- (d) an acquired brain injury,
- (e) drug or alcohol related brain damage, including foetal alcohol spectrum disorder,
- (f) autism spectrum disorder.

3 Process Map

Referral to Justice Health & Mental Health Forensic Network (JH&FMHN)

Initiating a referral to JH&FMHN when you become aware or suspect that a young person may have a mental health or cognitive impairment.



4 Procedural Steps

Step 1 – Identify possible mental health or cognitive impairment

Responsibility: Youth Justice Caseworker (Community)

Responsibility: Bail/Court Intake Officer

Tasks

When a young person comes into contact with YJNSW at Children’s Court or enters a YJNSW Centre on remand, consider the following:

- any disclosures by the young person of a mental health or cognitive impairment
- information from a third party about the young person
- identification and confirmation of a formal diagnosis
- whether the young person may have a mental health or cognitive impairment
(Refer to Working with Young People who have an Intellectual Disability or Cognitive Impairment)
- if the young person is receiving support from a treatment provider
- if the young person has an NDIS application pending or approved package.



Step 2 – Assess suitability for a referral to JH&FMHN

Responsibility: Youth Justice Caseworker (Community)

Responsibility: Bail/Court Intake Officer

Responsibility: Assistant Manager

Tasks

After consideration of the factors outlined in Step 1:

- consult with your Assistant Manager about the appropriateness of a referral to JH&FMHN based on observations and information from the young person or a third party and the definitions outlined above
- confirm that the young person and their parent(s) / carer(s) if young person is under 14 years of age, have consented to a referral being made
- if the young person is being held in YJNSW custody, confirm with the allocated custody Caseworker and/or JH&FMHN centre staff whether a referral should be made to JH&FMHN or a YJNSW Psychologist (if Court requested) and who will make the referral
(Refer to Working with Young People who have an Intellectual Disability or Cognitive Impairment)
- inform the duty manager / court supervisor of any mental or cognitive health concerns
- inform the young person’s legal representative that a referral has been made.



Step 3 – Initiate referral to Justice Health & Forensic Mental Health Network (JH&FMHN)

Responsibility: Youth Justice Caseworker (Community)

Responsibility: Bail/Court Intake Officer

Tasks

Initiate referral by emailing JH&FMHNs Adolescent Court and Community Team (ACCT) at [REDACTED] with the following information:

- client details, contact information and CIMS number
- rationale for referral
- any treatment providers for the young person, if known
- details of legal representative(s), if known
- next court date.

Enter the referral in CIMS via the Referral to Other Services in the Services and Programs field under Client.

(Note: Ensure that the *Client Consent – Exchange of Information Form* is completed to share information).



Step 4 – Inform court of referral to JH&FMHN

Responsibility: Youth Justice Caseworker (Community)

Responsibility: Assistant Manager

Tasks

If a background report has been requested by the court:

- provide and obtain relevant information from the Adolescent Court and Community Team, if required
- and it has been identified by JH&FMHN or a YJNSW Psychologist that there is a need for a further assessment of cognitive functioning and/or mental health, note in the Personality and Behaviour section of the background report, 'there is a need for further assessment' OR 'a referral for further assessment has been made to [organisation/doctor] on the [date]'.
Refer to Court Report Writing Manual
- submit background report to the Assistant Manager for review and approval.



Step 5 – Monitor court outcome

Responsibility: Youth Justice Caseworker (Community)

Responsibility: Assistant Manager

Tasks

If a background report was requested and submitted;

- attend court to observe proceedings
- provide information to the court if requested to do so
- document court outcome in a Legal Matters case note.

If matters are dealt with under Section 14 or Section 19 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, go to Step 6.

If the matters are not dismissed and the young person;

- receives a supervised legal order, commence with case management tasks
- is subject to other supervised community based orders, continue with supervision requirements as per the *Risks/Needs Schedule of Standards in the Case Management policy*.



Step 6 – Submit breach report if informed of non-compliance

Responsibility: Youth Justice Caseworker (Community)

Responsibility: Assistant Manager

Tasks

If a young person's matters have been dealt with under Section 14 or Section 19 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* with a condition to comply with a Treatment Plan or for further assessment:

- there is no requirement for YJNSW to maintain direct contact or supervision of the young person unless they are subject to other supervised legal orders.

However;

YJNSW has a legislated role to notify the Court if the designated supervising mental health or support service reports a breach of Section 14 or Section 19 to YJNSW. The Caseworker is required to;

- obtain details of the non-compliance from the treatment provider
- document information from treatment provider in a Legal Matters case note
- generate and complete a *Notification of Breach* report
- submit report for approval by the Assistant Manager, utilising the information provided by the treatment provider.

NB – there is no requirement to monitor young people subject to Community Treatment Orders (CTOs) except to liaise with the treatment provider if they advise of a breach and to inform the court accordingly. When a young person is subject to a CTO and Youth Justice supervision, YJNSW will undertake interventions with the young person to promote compliance with supervision and their CTO.

5 Legislation:

This procedure is supported by the following legislation:

- *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*
- *Mental Health Act 2007*

6 Supporting documents:

This procedure is supported by the following documents:

Related policy

Court Communication Policy

Case Management Policy

Managing Non-compliance and Breach Policy

Related procedures

Managing Non-Compliance and Breach Procedure

Case Management Procedure

Resources

Court Report Writing Manual

YJNSW Forms

Client Consent – Exchange of Information

7 Document Information

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