

Independent Patient Rights Advisers

The *Mental Health Act 2016* establishes the positions of Independent Patient Rights Advisers. A key function of these positions is to advise patients and their nominated support persons, family, carers and other support persons of their rights under the Act. The positions play a very important role in liaising between clinical teams, patients and support persons.

Why are Independent Patient Rights Advisers important?

The Act contains many important patient rights. For these rights to be effectively accessed, patients and their support persons must be aware of these rights.

What functions do Independent Patient Rights Advisers perform?

The Act expressly provides that Independent Patient Rights Advisers are to:

- (a) ensure that a patient and support persons are advised of their rights under the Act
- (b) help the patient and support persons to communicate to health practitioners the patient's views, wishes and preferences about the patient's treatment and care
- (c) work cooperatively with community visitors under the Public Guardian Act 2014
- (d) consult with clinicians and the Chief Psychiatrist on the rights of patients under this Act, the *Guardianship and Administration Act 2000* and the *Powers of Attorney Act 1998*
- (e) in relation to Mental Health Review Tribunal hearings —
 - advise the patient, and the patient's support persons of the patient's rights at the hearings, and
 - if requested, help the patient engage a representative for the hearings
- (f) identify whether the patient has a personal guardian or attorney and work cooperatively with the personal guardian or attorney to further the patient's interests, and
- (g) advise the patient of the benefits of an advance health directive or an enduring power of attorney.

Which authorised mental health services must engage Independent Patient Rights Advisers?

It is a requirement under the Act for the health service chief executive responsible for a public sector mental health service to appoint Independent Patient Rights Advisers.

What about private sector authorised mental health services?

All authorised mental health services must have systems in place to ensure that patients are advised of their rights under the Act.

However, it is not a requirement under the Act for private authorised mental health services to engage Independent Patient Rights Advisers.

How does this affect advice provided by other persons in authorised mental health services?

While Independent Patient Rights Advisers play a key role in advising patients of their rights under the Act, this does not affect the obligation of other persons in authorised mental health services to advise patients of their rights in line with good clinical practice.

How many Independent Patient Rights Advisers are available at each service?

The number of Independent Patient Rights Advisers available at each authorised mental health service depends on the population of each Hospital and Health Service region. Some regional Hospital and Health Services share an Independent Patient Rights Adviser with a neighbouring service.

Are Independent Patient Rights Advisers really ‘independent’?

To ensure the independence of the roles, the Act expressly requires persons performing the roles to either be an employee of an entity that the Hospital or Health Service has engaged (such as a non-government organisation), or to be an employee of the Hospital and Health Service but not employed within the mental health service.

The Act states that an Independent Patient Rights Adviser must act independently and impartially, and is not subject to the direction of any person in relation to the advice given to a patient or support persons.

Does an Independent Patient Rights Adviser assist all patients?

Not all patients will require the assistance of an Independent Patient Rights Adviser for each episode of care. Independent Patient Rights Advisers prioritise their interaction with patients, having regard to the needs and circumstances of each patient.

Independent Patient Rights Advisers also prioritise the provision of advice to support persons having regard to the needs and circumstances of the support person and the relevant patient.

When are patients seen by an Independent Patient Rights Adviser?

Independent Patient Rights Advisers will endeavour to see patients shortly after they are admitted to an authorised mental health service. Patients can at any time request to speak to an Independent Patient Rights Adviser.

Is advice provided by an Independent Patient Rights Adviser confidential?

Notes of an Independent Patient Rights Adviser are generally kept confidential from a patient’s treating team. However, records must be accessible for the proper management of complaints about treatment and care in accordance with established Hospital and Health Service procedures or, for private services, in accordance with the hospital’s complaints management procedures.

Do Independent Patient Rights Advisers work together?

While Independent Patient Rights Advisers provide advice autonomously, advisers work collaboratively with other advisers in a particular service and as part of a State-wide network.

The State-wide network of Independent Patient Rights Advisers is overseen by a State-wide Co-Ordinator, who sits within the Department of Health. This co-ordinator reports to the Chief Psychiatrist.