



Canberra Health Services

Procedure

Dhulwa Mental Health Unit – Use of Force when conducting a search under *Mental Health (Secure Facilities) Act 2016*

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Purpose

The Dhulwa Mental Health Unit (Dhulwa) aims to support the treatment, care and recovery of consumers with moderate to severe mental illness. Consumers are generally people who are or are likely to become involved with the criminal justice system (forensic) and those consumers (civil) who cannot be treated in a less restrictive environment. Dhulwa’s model of care is recovery focused and person-centred.

Use of force will only be used as a last resort and be proportionate to the given situation, after less restrictive options have been exhausted. The minimum amount of force will be used to ensure safety of staff and consumers in accordance with the *Mental Health (Secure Facilities) Act 2016*, use of force may only be utilised in conjunction with a search of a consumer.

The purpose of this procedure is to guide staff on when use of force can be applied to search a consumer at Dhulwa, how to ensure they meet *Mental Health (Secure Facilities) Act 2016* requirements, their obligations in relation to reporting, documenting and reviewing any use of force applied to a consumer.

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Alerts

This Procedure should be read in conjunction with the *Mental Health (Secure Facilities) Act 2016*.

The *Mental Health (Secure Facilities) Act 2016* refers to the Director-General as having specific functions, powers and reporting requirements. Canberra Health Services (CHS) uses the title of Chief Executive Officer (CEO) instead of Director-General. In accordance with the *Public Sector Management Act 1994*, the position of CEO of CHS has the same functions and authority as a Director-General.

In this document, all references to the Director-General will be replaced with CEO, to reflect the language used by CHS as the person responsible.

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Scope

This procedure applies to all Authorised Health Practitioners, who are engaged to carry out duties at Dhulwa in accordance with the *Mental Health (Secure Facilities) Act 2016*.

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Section 60 of the *Mental Health (Secure Facilities) Act 2016* requires the CEO to make a Secure Mental Health Facility (SMHF) Direction outlining the use of force within a secure mental health facility and the circumstances and by whom force may be used.

This Procedure has been notified as the CEO’s SMHF Direction on the use of force under s60.

This Procedure should be read in conjunction with the *Dhulwa Search Policy*, and the *Dhulwa Search Procedure*.

The *Mental Health (Secure Facilities) Act 2016* authorises the use of force by Authorised Health Practitioners only on the direction of a Delegated Officer, that is necessary and reasonable to act while conducting a search (section 52).

Exclusion: Use of force by Canberra Health Services Security Officers is out of the scope of this Procedure. For further information see the *CHS Use of Force by CHS Security Officers Policy and Procedures*.

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Section 1 – Authorisation of Use of Force

Use of force may only be undertaken by an Authorised Health Practitioner (see Definition of Terms), on direction from a delegate of the CHS CEO, and who will be referred to in this Procedure as a **Delegated Officer** as per s52 *Mental Health (Secure Facilities) Act 2016*.

Delegated Officers+ who may authorise use of force are:

- Clinical Director, Forensic Mental Health Services (FMHS)
- Operational Director, Justice Health Services (JHS)
- Director of Nursing, MHJHADS
- Dhulwa Consultant Psychiatrist
- Assistant Director of Nursing (ADON) or
- Canberra Health Services Executive on Call.

The use of force used by an Authorised Health Practitioner must occur in accordance with s61 and 62.

The Delegated Officer may authorise use of force by an Authorised Health Practitioner to carry out a search of a consumer or to prevent the loss, destruction or contamination of anything seized or that may be seized during a search.

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Section 2 – Use of Force

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The safety of everyone involved is the primary concern when use of force is used. Under the *Mental Health (Secure Facilities) Act 2016*, Authorised Health Practitioners may be authorised to use force when searching a consumer. All staff engaging in the application of force must have completed CHS Occupational Violence Training. Use of Force may only be undertaken by an Authorised Health Practitioner following approval by a Delegated Officer.

When the use of force is necessary, all efforts should be made to minimise the potential of injury for those involved including the consumer(s) and staff member(s).

Use of Force may only be used in circumstances where the Authorised Health Practitioner believes on reasonable grounds that the purpose for which force may be used cannot be achieved in another way. Specifically, that the search may not be achieved in another way.

The person using force must believe on reasonable grounds, that the level of force used is necessary, proportionate and justifiable to the level of resistance encountered, i.e., too little force would be ineffective; too much force would be excessive.

Searches of a consumer may involve the necessary and reasonable use of force. Force may be an unavoidable part of the search process (especially for personal searches if the person is not compliant) but must still be proportionate, justifiable and in the least intrusive and invasive, and most dignified method.

Use of force may also be used as part of a search to prevent the loss, destruction or contamination of anything seized, or that may be seized, during the search (see *Dhulwa Search Procedure* for more information).

Use of force may only be used on a consumer of Dhulwa in conjunction with a search.

Exclusion: Use of force on Visitors to Dhulwa is out of scope of this procedure.

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Section 3 – Care of a Consumer Post Use of Force

Any consumer on whom use of force has been used must be asked if they have sustained any injuries or if they require medical attention. The Delegated Officer must ensure that a Doctor examines a consumer following a use of force as soon as practicable (s 64 *Mental Health (Secure Facilities) Act 2016*).

The use of force can be a traumatic experience and staff should provide an empathetic debriefing to the consumer, their family, guardian, and nominated person as an integral part of post use of force practice.

Staff must record the debriefing in the consumer’s DHR including the content of the conversation, and responses from the consumer and/or their representative. If debriefing

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does not occur, the attempts to debrief and/or the rationale not to debrief must be recorded in the consumer’s DHR.

For issues relating to Aboriginal and Torres Strait Islander consumers, the Aboriginal and Torres Strait Islander Liaison Officer should be involved to assist in communication with the consumer and/or their family to help resolve any issues.

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Section 4 – Care of a Staff Post Use of Force

The ADON, Clinical Nurse Consultant (CNC) , Nurse in Charge (NiC) will notify the relevant Clinical Director of any injury to staff and ensure a Riskman is completed. See the *CHS Occupational Violence Procedure*.

A debrief post use of force will be led by the ADON, CNC or NIC (after hours) at the conclusion of the incident. The aim of the debrief is to assess the immediate management and welfare needs of staff involved.

Within one week of the incident, the CNC will coordinate an extended debrief for all staff involved in the incident.

Any staff member who has been the victim of an assault has the right to report the assault to ACT Policing and must be provided with the necessary support and advocacy to do so.

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Section 5 – Documentation Requirements for Use of Force

5.1 Use of Force Register

Under s65 of the *Mental Health (Secure Facilities) Act 2016*, a register must be kept of any incident involving use of force, and must include:

- The name of the consumer involved in the incident.
- The name of each person involved during the incident.
- The date force was used on the consumer.
- The rationale for the use of force.
- The force used.
- The injury caused (if any).
- If someone died as a result of the use of force, the date and circumstances of the death.
- Anything else the CEO considers relevant.

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The register must be available for inspection for any Commissioner exercising functions under the *Human Rights Commission Act 2005*.

5.2 Use of Force Record

Under s64 of the *Mental Health (Secure Facilities) Act 2016*, a record must be kept of any incident involving the use of force when searching a consumer.

The record must:

- Details of the incident, including:
 - the circumstances,
 - the decision to use force and,
 - the force used.

The record must be available for inspection, on request, by a Commissioner exercising functions under the *Human Rights Commission Act 2005*.

5.3 Public Advocate and Official Visitor

A copy of the Use of Force Record must be provided to the Public Advocate and Official Visitor.

5.4 Incident Report

A clinical incident report must also be completed in Riskman as the incident involved a consumer. The CNC, or NIC (after hours), is responsible for ensuring the use of force is reported in Riskman.

5.5 Review of Use of Forces Episodes

All episodes of use of force in Dhulwa are to be reviewed in the Safe practices review committee monthly (including outcomes and learnings from reviewed Riskman reports).

A report will be tabled at the Mental Health, Justice Health, Alcohol and Other Drug Services (MHJHADS) Divisional Work Health and Safety Committee meeting every three months.

Evaluation

Measure

- All use of force at Dhulwa is authorised by a Delegated Officer.
- All use of force at Dhulwa is undertaken in accordance with this procedure.

Outcome

- The Use of Force register and record is completed for each use of force episode.
- Use of force at Dhulwa are reviewed at the Restrictive Practive Review Committee monthly.

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Related Policies, Procedures, Guidelines and Legislation

Policies

- Dhulwa Searching Policy

Procedures

- Dhulwa Search Procedure

Legislation

- *Mental Health (Secure Facilities) Act 2016*
- *Human Rights Act 2004*
- *Human Rights Commission Act 2005*
- *Carers Recognition Act 2011*
- *Australian Charter of Healthcare Rights*

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Definition of Terms (if applicable)

Authorised Health Practitioner: is a registered health practitioner who holds registration as a medical practitioner (other than provisionally registered medical practitioner), or registered nurse, or psychologist (other than provisionally registered psychologist), or occupational therapist, and is employed by CHS to provide services as a health practitioner at Dhulwa. See the *Mental Health (Secure Facilities) (Health Practitioners) Authorisation 2022 (No 1)* on the ACT Legislation Register.

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Search Terms

Use of force, Dhulwa Mental Health Unit, Dhulwa, Search, DMHU

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Policy Team ONLY to complete the following:

| Date Amended | Section Amended | Divisional Approval | Final Approval |
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