

FACT SHEET

Mental Health Bill 2012

The Bill replaces the current *Mental Health Act 1996*. The Bill has been drafted to address issues raised by consumers, clinicians and other stakeholders throughout a significant consultation process.

The Bill balances consumer rights with the need for treatment, while also recognising the important role played by carers and family members of people with a mental illness.

The current Act enables a person to be treated without consent, and for a person to be detained without being treated. This is considered to be contrary to the rights of persons with a mental illness and is not consistent with a human rights approach.

The *Mental Health Bill 2012* seeks to address these concerns. Key features of the *Mental Health Bill 2012* are:

- decision-making capacity is a key threshold criterion for determining whether or not the Act will apply. On this basis the legislation does not enable a person with decision-making capacity to be assessed, treated or detained against their will
- establishment of a single independent Tribunal with authority to make decisions about both treatment and treatment setting, in the hospital and/or community
- a streamlined and simplified treatment pathway and clarified protective custody, assessment and treatment pathways
- all Treatment Orders made by the independent Tribunal are required to be regularly reviewed within mandated timeframes
- establishment of the statutory office of the Chief Civil Psychiatrist. Both the Chief Civil Psychiatrist and Chief Forensic Psychiatrist are able to intervene directly with respect to the assessment, treatment and care of patients and may issue standing orders and clinical guidelines to guide the Act's interpretation and utilisation
- the responsibilities of clinicians and the rights of consumers and their families/carers are clearly outlined and
- the legislation contains provisions for the appointment, role and function of Official Visitors, for the approval of facilities and statutory officers and the management of forensic patients.

The *Mental Health Bill 2012* enables individuals with capacity to make their own treatment choices, while facilitating treatment for individuals who lack decision-making capacity and who need treatment for their own health or safety, or for the safety of others. The Bill represents a significant improvement in the protection of the rights of mental health consumers in Tasmania.