

**Mental Health and Wellbeing Act 2022****Sections 52 - 56****MHWA 144****Direction to restrict right to communicate**

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Mental Health Statewide UR Number

Local Patient Identifier

FAMILY NAME

GIVEN NAMES

DATE OF BIRTH

SEX

GENDER

Place patient identification label above

**Instructions to complete this form**

- This form must be completed by an Authorised Psychiatrist or Delegate.
- The right to communicate provisions in the Mental Health and Wellbeing Act 2022 only apply to a person on an inpatient order.
- This direction to restrict the right to communicate may only be made if the Authorised Psychiatrist or Delegate is satisfied that the restriction is reasonably necessary to protect the health, safety and wellbeing of the inpatient or of another person.
- An Authorised Psychiatrist or Delegate must ensure any restrictions to an inpatient's right to communicate are the least restrictive possible to protect the health, safety and wellbeing of the inpatient or of another person.
- This direction must be reviewed by the Authorised Psychiatrist or Delegate on a regular basis and be immediately revoked when the restriction is no longer necessary.
- A decision cannot be made which restricts an inpatient's right to communicate with:
  - a legal representative; or
  - the chief psychiatrist; or
  - the Mental Health and Wellbeing Commission; or
  - the Mental Health Tribunal; or
  - a community visitor; or
  - a non-legal mental health advocacy service provider or a mental health advocate; or
  - the DFFH Secretary, if that Secretary has parental responsibility for the inpatient under a relevant child protection order; or
  - a prescribed person or body.

GIVEN NAMES

FAMILY NAME (BLOCK LETTERS)

a patient of:

Designated Mental Health Service

who is subject to:

- ☐ an Inpatient Temporary Treatment Order  
☐ an Inpatient Treatment Order  
☐ Custodial Supervision Order  
☐ Forensic Remand

- ☐ an Inpatient Assessment Order  
☐ an Inpatient Court Assessment Order  
☐ Secure Treatment Order  
☐ Apprehended Non-Custodial Supervision Order

(please indicate ☒ one option only)**1. I am satisfied that:**

a. it is reasonably necessary to restrict the above named inpatient's right to communicate:

- ☐ to protect the health, safety and wellbeing of the inpatient; or  
☐ to protect the health, safety and wellbeing of another person; and  
☐ to protect the health, safety and wellbeing of the person & another person

**2. I have given proper consideration to the mental health and wellbeing principles in the *Mental Health and Wellbeing Act 2022*.****3. Details of the restriction (e.g. phone, visitors):****4. Reasons for the restriction:****5. Other options tried or considered and reasons why unsuitable:**

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6. I have had regard to:

- ☐ the views and preferences of the inpatient and their reasons
- ☐ the inpatient's advance statement of preferences
- ☐ the views and preferences expressed by the inpatient's nominated support person
- ☐ the views of a parent of the inpatient, if the inpatient is under the age of 16 years  
(please indicate ☒ all persons consulted)

- ☐ the views of a guardian of the inpatient
- ☐ the views of a carer of the inpatient, if making this direction will directly affect the carer and the care relationship
- ☐ the views of the Secretary, Department of Families, Fairness and Housing if that Secretary has parental responsibility for the inpatient under a Relevant Child Protection Order

7. Date and time right to communicate restricted

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date

at:

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time 24 hour

Signature:

Date:

--	--	--	--	--	--	--	--

Signature of Authorised Psychiatrist or Delegate

Given Names:

Family Name:

This restriction was revoked

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date

at:

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time 24 hour

Reasons to revoke the restriction are:

Signature:

Date:

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Signature of Authorised Psychiatrist or Delegate

Given Names:

Family Name:

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**Frequency of review** - this could be expressed as a time e.g 1 hour, 4 hour etc

[illegible]

## Direction to Restrict Communication

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**Next steps**

After making this direction:

1. **tell** the person on an inpatient order that this direction has been made;
2. **explain** the reason for the restriction on their right to communicate and what it means;
3. **discuss** alternative ways the person can lawfully communicate while this restriction is in place;
4. **give** the person a copy of the signed direction (the first part of the form);
5. **inform** the following persons (as applicable) that the direction has been made and the reasons for making it:
  - the inpatient's nominated support person
  - a parent of the inpatient if the inpatient is under 16 years of age
  - a carer of the inpatient, if making this direction will directly affect the carer and the care relationship
  - a guardian of the inpatient
  - the Secretary, Department of Families, Fairness and Housing if that Secretary has parental responsibility for the inpatient under a Relevant Child Protection Order
6. **inform** the primary non-legal mental health advocacy service provider that the direction has been made and the reason for it;
7. **ensure** restrictions are the least restrictive possible to protect health, safety and wellbeing;
8. **provide** appropriate supports to assist the person/s to understand this information; and
9. **ensure** this direction **does not restrict** the person's right to communicate with:
  - a legal representative
  - the chief psychiatrist
  - the Mental Health and Wellbeing Commission
  - the Mental Health Tribunal
  - a community visitor
  - a non-legal mental health advocacy service provider or a mental health advocate
  - the DFFH Secretary, if that Secretary has parental responsibility for the inpatient under a relevant child protection order
  - a prescribed person or body

**Notes**

- The Authorised Psychiatrist or Delegate must review this direction on a regular basis. This review can be documented in the second part of this form. An initial review interval should be listed under 'frequency of review' and updated if it changes.
- The treating team should also regularly monitor the need to restrict communication and document their comments in the second part of this form.
- If there is insufficient room to provide comments about the review of the direction in the second part of this form, please print and attach another page to your record.
- If the treating team considers the restriction is no longer necessary, they should advise the Authorised Psychiatrist or Delegate who can conduct a review to determine if the restriction should be revoked.
- The Authorised Psychiatrist or Delegate who made the direction must immediately end the restriction on the right to communicate, if satisfied it is no longer necessary.
- If the person who made this direction is on leave, another Authorised Psychiatrist or Delegate who is acting in their role should end the restriction if satisfied it is no longer necessary.

**Mental Health and Wellbeing Principles**

- The Authorised Psychiatrist or Delegate must give proper consideration to the mental health and wellbeing principles in the *Mental Health and Wellbeing Act 2022*. For example:
  - The rights, dignity and autonomy of people living with mental illness and psychological distress are to be promoted and protected.
  - Mental health and wellbeing services are to be provided with the least possible restriction on a person's rights, dignity and autonomy with the aim of promoting their recovery and full participation in community life.
  - Supported decision-making practices are to be promoted and people receiving mental health and wellbeing services are to be supported to participate in decisions about their assessment, treatment and recovery.
  - People receiving mental health and wellbeing services have the right to take reasonable risks in order to achieve personal growth, self-esteem and overall quality of life.

**Definitions**

- **'Communicate'**, in relation to an inpatient, means:
  - (a) sending from, or receiving at, a designated mental health service uncensored private communication which may include communication by letter, telephone or electronic communication; or
  - (b) receiving visitors at a designated mental health service at reasonable times, including an Australian legal practitioner, mental health advocate or nominated support person of the inpatient.
- **'Inpatient'** means a patient who is detained in a designated mental health service.
- **'Relevant Child Protection Order'** means:
  - (a) a therapeutic treatment (placement) order;
  - (b) a family reunification order;
  - (c) a care by Secretary order;
  - (d) a long-term care order,each within the meaning of the Children, Youth and Families Act 2005.