

Guideline on the Role of Directors of Area Addiction Services Appointed under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017

Disclaimer

While every care has been taken in the preparation of the information in this document, users are reminded that the Ministry of Health cannot accept legal liability for any errors or omissions or damages resulting from reliance on the information contained in this document.

Please note that these guidelines are not intended as a substitute for informed legal opinion. Any concerns you may have should be discussed with your legal advisors.

Published with the permission of the Director-General of Health, pursuant to section 116 of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017.

Citation: Ministry of Health. 2017. *Guideline on the Role and Function of Directors of Area Addiction Services Appointed under the Substance Addictions (Compulsory Assessment and Treatment) Act 2017*. Wellington: Ministry of Health.

Published in November 2017
by the Ministry of Health
PO Box 5013, Wellington 6140, New Zealand

ISBN 978-1-98-853931-7 (online)
HP 6741

This document is available at health.govt.nz



MANATŪ HAUORA



This work is licensed under the Creative Commons Attribution 4.0 International licence. In essence, you are free to: share ie, copy and redistribute the material in any medium or format; adapt ie, remix, transform and build upon the material. You must give appropriate credit, provide a link to the licence and indicate if changes were made.

Contents

Introduction	1
1 Role and general duties of Area Directors	2
Appointment of Area Directors	2
Role of Area Directors	2
Statutory administration	2
Clinical oversight	2
Operational influence	3
2 Appointment and management of statutory officers	4
Assigning responsible clinicians – Section 94 of the Act	4
Designating and directing authorised officers	5
Delegation by Area Director – section 89 of the Act	5
3 Area Administration of compulsory assessment and treatment processes	6
Section 15 of the Act: Application requirements	6
Section 19 of the Act: Arrangements for specialist assessment	6
4 Information to be given to, or sent by the Area Director	7
Receiving information	7
Disseminating information	7
5 Oversight of the assessment and treatment process	9
6 Protecting the rights of patients	10
Section 49 of the Act: Right to nominate a person to protect the patient’s interests	10
Limits on right to receive and send mail and electronic communications	10
Applications for warrants	10
Visits and inspections	11
Reporting	11
Relationships with district inspectors	11
Relationships with other statutory inspectors	11
Complaints of breach of rights	12

Appendix: The Director of Addiction Services’ protocol for appointment of Area Directors	13
Prerequisite qualifications	13
Appointment criteria	13
Review of appointees	16
Resignation	16

Use of the word ‘patient’

The preferred language for referring to someone receiving addiction treatment varies, and includes ‘client’, ‘service user’ and ‘tangata whaiora’. The Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (the Act) uses the word ‘person’ to refer to an individual prior to a compulsory treatment certificate being issued.

Once a compulsory treatment certificate is issued, the Act uses the word ‘patient’.

This guideline uses the language of the Act, while acknowledging that people who use or provide addiction treatment services rarely use the term ‘patient’. Where the word ‘patient’ is used, it refers only to people subject to compulsory treatment.

Introduction

This document provides guidance on the appointment and functions of Directors of Area Addiction Services (Area Directors) under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (the Act).

This guideline sits alongside the other supporting guidance on the Act, including:

- *Introductory Guideline to the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*
- *Guideline on the Role and Function of Authorised Officers appointed under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*
- *Guideline on the Role and Function of Approved Specialists and Responsible Clinicians appointed under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*
- *Guideline on Assessing Capacity to Make Decisions about Treatment for Severe Substance Addiction*
- *Manaaki Mana Enhancing and Mana Protecting, a practitioner resource.*¹
- *Criteria for Approved Providers designated under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*

This guideline describes the general duties of the Area Director and provides advice on the key skills and competencies required for this role.

¹ <http://teraumatatini.com/manaaki-mana-enhancing-and-mana-protecting>

1 Role and general duties of Area Directors

Appointment of Area Directors

Area Directors are appointed by the Director of Addiction Services (the Director) under section 88 of the Act. Detailed appointment criteria are outlined in the Appendix of this guideline.

Role of Area Directors

A person appointed as Area Director will be an experienced addiction treatment professional who also holds a senior role within a district health board (DHB) addiction treatment service.

Appointment by the Director confers upon the Area Director a set of powers and responsibilities related to the administration of the Act in a specified area. These responsibilities include statutory administration and clinical oversight. In addition, the Area Director must be able to establish effective working relationships with a wide range of addiction treatment services and other health and social services needed to support individuals during compulsory treatment and following their release from compulsory status.

There is no requirement that an Area Director be appointed for each DHB. Depending on the number of people subject to compulsory treatment, it may be effective to make regional appointments.

Statutory administration

An Area Director will normally act as the main point of contact between the Director and addiction treatment centres and/or facilities for treatment under the Act within a defined area or region. An Area Director reports to the Director in respect of their statutory duties, but remains employed by a DHB or other service.

An Area Director has the authority to approve and direct authorised officers and must assign a responsible clinician to every patient. An Area Director also has a role in resolving disagreements about whether someone should come under the Act and in prioritising cases if there is pressure for beds.

Clinical oversight

An Area Director has various clinical oversight responsibilities arising from their statutory responsibilities.

The role includes:

- making recommendations to the Director for health professionals to be appointed as approved specialists

- ensuring that people who are subject to an application for compulsory assessment and treatment are properly assessed by an approved specialist
- ensuring that each patient is assigned a responsible clinician
- ensuring that treatment plans are developed for each patient in accordance with sections 29 and 44 of the Act.

Section 91 of the Act specifies the responsibility of Area Directors for the appointment and operation of authorised officers. It also envisages that responsible clinicians will be accountable to the Area Director.

Operational influence

Area Directors are expected to have influence on the delivery of care beyond the clinical management of patients. They are expected to have the authority to ensure adequate deployment of authorised officers, sufficient to meet the needs of a particular area and to ensure that authorised officers are supported to do their job.

Area Directors must also have the authority and expertise to make recommendations to the Director about health professionals who are suitable to be appointed as approved specialists, and to assign responsible clinicians to individual patients.

Finally, Area Directors should be able to work with a range of services to ensure sufficient resources are available for authorised officers and responsible clinicians to carry out their legislative roles.

Area Directors should be able to establish strong and effective working relationships with:

- DHB provider arms (such as community addiction services and hospitals)
- non-governmental organisations (NGOs) providing addiction treatment services, as well as NGO mental health and disability support services
- DHB planning and funding departments
- Police districts within the area to which they are appointed
- a wide range of social services
- local iwi and community cultural organisations.

2 Appointment and management of statutory officers

Assigning responsible clinicians – Section 94 of the Act

Under section 94 of the Act, Area Directors are responsible for ensuring that a responsible clinician is assigned to every patient at all times.

Responsible clinicians are approved specialists, designated by the Director. They must be a health professional as defined in the Act. In summary, a responsible clinician must be:

- a medical practitioner
- a registered psychologist
- a registered nurse
- a registered social worker
- or a person registered with an organisation designated under section 96(1) of the Act.

The Area Director must be able to demonstrate to the Director that the recommended individual has significant knowledge and experience in the treatment of severe substance addictions and is suitably experienced to conduct specialist assessments and reviews under the Act.

The Area Director is responsible for recommending individuals for the Director's consideration for appointment as approved specialists. Recommendations should reflect the extent to which the recommended individual meets the criteria set out in the Act and the competencies set out below:

- a specialist knowledge of substance addiction
- the ability to conduct an examination to assess for severe substance addiction and to determine the capacity to consent to treatment for severe substance addiction
- skills in engagement, conflict resolution, problem solving, behaviour management, de-escalation and interpersonal skills
- highly developed communication skills
- an ability to make decisions and act independently
- an ability to consult and work effectively with the family and whānau of individuals undergoing assessment and as patients.

The Act does not preclude an Area Director from being a responsible clinician, so long as they are also an approved specialist. In such an event, the Area Director should arrange for another approved specialist to review their decisions about whether to accept or decline an application for assessment.

Further advice about the requirements for approved specialists and responsible clinicians can be found in the Ministry of Health document *Guideline for the Role and Function of Approved Specialists and Responsible Clinicians appointed under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*.

The Director must maintain a list of approved specialists and must ensure that the list is available for public inspection. This list will be published on the Ministry of Health's website (www.health.govt.nz) and updated as necessary.

Designating and directing authorised officers

Authorised officers are health professionals with the specific statutory responsibility to provide general advice and assistance to members of the public and to provide advice about the management of people with substance addiction. Authorised officers are appointed by the Area Director under section 91 of the Act.

Area Directors do not generally have a direct employment relationship with authorised officers. This means that the Area Director may need to ensure that the organisations employing authorised officers are familiar with the statutory role of the Area Director in respect of appointing and directing authorised officers.

Detailed information about the role and appointment of authorised officers is set out in the Ministry of Health document *Guidelines for the Role and Function of Authorised Officers appointed under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*.

Delegation by Area Director – section 89 of the Act

An Area Director can delegate powers, duties and functions under the Act to any suitably qualified person approved by the Director. The delegation must be signed and in writing and may only be relied upon when the Area Director is ill or on leave but otherwise as if the delegate had been appointed directly as an Area Director. The delegation must specify the reason for the delegation.

3 Area Administration of compulsory assessment and treatment processes

An Area Director is likely to be involved in the administration of all aspects of the Act in the area to which they are appointed. Sections 15 and 19 of the Act require especial attention because of the statutory requirements for Area Directors to be involved in the assessment and treatment process.

Section 15 of the Act: Application requirements

An application for compulsory assessment is made when the Area Director receives an application that complies with the requirements of section 15. The Area Director must check that the following features of the application are complete:

- confirmation that the applicant is 18 years of age or over
- confirmation that the applicant has personally seen the person who is the subject of the application, within the five days immediately prior to the application
- the grounds on which the applicant believes that the person has a severe substance addiction
- the applicant has dated and signed the application
- the application is accompanied by a medical certificate or a memorandum from an authorised officer.

The Area Director should be able to query information provided in the application and be confident in accepting and rejecting applications, and in providing advice and assistance on other avenues through which an applicant can seek help for the person about whom they are concerned.

Section 19 of the Act: Arrangements for specialist assessment

The Area Director or an authorised officer acting with the authority of the Area Director must, as soon as practicable, make the necessary arrangements for the person to be assessed by an approved specialist. This process includes:

- nominating an approved specialist to assess the person
- determining where and when the assessment is to be made
- giving the person to be assessed a written notice containing details of the assessment and its purpose
- ensuring that the contents of the written notice are explained to the person in the presence of a family member, a caregiver or anyone else concerned with the welfare of that person
- ensuring, if necessary, that arrangements are made to assist the person to be at the place where the assessment is to be conducted.

4 Information to be given to, or sent by the Area Director

Following an application for assessment, the Area Director is responsible for receiving (and on occasions, acting upon) certain information.

Receiving information

Section 25 of the Act states when the Area Director must receive information from an approved specialist. Specifically, as soon as practicable after an approved specialist dates and signs a compulsory treatment certificate, the approved specialist must:

- notify the Area Director of the identity of the patient
- consult with the Area Director and arrange for the patient to be detained in a health facility (for example in a medical ward if the patient is undergoing medically managed withdrawal or has a physical condition that requires medical intervention) until the patient is admitted to a treatment centre.

Disseminating information

Section 26 of the Act requires that the Area Director arrange for the following people to be given a copy of the compulsory treatment certificate and a written statement of the patient's rights and other entitlements under the Act:

- the patient
- the applicant
- the patient's principal caregiver
- the patient's welfare guardian (if appointed by the Court)
- the patient's nominated person (if the patient has nominated one)
- the patient's usual medical practitioner
- the district inspector
- any person who is a guardian of a child of the patient.

If the patient is unable to communicate adequately in English but can communicate adequately in another language, then the Area Director must arrange for the oral explanation to be given in that other language (section 26(5)).

The Area Director should consider who is best to give the oral explanation. Some patients will not be able to readily understand or remember an explanation of their rights and every effort should be made to reiterate the information as often as necessary. For some patients, it may be worth considering whether there is another person (eg, a peer support worker) who is better able to provide that explanation.

Section 51 of the Act also requires that the principal caregiver, welfare guardian and nominated person and identified others be informed of certain events affecting the patient.

The events are:

- the patient is absent from the treatment centre without leave or fails to return after a period of leave ends
- the patient is transferred to another treatment centre
- the patient is released from compulsory status
- an application is made under section 46(1) to extend the duration of the patient's compulsory treatment order.

5 Oversight of the assessment and treatment process

The Area Director is expected to ensure the integrity of the compulsory assessment and treatment process and provide clinical oversight of assessment and treatment.

Area Directors are tasked with receiving applications for assessment (section 15) and ensuring that appropriate arrangements are made for assessment examinations (section 19).

Section 41 requires that, if a patient is transferred out of area, the patient's responsible clinician notify the Area Director of the area into which the patient has been transferred.

Section 49 enables a patient to nominate someone (18 years or over) to protect their interests, and may vary or revoke that nomination at any time. Nomination may be in writing or orally, and may be made to a variety of individuals including the Area Director. Any person who is notified orally must record that information in writing and ensure the written notification or record is promptly given to the Area Director, the patient's responsible clinician and the manager of the treatment centre.

6 Protecting the rights of patients

The rights of patients are set out in Subpart 5 of the Act. The principles of the Act are set out in section 12 and assume an active process of supporting the rights of patients throughout compulsory assessment and treatment. The Area Director has an important role in ensuring that protecting patients' rights is regarded as more than a 'compliance' activity.

The Area Director is responsible for ensuring that these rights are fully met, and for ensuring that any breach is promptly rectified and brought to the attention of a district inspector.

Section 49 of the Act: Right to nominate a person to protect the patient's interests

If the nomination is made orally, the person who has been notified must record this in writing. The nomination (or written record of the nomination) must be given to the Area Director, the patient's responsible clinician and the manager of the treatment centre in which the patient is detained.

There is no provision for the Area Director or any other person to refuse to accept a nomination made by a patient. The exception would be if the nominated person declines to fulfil this role, or if the nomination is clearly unachievable (eg, the patient identifies a member of the Royal Family or a movie star as their nominated person). In such instances, the patient's responsible clinician or another person (for example, a cultural advisor or peer support worker) should work with the patient to assist them in considering a more suitable person for nomination.

Limits on right to receive and send mail and electronic communications

Patients generally have the right to receive and send mail and electronic communications. However, in some instances this may be detrimental to the interests and treatment of the patient or other persons in the treatment centre. Section 61 of the Act sets out the circumstances in which mail and electronic communications can be checked and if necessary, withheld.

Section 62 states that the approval of the Area Director is required before mail or electronic communications are checked or withheld.

Applications for warrants

In situations where an authorised officer cannot safely take or return a person to a place for treatment, the Area Director can apply to the District Court for a warrant authorising any constable to take the person to a place specified in the warrant.

Visits and inspections

Section 112 makes it an offence for anyone to obstruct an Area Director during their visit to a treatment centre, or to conceal or neglect to show information to the Area Director on request.

Reporting

Area Directors are responsible for ensuring that certain registers and records are kept. The Act does not prescribe that records be kept, but section 118 enables regulations to be made to prescribe ‘forms, registers, records, particulars, and notices for the purposes of this Act and the method of keeping such registers and records’.

Under section 88(5), Area Directors must also provide the Director of Addiction Services with a written report on the operation of the Act every three months. These reports will inform the Ministry of Health’s annual report on the use of the Act (required under section 119).

The Ministry must review the operation and effectiveness of the Act (under section 120(a)) and prepare a report on the review for the Minister. Some information will be collected through PRIMHD², but the Director may seek additional information by means of regular narrative reporting.

Relationships with district inspectors

District inspectors are statutory officers appointed by the Minister of Health to safeguard the rights of patients under the Act. They are required to regularly visit treatment centres (section 98) and to be given access to all parts of the service and all records required to be kept by the Act or related to compulsory patients (section 99). The Area Director will receive the report of a district inspector’s visit under section 100, within 14 days of the visit.

Area Directors should have a close working relationship with district inspectors within their region, characterised by openness and goodwill. Area Directors should work with the managers of treatment centres to ensure that district inspectors have appropriate access to all relevant areas, patients and materials. It is an offence to obstruct, conceal or wilfully neglect to show to district inspectors any parts of a treatment centre, patients or records.

Relationships with other statutory inspectors

The Crimes of Torture Act 1989 provides for the inspection of places of detention by ‘National Preventive Mechanisms’ (such as the Ombudsman) who may visit any place of detention to ascertain compliance with the Optional Protocol on the Convention Against Torture (OPCAT). The powers under the Crimes of Torture Act will apply to treatment centres where people are detained under the Act, irrespective of whether patients are cared for in a locked environment.

National Preventive Mechanisms have wide-ranging powers of inspection, including the authority to make unannounced visits.

² Ministry of Health single national mental health and addiction information collection of service activity and outcomes data for health consumers.

Complaints of breach of rights

Where a patient makes a complaint under section 67 of the Act that their rights under the Act have been breached, the complaint will be referred to a district inspector for investigation. The district inspector must provide a report on any substantial complaint to the Area Director, requiring them to take whatever steps are necessary to rectify the breach of rights.

Section 100(2) enables the Area Director to send a copy of the district inspector's report to the manager of a treatment centre, if appropriate. It will generally be appropriate to do so where the manager is able to rectify a certain matter such as the physical environment, or actions taken by employees of the treatment centre.

Appendix: The Director of Addiction Services' protocol for appointment of Area Directors

Prerequisite qualifications

A nominee for appointment as an Area Director must be a senior clinician who has undergone training in, and is competent in the assessment, treatment and care of people with severe substance addiction. The Act is silent as to nominees' employment. However, it is anticipated that most Area Directors will be employees of district health boards (DHBs).

Nomination does not mean automatic appointment. DHBs and other providers need to be aware that if nominees do not meet the Director's expectations for the role of Area Director, they will not be appointed.

Appointment criteria

The Area Director appointment criteria can be viewed as comprising three broad categories:

- knowledge
- skills
- attitudes.

These criteria reflect national sector standards and guidelines informing the application of powers under the Act, including:

- *Addiction Intervention Competency Framework* (dapaanz/Addiction Practitioners' Association Aotearoa-New Zealand, 2011)
- *Let's Get Real: Real skills for people working in mental health and addiction* (Ministry of Health, 2008)
- *Recovery Competencies for New Zealand Mental Health Workers* (O'Hagan, 2001)
- *Addiction Specialty Nursing Competency Framework for Aotearoa New Zealand*. (Drug and Alcohol Nurses of Australasia, 2012)
- *Te Whare o Tiki: Co-existing Problems knowledge and skills framework* (Matua Raki and Te Pou o te Whakaaro Nui, 2013).

Knowledge

As a senior addiction specialist and with a prescribed role in administering the Act, the Area Director must have a sound knowledge and understanding of:

- the development, implementation and practice of effective approaches to the assessment and treatment of people with substance addiction, irrespective of whether an individual meets the criteria of the Act for compulsory assessment and treatment
- the statutory definition of severe substance addiction, severely impaired capacity and acquired brain injury
- relevant practice guidelines
- issues of cultural difference, the principles of the Treaty of Waitangi and the implications of partnership and a sensitivity to cultural identity and personal beliefs
- Māori concepts of mental health and the cultural factors that impact on addiction, personal and cultural identity and wellness
- an understanding of trauma-informed care
- the relationship between substance addiction and other mental illness
- the role of family and whānau in the assessment and treatment of people with substance addiction
- the roles of authorised officers and approved specialists/responsible clinicians and the key competencies required for those roles
- the powers and responsibilities of Area Directors
- provisions pertaining to limitations to powers
- prescribed interactions with other roles designated in the Act, especially district inspectors, authorised officers, other Area Directors, responsible clinicians and the Director of Addiction Services
- interfaces with other legislation.

Area Directors should have a general understanding of the legislation that impacts on their tasks, particularly where they interface with the Act. This legislation includes:

- use of force and powers of arrest generally (Crimes Act 1961)
- adult guardianship (Protection of Personal and Property Rights Act 1988)
- care and protection of children, including treatment for substance use (Oranga Tamariki Act 1989)
- suspension of the motor vehicles licences of certain patients (Land Transport Act 1998, section 19)
- rights of health and disability service consumers (Code of Health and Disability Services Consumers' Rights 1996)
- constitutional rights and obligations (New Zealand Bill of Right Act 1990, Human Rights Act 1993)
- privacy and dealing with health information (Privacy Act 1993, Health Information Privacy Code 1994)
- Health and Safety at Work Act 2015.

Skills

The Area Director must have the following skills:

- the ability to carry out an assessment for severe substance addiction
- the ability to assess for capacity to consent to treatment for severe substance addiction
- excellent interpersonal and relationship skills

- clinical skills in engagement, problem solving and conflict resolution
- familiarity with the skills required to review processes when examining issues arising in service provision
- the ability to negotiate and discuss management plans with responsible clinicians
- good written and oral presentation skills
- cultural competency; the ability to work with a wide range of community agencies in a cooperative manner
- the ability to work collaboratively with addiction and mental health services
- the ability to deal appropriately with members of the public and with patients' families and whānau
- the ability to investigate complaints and to refer as necessary (eg, to a district inspector, or the Health and Disability Commissioner)
- the ability to educate other agencies and the public on the Act
- the ability to ensure systems that provide leadership, monitoring and supervision for authorised officers and approved specialists/responsible clinicians
- the initiative to seek specific and specialist advice when appropriate
- the ability to understand when issues need to be escalated or referred to.

Attitudes

The following attitudes should be evident in the Area Director:

- a strong recovery and wellbeing focus
- sensitivity to people, their experience and their context
- a focus on human and consumer rights
- respect for, and an understanding of, the value of input from those in other roles including advocates, nominated persons and interpreters, and a willingness to enable people to gain access to such supports
- respect for privacy and confidentiality
- a best-practice and purposive approach to compulsory treatment for severe substance addiction
- respect for the intent of the Act.

Additional factors

The following additional factors may also be considered at the discretion of the Director of Addiction Services:

- length of time a nominee has resided in New Zealand
- potential conflicts of interest
- a need to understand the broad New Zealand cultural landscape and understand New Zealand treatment arrangements, systems and legislation (eg, demonstrated through duration of at least 12 months' experience in addictions treatment service in New Zealand)
- demonstrated leadership within an addiction treatment service within New Zealand
- demonstrated confidence from peers and others that the nominee could carry out the role of the Area Director
- demonstrated ability to develop and maintain key relationships

- references from at least two addiction specialists.

Review of appointees

From time to time, the Director of Addiction Services may seek feedback on the performance of an individual Area Director. Feedback may be sought from other Area Directors, people who are or who have been patients under the Act, Directors of Area Mental Health services appointed under the Mental Health (Compulsory Assessment and Treatment) Act 1992 and other office holders such as district inspectors.

An Area Director can be removed or suspended from their position under section 88(2) if any of the following is proved to the satisfaction of the Director of Addiction Services:

- failure to perform adequately the duties of the office
- neglect of duty
- misconduct
- inability to perform the duties of the office.

Resignation

It is important that compulsory treatment for addiction in any given area continues to operate effectively at all times, Therefore, when an Area Director intends to resign he or she should inform the Director of Addiction Services well in advance, and help organise a transition for the Area Director functions for their area of appointment.