

# **Guidelines for the Role and Function of Duly Authorised Officers**

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Mental Health (Compulsory  
Assessment and Treatment) Act  
1992

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# Introduction

Section 130(a) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Act) states that the Director-General of Health may issue guidelines for the purposes of the Act. This document provides guidance to mental health clinicians acting as duly authorised officers (DAOs). It updates the previous guidelines issued in April 2000, to reflect changes in practice and statutory interpretation.

DAOs are the frontline statutory officers of the Act, and are expected to be the first point of contact for mentally distressed persons in the community and those people concerned about the mental health of another person. When practising mental health clinicians (typically registered nurses) exercise DAO powers, a complex balancing often arises between therapeutic approaches and statutory requirements. These guidelines are intended to help DAOs reach the best therapeutic outcomes for patients while complying with the requirements of the Act.

These guidelines sit alongside the *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992*.<sup>1</sup> It will often be appropriate for DAOs to refer to those guidelines for more complete guidance. These guidelines are in force from 1 July 2012.

<sup>1</sup> Ministry of Health. 2012. *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992*. Wellington: Ministry of Health.

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# **1 Duly authorised officers**

## **1.1 Appointment of duly authorised officers**

Duly authorised officers (DAOs) are appointed by Directors of Area Mental Health Services (DAMHS) under section 93 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Act). Each DAMHS must appoint sufficient numbers of DAOs to perform the functions and exercise the powers of DAOs at all times (section 93(1)(a)). DAOs should be health professionals with appropriate competence in dealing with mentally disordered persons (section 93(2)). The DAMHS may direct DAOs they have appointed in the exercise of their powers (section 93(4)).

DAOs must be issued with an identifying document (such as an ID card) that identifies the person as a DAO under the Act (section 93(3)).

Detailed appointment criteria for DAOs are contained in chapter 4 of these guidelines.

## **1.2 Role of duly authorised officers**

DAOs are health professionals designated and authorised by a DAMHS to perform certain functions and use certain powers under the Act. DAOs must have appropriate training and experience to respond to concerns about a person's mental health and to contribute to the assessment and treatment of people with mental health problems. Section 93(1)(b) of the Act assumes that DAOs will often be the first point of contact for members of the public seeking information or assistance when they are experiencing mental health difficulties, or are concerned about someone else's mental health. DAOs are required to provide general advice and assistance under section 37.

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## **2 Statutory functions of duly authorised officers**

### **2.1 Section 37: Providing general advice or assistance**

DAOs must act as a point of contact for general enquiries about assessment and treatment under the Act and available mental health services, and must provide appropriate assistance, advice and reassurance as necessary. In practice, this requires that DAOs have a good working knowledge of the Act and of the mental health services available in their area. The DAMHS has responsibility for ensuring that DAOs have the appropriate training and competence to provide general advice and assistance (see chapter 5). DAOs must also be readily contactable at all times (see 3.5 below).

### **2.2 Section 38: Providing assistance when a person may need assessment**

Section 38 allows anyone who has concerns about a person's mental health to request the assistance of a DAO. Section 38(2) describes the steps that a DAO must take to investigate the validity of the request. A DAO who receives a request for assistance must investigate the matter to the extent necessary to be satisfied that:

- the person making the request has genuine concerns
- there are reasonable grounds for believing that the person to whom the request relates may be mentally disordered.

There is a low threshold for establishing that a requester has 'genuine concerns' about a person. A DAO should normally continue to investigate whether or not there are reasonable grounds for believing that a person may be experiencing a mental disorder, unless the request is obviously malicious or false or is not related to the person's mental health.

In determining whether there are reasonable grounds for believing that the person may be experiencing a mental disorder, a DAO should make a clinical assessment by considering the following:

- why the person has requested a DAO's assistance
- any relevant prior history of mental illness
- any relevant available record of the person's health information

- the type and duration of the relationship between the person requesting assistance and the person who may be mentally disordered
- any recent contact the person may have had with a general practitioner, the police or the local accident and emergency service.

Once a DAO is satisfied that a person may be experiencing a mental disorder, they must decide whether or not the person requires an urgent medical examination. The DAO must take into account the interests of the person or of any other person, and should also consider the following:

- whether the person is likely to comply with arrangements for a medical examination under section 8B
- any past records relating to the person, particularly relating to their contextual risk of violence or self-harm, non-attendance or poor self-care
- the resources required and available to safely transport the person.

### **2.2.1 Arranging non-urgent medical examinations**

If a DAO decides that the person should be assessed but that the situation is not urgent, section 38(3) of the Act requires a DAO to arrange (or assist in arranging) a medical examination (section 8B of the Act) for the person. If a section 8B certificate is issued, the DAO must also assist someone to make an application under section 8A, or make the application if nobody else is willing or able. Appropriate applicants include the doctor who issued the section 8B certificate, or the person who requested assistance.

Once the section 8A application is completed, a DAO must arrange for an assessment examination to take place under section 9 of the Act.

### **2.2.2 Arranging urgent medical examinations**

If the circumstances are urgent, section 38(4) of the Act requires a DAO to ensure that a medical examination under section 8B takes place and, if a certificate is issued, arrange for an examination under section 9 of the Act.

It is preferable that a DAO arranges for a medical practitioner to come to the person for the purposes of the medical examination (sections 38(4)(a) and (b)). However, if a medical practitioner is not available and the person refuses to go willingly to a medical practitioner, a DAO can take all reasonable steps to take the person to a medical practitioner and ensure that a medical practitioner is able to examine the person. This may include requesting Police assistance under section 41 of the Act (section 38(4)(d)), although a DAO is permitted to use force to take the person (section 122B(2)(a)).

A DAO should use only minimal force in exercising these powers in accordance with section 3.3 below. If more than minimal force is required, a DAO should request assistance from Police (see 2.8 below).

A person may become 'detained' for the purposes of section 23(1) of the New Zealand Bill of Rights Act 1990 before becoming a proposed patient if the situation is urgent and section 38 procedures are used.<sup>2</sup> If the person is urgently detained under section 38, the DAO should if possible inform the person of:

- the reason for their detention
- their right to consult a lawyer
- the right to have the validity of their detention determined by a court.

In practice, this will require talking with the detained person, then providing a written statement of their rights. Normally a written statement of rights under section 64(1) should include rights under the New Zealand Bill of Rights Act 1990.

### **2.2.3 Responding to requests from Police**

Police may detain any person that appears to be mentally disordered for up to six hours. A DAO called to assist a member of the Police to organise a medical examination for a detained person must endeavour to respond within six hours whenever possible. Although Police are able to detain an intoxicated person for a period of 12 hours under section 36 of the Policing Act 2008, if an intoxicated person is being held for the purpose of a medical examination for a suspected mental disorder a DAO should not assume that Police can continue to detain that person for longer than six hours.

If a DAO does not believe that a detained person is mentally disordered, they should endeavour to give the member of the Police who called them advice about the detained person's care and general information about any alternative services that may be available.

## **2.3 Section 8A: Making application for assessment**

A DAO is not required to make an application for assessment unless a person has been brought to their attention and the other criteria of section 38 are fulfilled. However, a DAO may make an application for assessment under section 8A, and may in many cases be the most appropriate person to make such an application.

## **2.4 Section 9: Arranging an assessment examination**

Although either a DAMHS or a DAO may act under section 9, in practice a DAO will normally be the person who arranges an assessment examination after receiving an application under section 8A. A DAO may arrange a section 9 examination after completing or facilitating the section 8A application.

<sup>2</sup> *Sestan v DAMHS, Waitemata DHB* [2007] 1 NZLR 767.

### **2.4.1 Nominating a person to conduct the assessment examination**

If a DAO is arranging an assessment examination, they must nominate a person to conduct the examination (section 9(2)(a)). Under section 9(3), that person must be a psychiatrist approved by the DAMHS for such assessments or, if no psychiatrist is 'reasonably available', some other suitably qualified medical practitioner approved by the DAMHS.

'Reasonably available' is not defined within the Act. The expertise that is 'reasonably available' in a well-staffed urban centre may be very different to that in a more isolated rural area. Nevertheless, some consistency in the matter is expected. When considering the expertise that is 'reasonably available', the DAO should consider:

- who is able to be called
- the geographical location, or how far away the psychiatrist is
- the normal duty roster
- the clinical demands of the situation.

Situations where a psychiatrist would not be reasonably available might include:

- after hours when no psychiatrist is scheduled on the duty roster (for example in small DHBs where the duty rosters are filled by registrars and medical officers (special scale))
- when the psychiatrist is absent for other reasons (such as ill health)
- when the psychiatrist is involved in other urgent work which means they are unable to attend the assessment in a timely manner
- when the psychiatrist is too far away to be able to attend the assessment in a timely manner (for example in DHBs which cover a large geographical area).

### **2.4.2 Giving written notice to the proposed patient**

Proposed patient status begins at section 8(3) of the Act when a medical practitioner issues a medical certificate, and ends when a psychiatrist decides that the proposed patient is either mentally disordered (and a section 11 certificate is issued) or that the proposed patient is not disordered and is therefore fit to be released or discharged. The DAO or other person organising an assessment examination must give notice to the proposed patient under section 9(2)(c), and should normally give notice on the form provided by the Ministry.

Proposed patients (people for whom section 8A applications have been received) must be given a written statement outlining their rights under section 64(1). This statement of rights should be provided when the notice to attend an assessment examination is provided. The rights of proposed patients are the same as those of patients, apart from the rights concerning sending and receiving mail, and some other rights specific to certain parts of the assessment and treatment process (section 63A).

### **2.4.3 Explanation of assessment examination must occur in presence of family member, caregiver or independent person**

Section 9(2)(d) requires that the purpose of the assessment examination is explained in the presence of a family/whānau member, caregiver or ‘other person concerned with the welfare of the proposed patient’. This is mandatory, and non-compliance has previously led to judicial invalidation of the assessment process. This process reflects the possibility that a person may lose their liberty following the assessment examination.<sup>3</sup> Therefore, the assessment and treatment process should be explained in advance, and the person should be given at least a brief time to discuss the application for assessment with their support person and prepare for the assessment.

If a family/whānau member or caregiver is not available, an independent person concerned with the welfare of vulnerable people and with some understanding of compulsory mental health care should be engaged. Different DHBs have different arrangements for this process, including maintaining lists of suitable volunteers, relationships with local kaumātua, and agreements with local Justice of the Peace Associations. Consider asking proposed patients who identify as Māori whether they would like a Māori support person. The presence (or not) of an independent person should be recorded on the patient file in every case.

When a person is in significant distress or is otherwise non-compliant with a DAO’s attempt to provide a section 9(2)(d) explanation, the DAO should take a therapeutic approach to organising the assessment so that patient welfare is prioritised over strict legal compliance.<sup>4</sup> If a person adamantly refuses to have anyone else present during the explanation, a court is unlikely to find that the assessment process is invalidated as a result.<sup>5</sup>

## **2.5 Section 39: Assisting with outpatients and inpatients on leave**

When a person brings the care, treatment or conduct of a compulsory patient outside of hospital to the attention of a DAO, the DAO must investigate whether there are reasonable grounds for taking any further action, and advise the responsible clinician of the grounds for their conclusion. If the patient’s state of health has deteriorated outside of hospital, it may be appropriate under section 39 to suggest that the patient return to hospital for a period of inpatient treatment.

<sup>3</sup> *Keenan v Director of Mental Health Services* [2006] 3 NZLR 572.

<sup>4</sup> McKenna B, Thom K, O’Brien A et al. 2009. Duly Authorised Officers’ practices under mental health law in New Zealand: Are nurses meeting the requirements of the law? *International Journal of Mental Health Nursing* 18: 231–8.

<sup>5</sup> *Sestan v DAMHS, Waitemata DHB* [2007] 1 NZLR 767, [54].

## **2.6 Section 40: Taking or returning patient to place of assessment or treatment**

Under section 40 of the Act, a DAO may take all reasonable steps to take a patient or proposed patient to a place they are required to attend for assessment or treatment. To ensure DAO safety and the safety of the patient or proposed patient, 'reasonable steps' should not normally include more than minimal use of force (see 3.3 below), and the DAO should not gain entry into premises without consent.

DAOs may request Police assistance under section 41 if the use of significant force or entry to premises is necessary (see 2.8 below). DAOs must take reasonable steps to ensure that the exercise of the power under section 40 is safe and to reduce the need to use force.

The section applies to:

- every patient or proposed patient who is refusing to attend:
  - an assessment examination under section 9 of the Act
  - an assessment in accordance with sections 11 or 13 of the Act
  - an examination by a judge under section 18 of the Act
  - a clinical review under section 76 of the Act
- every patient who is subject to a community treatment order and who is refusing to attend at a place for treatment in accordance with the order
- every patient who is subject to an inpatient order and is absent without leave or whose leave of absence has expired or been cancelled.

## **2.7 Returning patients absent without leave**

A DAO may take reasonable steps to return an inpatient absent from hospital without leave under section 40(2)(b). When the Minister of Health has cancelled special patient leave under section 50(3), or when the DAMHS has directed a temporary return to hospital under section 51(1), a DAO may take reasonable steps to return that patient to hospital. A DAO may also retake a special patient who is absent without leave under section 53. If a patient is likely to pose a serious risk to self or others it is appropriate for the DAO to request Police assistance to help return the patient to hospital.

If it is necessary to use more than minimal force to return a patient absent without leave (see 3.3 below), or if entry onto premises is required, a DAO should request assistance from Police (see 2.8 below).

## **2.8 Section 41: Requesting assistance from Police**

A DAO may request Police assistance to take or detain someone for an urgent medical examination under section 38(4), or to exercise any power under section 40. A constable can use the necessary force to take or detain a person for any of these

purposes. Detention may only occur for up to six hours. If it is reasonably practicable to do so, a warrant must be obtained to enter premises under section 113A(7).

When a DAO requests Police assistance the DAO is the lead official dealing with the incident and as such retains responsibility for making subsequent decisions about the person's assessment and treatment. The DAO should come to an agreement with Police about the most suitable place to detain a person for assessment or any of the other purposes in sections 38(4) or 40. Unless the person presents a high risk of violence or is under arrest, the place of detention should normally be a hospital mental health unit.

The appropriate use of force in carrying out a power under the Act is explained in section 3.3 below.

## **2.9 Advice and assistance to medical practitioner in emergency**

A medical practitioner must make every reasonable effort to get the advice and assistance of a DAO when emergency measures are considered. These situations are when:

- a medical practitioner considers that an urgent examination of a person under section 8B is necessary (section 110)
- a medical practitioner considers that sedation of a person is urgently required (section 110A)
- an urgent application for assessment has been made under section 110(2)(b) and a psychiatrist or other medical practitioner has been nominated to urgently assess the proposed patient (section 110B).

When a medical practitioner administers a sedative drug under section 110A, they must record the circumstances in which the drug was administered and give a copy to the DAMHS as soon as practicable. Ideally, such a record should be made available to the consultant psychiatrist conducting the assessment examination for the purpose of section 9 of the Act. This may mean that a DAO should take a copy and ensure it is transported with the proposed patient. A DAO should also consider the appropriate steps to be taken to ensure safe transport of a sedated proposed patient.

Section 110C of the Act sets out the powers of Police when urgent assistance is required by a medical practitioner. Police can be called to assist a medical practitioner under sections 110, 110A or 110B of the Act. A DAO consulted for advice under those sections may be best placed to determine whether Police assistance is necessary.

## **2.10 Section 111: A nurse's power to detain**

Section 111(2)(a) of the Act allows a registered nurse to detain, for the purpose of a medical examination, a person who has been admitted to hospital (or who has been brought to a hospital) who is believed to be mentally disordered. Many DAOs will also be registered nurses and so may exercise this power in appropriate cases. Section 111

may be relevant to a registered nurse DAO if a voluntary inpatient seeks to leave a psychiatric unit at a time when no medical practitioner is available to assess them and the DAO suspects that the person is mentally disordered.

Powers of detention are set out in section 113 of the Act. A person cannot be detained for more than six hours from the time the nurse first calls for a medical practitioner to examine the person (section 111(3)). It should be noted that the power to detain is not limited to the premises of a psychiatric unit and should be exercised with discretion, according to good clinical practice.

A nurse with experience in mental health and an understanding of the Act may wish to make an application under section 8A for a person they have detained under section 111.

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## **3 Statutory guidance when exercising powers under the Mental Health (Compulsory Assessment and Treatment) Act 1992**

The Ministry recommends that all DAOs have a good working knowledge of the Act and the *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992* (Ministry of Health 2012). The following guidance is intended to supplement the Ministry's general guidelines by particularly focusing on DAO powers and duties.

### **3.1 Respect for cultural identity and personal beliefs**

All persons, courts, and tribunals exercising authority under the Act, must do so with proper recognition and consideration of the importance of the patient's or proposed patient's family/whānau (section 5). During assessment, the patient or proposed patient's family/whānau should be encouraged to provide information about the patient, both in terms of the individual's history and any changes in the patient or proposed patient that family/whānau may have noticed.

A DAO should balance their responsibilities under section 5 of the Act with the need to ensure that the overall goal of appropriate care for a person is not unnecessarily hindered.

Under section 7A a medical practitioner conducting an assessment examination of a proposed patient under section 9, and a responsible clinician providing assessment of and treatment to a patient, must consult with the patient's family/whānau. Although not statutorily specified, the DAO may have had greater contact with family members than the practitioner has, and so may be best able to facilitate consultation between the practitioner and the patient's family/whānau. A person who identifies as Māori may benefit from the involvement of wider whānau, including a kaumātua or kuia.

For more general information and guidance on how mental health service providers can involve families/whānau in the care, assessment and treatment of proposed patients or patients, see:

- *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992* (Ministry of Health 2012)
- *Involving Families: Guidance Notes*.<sup>6</sup>

### **3.2 Section 6: Interpreters to be provided**

Section 6(2) of the Act requires a court, tribunal, or person exercising any power under the Act to ensure that an interpreter is provided for a person, if practicable, if the first or preferred language of the person is a language other than English. First or preferred languages may include Māori and New Zealand Sign Language.

For more general information and guidance on how mental health service providers should provide interpreters for proposed patients or patients, refer to the *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992* (Ministry of Health 2012).

### **3.3 Section 122B: Use of force in exercising powers**

Section 122B allows a DAO to use reasonable force to exercise the following powers:

- taking a person for a medical examination (section 38(4)(d))
- taking or returning proposed patient or patient to place of assessment or treatment (section 40(2))
- returning a special patient to hospital (sections 50(4), 51(3) and 53)
- detaining a person in hospital for a medical examination if they are thought to be mentally disordered (section 111(2))
- administering compulsory treatment (sections 58 and 59).

‘Force’ includes every touching of a person for the purposes of compelling or restricting movement or administering treatment. It will normally be appropriate for DAOs to use minimal force when exercising one of the powers above. ‘Minimal force’ means light or non-painful touching, for example to guide a person towards a building or room or help a person into or out of a vehicle.

<sup>6</sup> Royal Australian and New Zealand College of Psychiatrists. 2000. *Involving Families: Guidance notes: Guidance for involving families and whānau of mental health consumers/tangata whai ora in care, assessment and treatment processes*. Wellington: Ministry of Health.

A DAO should request assistance from Police whenever it is necessary to use more than minimal force outside of a mental health unit, to minimise the risk of harm to the DAO or to the person on which a power is exercised.

A DAO must not use force to enter premises under the Act. The DAO can call a member of the Police for this purpose under section 38(4)(b) or (d), or section 40(2). If it is practicable to do so, the constable must obtain a warrant before entering onto the premises.

The extent of reasonable force depends on the circumstances of the situation. In all situations the DAO should not use any more force than is reasonably necessary to safely exercise the relevant power. Use of excessive force without reasonable justification is a criminal offence.<sup>7</sup>

The use of force should always be considered a last resort. DAOs should be able to demonstrate that conflict resolution and de-escalation approaches were considered and attempted before using coercion.

When more than minimal or inconsequential force is used while exercising a power under the Act, a log recording the circumstances must be completed by the DAO and forwarded to the DAMHS as soon as practicable. Depending on the circumstances of the use of force, the DAMHS may wish to discuss the situation with the DAO. A log for this purpose should include:

- the date, time and place that force was used
- why force was required, including details of de-escalation attempts
- what type of force was applied and by whom
- any injury to patients or staff members involved
- any action or follow-up required as a result of force being used.

The requirement to log the use of force will normally be fulfilled through compliance with a DHB reportable event notification system.

## **3.4 Powers to be exercised with respect for rights of patients and proposed patients**

### **3.4.1 Part 6: Rights of patients**

Specific rights of patients and proposed patients are contained in Part 6 of the Act. DAOs should have a good working knowledge of what is required by each of these rights. Further guidance on these rights is provided in the *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992* (Ministry of Health 2012).

Certain sections are particularly relevant to the initial assessment process that DAOs will often be involved in. The provision of general and specific information to patients

<sup>7</sup> Section 62 Crimes Act 1961.

and proposed patients about their rights, the legal process and their legal status is required by section 64. Patients should also be informed of their right to independent psychiatric advice (section 69) and legal advice (section 70).

### **3.4.2 Code of Health and Disability Services Consumers' Rights**

The Code of Rights is managed by the Health and Disability Commissioner. The Code applies to any person providing a health service to the public, including DAOs. Powers under the Act and general duties of DAOs should be exercised in accordance with the Code.

### **3.4.3 New Zealand Bill of Rights Act 1990**

Rights and freedoms of persons generally are provided in the Bill of Rights. DAO powers infringe upon certain rights, including freedom from unreasonable search or seizure (section 21), and the right not to be arbitrarily arrested or detained (section 22). To comply with the Bill of Rights, DAOs must exercise powers affecting human rights in a reasonable way that minimally infringes on the rights affected.

There may be a fine line between expressions of religious and political views and manifestations of mental disorder in some persons. DAOs should always have reasonable grounds for exercising a power if these rights are in question.

### **3.4.4 Patient privacy**

The Privacy Act 1993 and the Health Information Privacy Code 1994 apply to the exercise of DAO powers.

## **3.5 Section 93: Specific statutory requirements for duly authorised officers**

DAOs are designated by the DAMHS for an area. The DAMHS must list a number in the telephone directory at which a DAO can be contacted. A DAO must have undergone training and be competent in responding to people with mental health problems or concerns.

In exercising their duties, DAOs must carry suitable identification issued by the DAMHS under section 93(3) and carry out their duties under the general direction of the DAMHS (section 93(4)).

## **3.6 Other relevant sections of the Mental Health (Compulsory Assessment and Treatment) Act 1992**

DAOs must have a good working knowledge of the Act and other relevant legislation, and of mental health, addictions and disability services available in their area, in order to fulfil their obligation under section 37 to provide general advice or assistance when

necessary, and the obligations to supply general information to patients and proposed patients.

For example, DAOs will need to understand the details of the compulsory assessment and treatment requirements contained in sections 11 to 28 of the Act in order to answer specific questions. It will also be important for DAOs to understand the powers of Police if their assistance is requested, and the scope of the Memorandum of Understanding between the Ministry of Health and Police and any local agreements that apply.

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## 4 Duly authorised officer appointment criteria

Duly authorised officers are health professionals designated and authorised by a DAMHS to perform certain functions and powers under the Act. DAOs must have appropriate training and experience to respond to concerns about a person's mental health and to contribute to the assessment and treatment of people with mental health problems.

The DAO role is competency-based and will usually be filled by a senior mental health clinician. To be considered for appointment as a DAO, a health professional will be a senior staff member with sufficient clinical knowledge and experience in responding to people with mental health problems or concerns.

Although a DAO will often be a registered nurse specialising in mental health treatment, many DAOs will not be nurses and may not be registered health practitioners. Any process for appointing DAOs must therefore ensure that there are adequate means to measure a mental health professional's suitability against competency-based criteria. These criteria can be divided into three broad categories:

- knowledge
- skills
- attitude.

These criteria reflect national sector standards and guidelines informing the application of powers under the Act, including *Let's get real: Real Skills for people working in mental health and addiction*<sup>8</sup> and the *Health And Disability Services (Restraint Minimisation and Safe Practice) Standards* (NZS 8134.2:2008).

In addition to the proper application of knowledge and skill, a DAO must also demonstrate a commitment to upholding consumer rights and human rights, and to applying a recovery approach in their practice. Therefore, the attitude that a DAO brings to their duties is essential to the successful application of their knowledge and skills.

<sup>8</sup> Ministry of Health. 2008. *Let's get real: Real Skills for people working in mental health and addiction*. Wellington: Ministry of Health.

## 4.1 Knowledge

The DAO must have sufficient training and clinical experience to demonstrate competence in dealing with:

- the assessment of mental disorder, especially from a bio-psycho-social perspective
- issues of cultural difference, including an awareness of the principles of the Treaty of Waitangi, the implications of partnership, and sensitivity to cultural identity and personal beliefs
- knowledge of Māori concepts of mental health and cultural factors that may affect understanding, for example, hallucinations and death
- the treatment and management of mental illness and addiction
- the use of and side effects from psychotropic medication, in which competence must be demonstrated to a reasonable level
- the management of aggression and violence requiring the maintenance of safety (eg, secondary de-escalation techniques, restraint and break-away techniques)
- known population groups vulnerable to self-endangering behaviours (eg, young males experiencing relationship difficulties)
- requests for information on the range of mental health services and other resources available
- all relevant sections of the Act:
  - the intent and meaning of sections and the specific paperwork required by each part of the Act
  - limitations to powers
  - access to supports
  - interactions with other roles designated in the Act (especially DAMHS and responsible clinicians)
  - expectations for professional conduct and responsibilities
  - interfaces with the legislation listed below.

In addition to the guidance in chapter 3, the DAO should have a general understanding of the following legislation that impacts on DAO tasks, particularly when it interfaces with the Mental Health (Compulsory Assessment and Treatment) Act:

- criminal procedure and disposition of mentally disordered persons (Criminal Procedure (Mentally Impaired Persons) Act 2003)
- 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 (Children, Young Persons and Their Families Act 1989)
- suspension of motor vehicle 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 Rights Act 1990, Human Rights Act 1993)
- privacy and dealing with health information (Privacy Act 1993, Health Information Privacy Code).

## **4.2 Skills**

DAOs must demonstrate a variety of skills derived from their function as senior mental health clinicians, including:

- knowledge of mental disorder
- an ability to undertake a mental status examination
- clinical skills in:
  - engagement
  - interpersonal relationships
  - conflict resolution
  - problem solving
  - behaviour management
  - primary and secondary de-escalation
  - crisis management
- good written and oral presentation skills
- the ability to work in a multidisciplinary team
- familiarity with safe restraint techniques, including use of break-away techniques
- the ability to liaise with community agencies and work with them in a cooperative manner, including iwi, marae committees, Pacific communities and church groups
- the ability to deal appropriately with members of the public
- the ability to educate other agencies and the public on the Act
- the ability to make decisions and act independently
- ability to use supervision, peer reviews, and debriefing procedures for both clinical matters and in the use of the Act
- working in cooperation with Police
- the initiative to seek specific and specialist advice when appropriate.

## 4.3 Attitude

Knowledge and skills by themselves are no guarantee of the successful implementation of the Act. The key aspect that will tie together content and process is undoubtedly the attitude that mental health professionals bring to their duties. Specifically the attitudes that should be demonstrably evident are:

- a strong recovery and wellbeing focus
- sensitivity to other people, their experiences and their context
- a focus on human rights and consumer rights
- cultural awareness and cultural safety
- an attitude of self-reflection and self-awareness towards their own practice
- sensitivity when working with advocates and interpreters, as well as an ability to enable people to gain access to such supports<sup>9</sup>
- respect for privacy and confidentiality
- respect for the intent of the Act.

<sup>9</sup> See *Let's Talk: Guidelines for Government Agencies Hiring Interpreters* (Department of Internal Affairs 1995).

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# 5 Selecting and monitoring duly authorised officers

## 5.1 Selecting duly authorised officers

A DAO selection process must accommodate the requirements of these guidelines and the Act, and include the participation of both employers and DAMHS. There will be some situations that will not easily fit this process, such as when a DAO is not an employee of a District Health Board but is an employee of another service provider. Every effort should be made by the employer to ensure that adequate training is provided to DAOs. DAMHS should be actively involved in this process.

When staff are being interviewed for positions that currently involve DAO duties, it is essential that the DAMHS or their delegate is involved. The DAMHS and the employer should agree on the interview process to be used. This will enable a structure that evaluates competence for potential DAO appointments and meets the needs of both the employer and the DAMHS. Local arrangements will need to be negotiated to find the most effective and efficient interview processes.

The Ministry recommends that potential candidates for appointment as DAOs are identified, trained and assessed as part of a structured appointment process. Training should ensure that candidates are able to competently apply the Act by way of case studies, clinical scenarios and mentoring. A formal assessment addressing the appointment criteria in chapter 4 should follow this training.

## 5.2 Monitoring duly authorised officers

The DAMHS should review DAOs yearly to ensure maintenance of clinical competency and adequate professional development. Yearly reviews should include:

- ensuring that adequate professional development and clinical supervision has occurred
- identifying areas of attitude, skill or knowledge that require addressing, and developing a plan to address those deficits
- identifying employer provision issues (such as resources, professional college membership, clinical mentoring) that would benefit the DAO
- following up any corrective actions taken during the year in response to service incidents.

### **5.3 Employers' obligations**

The extensive and demanding tasks that DAOs carry out are only possible with the active support of their employers and the DAMHS to whom DAOs are accountable. The main responsibility that lies with employers is the need to ensure that only competent staff are employed as DAOs (see chapter 4).

Employers and DAMHS share a responsibility to support DAOs in other ways. These include providing:

- training, both initial and ongoing, as well as performance monitoring
- sufficient resources (such as transport, communications equipment, office space and administrative support) for DAOs to carry out their responsibilities
- access to regular skilled supervision and advice, as well as support and debriefing following serious incidents
- access to suitable crisis/acute services
- access to psychiatrists and other medical practitioners required for certifications, after hours support, and advice
- a local Memorandum of Understanding with Police
- indemnity cover to provide protection to staff from legal challenge while carrying out their duties under the Act
- access to legal opinions and copies of relevant statutes
- whenever possible, sufficient staff to provide a 24-hour service and ensure that DAOs have support available when it is required. A range of staff should be available to allow the matching of the cultural/ethnic background of the consumer with that of the DAO.