



# TERMS AND CONDITIONS OF ENGAGEMENT OF MENTAL HEALTH ADVOCATES

## Background and structure:

1. The *Mental Health Act 2014* (the Act) creates the role of a Chief Mental Health Advocate (Chief) who engaged, under a contract for services, mental health advocates to provide independent advocacy services to, amongst other things, protect the rights of “identified persons” as defined under the Act. Identified persons includes involuntary inpatients and people on Community Treatment Orders, people who are detained on referral awaiting assessment by a psychiatrist, psychiatric hostel residents and mentally impaired accused in authorised hospitals and on release orders.
2. The mental health advocacy service (MHAS) created by these positions provides identified persons with access to information about their rights, individual support and advocacy to protect and exercise those rights, and pursue and attempt to resolve users’ complaints as well as carry out the other legislative functions in Part 20 of the Act. It also provides a systemic overview of services from an advocacy stance and promotes compliance with the Mental Health Act and Charter of Mental Health Care Principles.
3. The Chief, appointed by the Minister, is the head of MHAS. Mental Health Advocates, including a Youth Mental Health Advocate and any other specialist advocates, are engaged by the Chief on terms set out in the Act, this document, and their letter of appointment.
4. All mental health advocates are subject to the general direction and control of the Chief (see s352(5) of the Act) who is required, amongst other things, to provide advice and assistance and ensure that the advocates receive adequate training in relation to the performance of their functions under the Act (see s351 of the Act). The Chief will also set standards and protocols for the performance by mental health advocates of their functions.
5. Some of the functions of the Chief will be delegated to Senior Mental Health Advocates pursuant to s374 of the Act. Mental Health Advocates, through this delegation, will primarily report to, and liaise with, a Senior Mental Health Advocate.

## General terms and conditions of engagement:

6. The terms and conditions of engagement and remuneration of Mental Health Advocates is as set out in this document, the letter of engagement, and the Act, and have been determined by the Minister in accordance with s369(2) of the Act.
7. Mental Health Advocates are engaged on a work for services basis for the period specified in their letter of engagement but not exceeding 3 years in accordance with s369(1) of the Act.

8. It is a term and condition of the engagement that the applicant must:
  - 8.1. be an Australian permanent resident / Australian Citizen
  - 8.2. sign a Code of Conduct
  - 8.3. make an annual declaration of any conflicts of interest in accordance with the MHAS conflict of interest policy and s373 of the Act
  - 8.4. comply at all times with the standards and protocols (including policies and procedures) set, and follow directions by the Chief or any delegate able to be given under the Act in relation to the performance of functions
  - 8.5. meet any Key Performance Indicators set down for Mental Health Advocates by the Chief or any delegate.
9. The terms and conditions of resignation and removal from office are set out in sections 371 and 372 of the Act. Failure to comply with the Code of Conduct, or standards and protocols set, or directions issued under the Act, by the Chief can amount to incompetence, neglect of duty or misconduct for the purposes of s 372 of the Act.

## Services to be provided by Mental Health Advocates:

### **10. Mental Health Advocates are required to perform the functions set out in Part 20 of the Act and in particular sections 352 and 363 which include:**

- 10.1. visit or otherwise contact identified persons in accordance with section 357
- 10.2. inquire into or investigate any matter relating to the conditions of mental health services that is adversely affecting, or is likely to adversely affect, the health, safety or wellbeing of identified persons
- 10.3. inquire into or investigate the extent to which identified persons have been informed by mental health services of their rights under this Act and the extent to which those rights have been observed
- 10.4. inquire into and seek to resolve complaints made to mental health advocates about the detention of identified persons at, or treatment, or care that is being provided to identified persons by, mental health services
- 10.5. refer any issues arising out of the performance of a function under paragraph (b), (c) or (d) to the appropriate persons or bodies to deal with those issues, including to the Chief under section 363(2)
- 10.6. assist identified persons to protect and enforce their rights under the Act
- 10.7. assist identified persons to access legal services
- 10.8. in consultation with the medical practitioners and mental health practitioners responsible for their treatment and care, advocate for and facilitate access by identified persons to other services
- 10.9. assist identified persons to make complaints under Part 19 of the Act to mental health services or the Health and Disability Services Complaints Office and be their representative in respect of such complaints

- 10.10. assist and represent identified persons to make applications to and represent them in proceedings before the Mental Health Tribunal and State Administrative Tribunal.

**11. In carrying out their functions Mental Health Advocates are required to:**

- 11.1. comply with all other requirements of the Act
- 11.2. submit reports in writing and/or electronically in accordance with published policy and/or draft letters as directed by the Chief or the Chief's delegate
- 11.3. attend training as required
- 11.4. work independently and in a team
- 11.5. attend meetings as required
- 11.6. comply with lawful direction from the Chief or the Chief's delegate
- 11.7. submit claims for payment as required
- 11.8. provide advance notice as required by the Chief of the periods that they will not be available to perform the role of a Mental Health Advocate
- 11.9. work a minimum number of hours as set out in their letter of engagement.

**12. Mental Health Advocates may be required to:**

- 12.1. give presentations on the role of the MHAS to hospital staff and others
- 12.2. represent MHAS on relevant committees and working parties
- 12.3. liaise with relevant government and non-government agencies, consumers, carers, consumer groups and other stakeholders to ensure continuity of services provided by the MHAS
- 12.4. be "on call" or take responsibility for phone rosters over weekend and public holiday periods
- 12.5. work in the evening or on a weekend
- 12.6. work hours additional to the hours stated in their letters of engagement when asked to work additional hours by the Chief or their delegate.

## **Remuneration and what is claimable:**

**13. Mental Health Advocates are remunerated for their services as follows subject to satisfactory invoices and reports being provided:**

- 13.1. an hourly rate as stated in the letter of engagement
- 13.2. superannuation as required by law (currently 9.5%) into a superannuation company of their choice
- 13.3. a payment for mileage paid at the rates published by the Australian Taxation Office and in compliance with the Public Sector Commissioner's Circular "Reimbursement of Travel Expenses for Members of Government Boards and

Committees” (Circular number 2009-20) when a Mental Health Advocate uses their own vehicle to provide approved services on behalf of the Chief.

- 13.4. a call out fee in addition to the hours worked for authorised visits by Mental Health Advocates working in regional areas and others as determined by the Chief.

## **Other Benefits payable for services:**

### **14. Mental Health Advocates are also provided with:**

- 14.1. cover for workers compensation and liability insurance
- 14.2. access to an employee assistance program
- 14.3. training as agreed with the Chief or the Chief’s delegate.

### **15. Additional payments may be made at the discretion of the Chief to persons to perform specialist roles as envisaged in section 350 of the Act.**

## **Equipment to be provided by the Mental Health Advocate:**

### **16. It is a term and condition of the contract for services that the following equipment be provided and maintained by Mental Health Advocates at their own expense:**

- 16.1. a car (registered and insured as set out below) or other means of transport to enable travel to, from and between facilities
- 16.2. a personal mobile telephone which has 3G/4G capability alternatively a mobile phone and a tablet with 3G/4G capability which is password protected and not shared with any other person
- 16.3. a computer with Microsoft Office software compatible with the MHAS software and appropriate virus and other protection
- 16.4. an email account which is password protected and not shared or accessed by any other person
- 16.5. a printer
- 16.6. any other administration arrangements and information technologies required by the Chief or Chief’s delegate in order to perform their work.

## **Other terms and conditions of the contract for services and engagement:**

### **17. Applicants are required to obtain on or before their appointment, and maintain throughout the term of their appointment, the following at their own cost:**

- 17.1. evidence of a satisfactory Australian National Police Certificate (Criminal Record Screening), which must not be more than 6 months old at commencement, prior to their appointment

- 17.2. a valid Working with Children Check if requested by the Chief
- 17.3. if using a car as a means of transport whilst performing services for the MHAS:
  - 17.3.1. a valid driver’s licence
  - 17.3.2. compulsory third party insurance as required under any statute relating to motor vehicles used in connection with work carried out as a Mental Health Advocate.
  - 17.3.3. motor vehicle comprehensive insurance covering legal liability against property damage and bodily injury to, or death of, persons (including bodily injury gap protection) caused by motor vehicles used in connection with work carried out as a Mental Health Advocate for an amount of not less than \$20 million for any one occurrence and unlimited in the aggregate.

**18. Mental Health Advocates agree that if there is any event during the term of their engagement that has or will affect their Criminal Record Screening, they will immediately advise the Chief Mental Health Advocate.**

**19. Appointment as a Mental Health Advocate does not constitute the relationship of employer and employee between the Mental Health Advocate and the Chief Mental Health Advocate or the State of Western Australia.**

I, \_\_\_\_\_ of \_\_\_\_\_  
 (insert name) (insert address)

agree to the above terms and conditions of my engagement as a Mental Health Advocate by the Chief Mental Health Advocate pursuant to the *Mental Health Act 2014*.

\_\_\_\_\_  
 Signature Date

Signed by Chief Mental Health Advocate: \_\_\_\_\_  
 DEBORA COLVIN

Date: \_\_\_\_\_