

# Rights of carers of people receiving mental health care

## Factsheet – Mental Health Act 2009

### Introduction

#### Who is a carer?

The carer of a person receiving mental health care:

- Is usually a family member or friend who plays a vital role in supporting a person experiencing mental illness.
- Provides emotional and practical support to a person experiencing mental illness.
- May not think of themselves as a 'carer' but instead may have found themselves in the role because they see it as part of their relationship with the person they care for.
- May be a parent, child, sibling, partner, friend or neighbour of a person experiencing mental illness.
- May not necessarily live with the person they care for.

#### Who does the *Mental Health Act 2009* recognise as a carer?

The *Mental Health Act 2009* (the Act) states that a carer can be: a carer, a guardian, a substitute decision maker (nominated under an Advance Care Directive), a medical agent, a relative or a friend.

#### Why are carers important?

Carers have a unique role to play in the recovery of a consumer who is receiving mental health care as they know the person better than anyone else. Hence, they can provide relevant information about a consumer's health, wellbeing and recovery, and their life including interests, skills, beliefs and ambitions, which is critical input for delivering personalised care.

Working in partnership with carers and consumers helps to improve the outcomes for people receiving mental health care; it also improves the ability of family and friends to remain supportive during the recovery process which may increase the impact of the service delivered.

### Principles

The *Carers Recognition Act 2005* provides 7 principles under the SA Carers Charter which mental health services should follow wherever possible:

- Carers should have the same rights, choices and opportunities as other people.
- Carers should be supported to balance their caring role with their own needs.
- Carers should be recognised for their experience, contribution and knowledge.
- Carers should be involved in the planning, delivery and review of services.
- Aboriginal and Torres Strait Islander carers should have specific recognition and support.
- Children and young people who are carers should have specific recognition and support.
- Carers should have access to timely, appropriate and adequate support and resources.

The *Mental Health Act 2009* provides 2 guiding principles that carers should:

- Have access to comprehensive information about mental illness, treatment orders, legal rights, treatments and other services that are to be provided or offered, and what alternatives are available.
- Receive information in such a way that it is understood by the carer.

## Rights

The *Mental Health Act 2009* provides specific rights to carers of people receiving mental health care, to be kept informed and to be involved, as described below.

### Information Sharing

Information about a person receiving mental health care can be shared with their carer at any time:

- With the consent of the person, or
- To lessen or prevent a threat to the life, health or safety of anyone.

Information about a person receiving mental health care voluntarily can be shared with their carer if:

- It is reasonably required for the treatment and care of the person, and
- There is no reason to believe it would be against the person's best interest, and
- The person has not provided a direction to not share the information.

Information about a person subject to the Act can be shared with a carer if:

- It is reasonably required for the treatment and care of the person, and
- There is no reason to believe it would be against the person's best interest, even if the person has refused consent for the sharing of information.

### Receive copies of Statement of Rights

A carer of a person receiving mental health care must, if appropriate, receive a copy of the Statement of Rights when the person is:

- Admitted for voluntary inpatient treatment.
- Placed on a Community treatment order.
- Placed on an Inpatient treatment order.
- Granted a Leave of Absence while on an Inpatient Treatment Order.
- Placed under section 56 Care and Control.

### Receive copies of Orders and Decisions

A carer of a person receiving mental health care must, if appropriate, receive a copy of

- The making of a treatment order.
- The revocation of a treatment order.
- The transfer of the person between treatment centres or hospitals.

### Participate in and receive Treatment and Care Plans

- A Treatment and Care Plan must be prepared and revised in consultation with the carer of the person receiving mental health care, if appropriate, as far as possible and practicable.
- A carer of a person receiving mental health care must, if appropriate, receive a copy of the Treatment and Care Plan.

### Contact the Community Visitor Scheme

- A carer can request a visit from the Community Visitor Scheme to a Treatment Centre or an Authorised Community Mental Health Facility.
- A carer can request the assistance of the Community Visitor Scheme to advocate for the resolution of issues relating to care and treatment.

### Reviews and Appeals

A carer of a person subject to the Act can apply to SACAT for a review of:

- A treatment order made by a health practitioner.
- An interstate transfer.
- A treatment order made by SACAT.
- A carer can also apply to the Supreme Court to appeal against a decision made by SACAT.

## Helpful Contacts for Carers

### General

- **Carers SA.** Information and support to carers. 1800 242 636. [www.carers-sa.asn.au](http://www.carers-sa.asn.au)
- **Carer Gateway.** Advice for carers. 1800 422 737. [www.carergateway.gov.au](http://www.carergateway.gov.au)
- **Centrelink.** Carer payment carer allowance information. 132 717.

### Information

- Department for Health and Wellbeing. For information about public mental health services, other mental health services and support, advocacy and complaint services. [www.sahealth.sa.gov.au](http://www.sahealth.sa.gov.au)
- Better Health. Searchable information about mental illness, treatments and services. [www.betterhealth.vic.gov.au](http://www.betterhealth.vic.gov.au)
- Office of the Chief Psychiatrist. For information about the *Mental Health Act 2009*. 8226 1091. [www.chiefpsychiatrist.sa.gov.au](http://www.chiefpsychiatrist.sa.gov.au)

### Advocacy

You or your family might need help to understand or navigate the mental health system.

- The treatment centre or community service may have **Peer Workers or Carer Consultants** who can assist you. Please ask staff for more information.
- **Community Visitor Scheme.** Independent advocacy for people receiving inpatient and community care. 7425 7802 or toll free 1800 606 302.
- **Disability Advocacy and Complaints Service of South Australia.** Can assist with advocacy and complaints. 7122 6030.
- **Office of the Public Advocate.** Independent information and advice. 8342 8200 or toll free 1800 066 969. [www.opa.sa.gov.au](http://www.opa.sa.gov.au)

### Complaints

- The Treatment Centre or Community Service. The health service has officers who can assist with enquiries and complaints. Please ask staff for more information.
- Office of the Chief Psychiatrist. Can assist with making a complaint and referring it to the correct service. 8226 1091. [www.chiefpsychiatrist.sa.gov.au](http://www.chiefpsychiatrist.sa.gov.au)
- The Health and Community Services Complaints Commissioner. Can investigate complaints if a previous complaint process has failed. 8226 8666 or toll free 1800 232 007. [www.hcsc.sa.gov.au](http://www.hcsc.sa.gov.au)

### Reviews and Appeals

- South Australian Civil and Administrative Tribunal (SACAT). Can review an order on request. 1800 723 767. [www.sacat.sa.gov.au](http://www.sacat.sa.gov.au)

### Legal Representation Scheme

- Legal Services Commission. Can provide legal representation during a review or appeal. 1300 366 424. [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

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## For more information

**Office of the Chief Psychiatrist**  
PO Box 287 Rundle Mall, Adelaide SA 5000  
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[www.chiefpsychiatrist.sa.gov.au](http://www.chiefpsychiatrist.sa.gov.au)

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