Disability Amendment Act 2012 – fact sheet number five for disability service providers

Compulsory treatment

Background

The Disability Amendment Act 2012 (the Amendment Act) comes into operation on 1 July 2012. The Amendment Act makes technical and administrative amendments to the Disability Act 2006 (the Disability Act). The amendments do not change the policy intent of the Disability Act.

The Amendment Act includes changes to the provisions relating to compulsory treatment. This fact sheet gives disability service providers the information they need to understand the new requirements for compulsory treatment.

Compulsory treatment is sometimes used in providing support to a very small number of people with a disability who are considered to pose a significant risk of serious harm to others. Some people subject to compulsory treatment orders are involved in the criminal justice system and reside in a residential treatment facility. There are others who are subject to a supervised treatment order, which is a civil order. Compulsory treatment is regulated for both types of orders. A disability service provider requires the approval of the Secretary, Department of Human Services, to use supervised treatment.

What do disability service providers who are approved to use supervised treatment need to do, or know, from 1 July 2012?

Supervised treatment order – application to the Victorian Civil and Administrative Tribunal (VCAT)

Under the Disability Act, an Authorised Program Officer may apply to VCAT for a supervised treatment order and must notify the Public Advocate that an application has been made. The Amendment Act now requires the Authorised Program Officer to also notify the person who is the subject of the supervised treatment order that the application has been made.

Supervised treatment order – determination of expiry

Under the Disability Act there are no provisions regarding the expiry of a supervised treatment order. Under the Amendment Act, an Authorised Program Officer must apply to VCAT for a determination regarding the expiry of a supervised treatment order as soon as practicable within 60 days prior to the supervised treatment order’s expiry date. The Amendment Act requires the Authorised Program Officer to notify the person who is the subject of the supervised treatment order, the Public Advocate and the Senior Practitioner that the application to VCAT has been made.

The purpose of the application is for VCAT to determine whether the supervised treatment order should be formally revoked, continue to the expiry date or whether an application for a new supervised treatment order ought to be made.
Assessment Order

Under the Disability Act, the Senior Practitioner may make an assessment order to enable a treatment plan to be prepared for a person. A treatment plan is required for an application to be made to VCAT for a supervised treatment order.

The Amendment Act requires that, within 72 hours of making an assessment order, the Senior Practitioner must:

- give to the person who is the subject of the assessment order, a written statement providing the reasons for the Senior Practitioner’s decision to make the order, and
- notify the person of their right to apply to VCAT for a review of the decision to make the assessment order, and
- notify the Public Advocate that the assessment order has been made.

Assessment order – review

The Amendment Act provides for a person who is the subject of an assessment order, to apply to VCAT for a review of the Senior Practitioner’s decision to make the assessment order.

On an application for review of an assessment order, VCAT may confirm the decision to make the assessment order, vary the conditions or period of the order, or revoke the assessment order.

What do residential treatment facilities need to do, or know, from 1 July 2012?

Residential treatment facility admission – right to review

Under the Disability Act, the Authorised Program Officer must prepare a treatment plan for a person being admitted to a residential treatment facility and provide a copy of the treatment plan to the person with a disability within two days of it being prepared. The Amendment Act requires the Authorised Program Officer to also inform the person with a disability of their right to have the treatment plan reviewed by VCAT at any time.

Residential treatment facility – approval of treatment plan by the Senior Practitioner

The Disability Act requires that, within two days of the treatment plan being prepared, the Authorised Program Officer must lodge a copy of the treatment plan with the Senior Practitioner. The Amendment Act requires that the Senior Practitioner must consider whether the treatment plan is of an acceptable standard and either approve it, direct the Authorised Program Officer to change it or apply to VCAT for a review.

What amendments apply to both civil and criminal orders from 1 July 2012?

Restrictive interventions under treatment plans

Under the Disability Act, both a treatment plan and a behaviour support plan were often prepared where a person is subject to compulsory treatment. The Amendment Act clarifies that when a treatment plan is being prepared, the strategies to support the person’s behaviour are included in that plan. It is not necessary to develop a separate behaviour support plan.

The amendments clarify the requirements for the use of restrictive interventions that apply when a person is subject to compulsory treatment.

For more information about compulsory treatment

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For more information about the Amendment Act or to receive this document in an alternative format

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