



Responding to Allegations of Sexual Safety Breaches Procedure

1. Purpose

Consumers accessing mental health services have a right to feel and be safe. It is crucial for mental health services to avoid traumatising, re-traumatising, or compounding previous trauma and to foster a culture where consumers feel and are sexually safe.³

WACHS has a duty of care and legal obligation to provide health care in an environment that promotes personal safety and minimises risk of inappropriate behaviour, including that of a sexual nature.

In accordance with the [Mental Health Act 2014](#) (WA), Section 254 and the [Policy for Mandatory Reporting of Notifiable Incidents to the Chief Psychiatrist](#), staff members are required to act upon the following notifiable incidents related to sexual safety:

- Alleged sexual contact and/or sexual assault involving a consumer receiving mental health care that occurred within an inpatient setting (including emergency departments and hospital grounds), community mental health service premises (this includes incidents occurring during staff assessment of the client at their home or other premises) or private psychiatric hostel.
- Alleged sexual contact with consumer receiving mental health care by a staff member of a mental health service.
- Clinical deterioration of a consumer receiving mental health care that results in the consumer physically, verbally, or sexually assaulting a staff member, consumer, or other person (the outcome of this clinical deterioration, such as physical, verbal, or sexual behaviour, must be reported to the Chief Psychiatrist).

This procedure must be read in conjunction with the:

- WACHS [Responding to Sexual Assault Policy](#)
- [WA Health Responding to an Allegation of Sexual Assault disclosed within a Public Mental Health Service Guideline](#)
- [Chief Psychiatrist's Guidelines for the Sexual Safety of Consumers of Mental Health Services in Western Australia](#)

1.1 Scope

This procedure outlines the response to be made for the management of consumers where a consumer alleges that their sexual safety has been breached or it is alleged that a consumer has breached the sexual safety of another person whilst accessing care and treatment in WACHS mental health inpatient and outpatient services.

Allegations of sexual safety breaches that do not involve a consumer of the mental health service are excluded from the scope of this procedure. Where a person who is not a current consumer requires treatment as a result of a sexual safety breach, the person will be referred to the nearest emergency department.

WACHS Child and Adolescent Mental Health Services (CAMHS) refer to the Child and Adolescent Health Service (CAHS) [Sexual Safety Guideline](#) endorsed under the WACHS

[Child and Adolescent Mental Health Service Resources - Endorsed for Use in Clinical Practice Policy.](#)

2. Procedure

2.1 Consent and capacity

The [Criminal Code Act Compilation Act 1913](#) (WA) contains a range of criminal offences for engaging in sexual behaviour with incapable persons. An incapable person is defined as a person who is so mentally impaired as to be incapable of understanding the nature of the sexual act or incapable of guarding themselves against sexual exploitation.³

In all cases, sexual activity must be voluntary and mutual in nature and the persons involved must have given informed consent. It is important for mental health staff to understand the consumer's capacity to consent to sexual activity and assess all consumers for their vulnerability to sexual safety breaches.

Capacity to make informed decisions should be assessed by a psychiatrist. Capacity is decision specific, and a person may have the capacity to make decisions about forensic examination and/or police involvement even if they are an involuntary consumer under the [Mental Health Act 2014](#) (WA) and deemed to lack capacity for treatment decisions relating to their mental health. Refer to the WACHS [Adults with Impaired Decision Making Capacity Procedure](#).

2.2 Initial response to disclosure

All allegations must be taken seriously and addressed promptly, without disbelief. They are to be considered 'allegations' until proven otherwise.

Initial response to allegations of sexual safety breaches include:

1. Assess situation and ensure the immediate safety for the person, alleged perpetrator, other consumers, carers, visitors, and staff.
2. Notify the senior nurse on duty / line manager and the treating consultant psychiatrist (or on-call psychiatrist if after-hours).
3. Provide immediate first aid and psychological support
4. Identify primary concerns of the individual and offer to facilitate a support person*.
5. Assess for urgent medical concerns and facilitate a medical assessment for any further urgent care needs.
6. Review mental state, including risk assessment, safety plan, and capacity to give informed consent.
7. Assist the consumer to access information on their rights in relation to accessing medical advice, police involvement, legal advice, and forensic examination.
8. Refer to appropriate services as per clinical indications and consumer preferences.

WACHS Mental Health Services should always contact Sexual Assault Referral Centre (SARC) on **1800 199 888** for advice and guidance at any stage of the response.

Triage of sexual assault incidents should occur using the [MR3SARC WACHS SARC Emergency Care: History and Checklist](#) to prioritise medical / psychological needs over forensic.

Where the incident is related to family and domestic violence (FDV), including intimate partner violence, an [FDV951 Assessment for Family and Domestic Violence](#) is to be completed. FDV safety planning is to be undertaken and included in the Treatment Support and Discharge Plan (TSDP). Refer to the WACHS [Identifying and Responding to Family and Domestic Violence Policy](#) and [WACHS FDV Safety Planning Guide](#) for further information.

In the delivery of care, the aim is to facilitate dignity and privacy, with sensitivity to gender, sexuality, religion, culture, and trauma informed care in line with the [Charter of Mental Health Care Principles](#).

2.3 Urgent medical care

Whilst all physical health needs are to be addressed promptly, it is important to assess and treat urgent medical concerns as a matter of priority. Urgent medical concerns can include head trauma, loss of consciousness, anogenital bleeding or pain, serious body injuries, and attempted strangulation.

Where the incident is an alleged sexual assault and the consumer consents to forensic examination, it is preferable for the medical care and forensic examination to be completed simultaneously, however urgent medical concerns must be prioritised over forensic examination and specimen collection.

Medical care provided to a person on an inpatient treatment order as “urgent non-psychiatric treatment” is to comply with the requirements of the *Mental Health Act 2014* (WA) Section 242.

Considerations for medical care following an alleged sexual assault also include:

- Emergency contraception
- STI and blood-borne virus investigations and prophylaxis
- Pregnancy screening
- Follow up care arrangements.

2.4 Psychosocial support

Staff responding to disclosure of a sexual safety incident must listen and respond in a manner that is sensitive, empathetic, and non-judgemental. All disclosures are to be taken seriously and actioned promptly. The consumer’s personal control is to be supported by encouraging and facilitating the consumer to voice their preferences and make choices and decisions.³

Where the consumer is of Aboriginal decent, an Aboriginal Mental Health Worker (AMHW) is to be made available to support the cultural and spiritual needs of the consumer and the delivery of culturally appropriate care.

A psychiatric review is to be undertaken for all consumers directly involved in a sexual safety incident. This review must include an updated Risk Assessment and Management Plan (RAMP), and development of a safety plan. Where the incident is a sexual assault, the treating psychiatrist must assess capacity and determine consent for forensic examination and police involvement.

In consultation with the consumer, consider referral options e.g. SARC crisis counselling, refuge or other emergency accommodation, domestic violence service, or legal service. If the person consents to be referred to SARC for counselling services, refer to the [SARC Referral Guidelines](#).

While access to psychosocial support may be limited, sexual assault support services may be available to provide psychosocial support to rural community members. SARC can be contacted on **1800 199 888** for crisis telephone counselling (available 0800 – 2300hr seven days a week). See [Support Services in Western Australia](#).

2.5 Sexual Assault Resource Centre (SARC) advice

In response to disclosures of alleged sexual assault incidents, for health professionals or **(08) 6458 1828**, for tele-consultation services for WACHS health professionals regarding medical and forensic processes.

2.6 Police involvement and forensic sampling

It must not be assumed that a person will want police involvement. However, where an allegation is made against a staff member which may involve suspected criminality in connection with the role they undertake, the consumer should be advised that an internal review will occur and that this may result in a mandatory police notification being made as per the WA health system MP 0125/19 [Notifiable and Reportable Conduct Policy](#). Refer to [section 2.7](#) for further information.

If the person consents to police involvement the police must be contacted immediately to ensure police attendance and completion of legislated documentation.

If the person declines police involvement, the person may be offered an Early Evidence Kit (as per SARC advice in relation to time sensitivities) in case they later decide to involve police. If the person consents to forensic sampling and examination, this should be conducted at the first possible opportunity (without compromising medical concerns). Where the person does not have the capacity to consent to forensic examination and the police are not involved, every effort should be made to identify an alternative legal decision maker.

If determined that the person does not have capacity to consent to police involvement, then staff may decide that reporting the matter to the police is justified in the public interest. Advice may be sought from the Office of the Public Advocate.

In undertaking forensic sampling and examination, consideration must be given for access to the most appropriately trained and qualified clinicians, necessary equipment, and suitable environment. This may necessitate engaging specialist staff to deliver care in the Mental Health Unit or transferring the consumer to the emergency department or general ward to receive the care required. Consideration should also be given for provision of a mental health staff escort to provide psychological support in the event of a transfer for forensic sampling and examination.

SARC provide a tele-consultation service for health professionals across regional, rural, and remote WA. In regional areas, emergency department health professionals will be required to manage the medical and forensic care of people alleging a sexual assault within the service.

Legislative requirements for forensic procedures

In accordance with Section 103 of the [Criminal Investigation Act 2006](#) (WA) certain forensic procedures are required to be undertaken by a 'qualified person' or any doctor under the guidance from SARC via telephone, this includes:

- Taking an impression from external body parts
- Searching internal body parts using X-Ray, Ultrasound or similar
- Searching internal orifices, other than the mouth
- Swabbing / sampling internal orifices
- Removing relevant things from internal orifices.

Procedures permitted to be undertaken by any nurse include:

- Searching or removing articles or taking swabs from external body parts (including external genitalia)
- Taking samples from under fingernails
- Removing objects or taking samples from the mouth
- Taking a blood sample (if within scope of practice).

2.7 Allegations of sexual offences and misconduct involving staff members

At no time is it acceptable for a staff member, visiting or agency health professional, contractor, student, or volunteer working in a WACHS service to engage in sexual activity with a consumer³. Refer to [Health Practitioner Regulation National Law \(WA\) Act 2010](#) and MP 0124/19 [Code of Conduct Policy](#).

Where it is reasonably suspected that a staff member has engaged in sexual contact with a consumer, it is considered a notifiable incident and must be reported through DATIX clinical incident reporting system (CIMS) as soon as practicable (within 48 hours) and investigated. Staff identifiable information must only be reported on a Chief Psychiatrist Notifiable Incident Form. Refer to the [Policy for Mandatory Reporting of Notifiable Incidents to the Chief Psychiatrist](#) and the WA Health MP 0122/19 [Clinical Incident Management Policy 2019](#).

Additionally, inappropriate sexual contact reasonably suspected to have occurred by an employee or staff member must be immediately escalated to regional executive and professional lead and reported to WACHS Human Resources or the WACHS [Integrity Unit](#). Any suspected breach of the Code of Conduct may require a disciplinary investigation in accordance with the WA Health MP 0127/20 [Discipline Policy](#)

For health professionals, some suspected breaches may be deemed Notifiable Conduct as defined in section 140 of the [Health Practitioner Regulation National Law \(WA\) Act 2010](#). These breaches must be reported to AHPRA in accordance with sections 141 and 142 of the [Health Practitioner Regulation National Law \(WA\) Act 2010](#). Any report to AHPRA made on behalf of the organisation must be made by the relevant executive professional lead.

Staff members, contractors, students, volunteers, and visitors physically or psychologically injured or involved in a 'near-miss' incident as a result of a sexual safety breach will be managed in accordance with the WACHS [Hazard / Incident Management Procedure](#).

2.8 Documentation and Reporting

Medical and forensic records should be sealed and filed with the individual's health record and retained as per the WACHS [Health Record Management Policy](#).

Completed and/or updated Mental Health Assessments, Capacity Assessments, Risk Assessment and Management Plans (RAMP), and Safety Plans must be documented and added to the health record, PSOLIS and/or webPSOLIS as applicable.

Details regarding the incident, referrals, assessment outcomes and safety plan are included in clinical handover as a 'person of concern' in accordance with the WACHS [Mental Health Clinical Handover Procedure](#).

Any allegation of sexual contact in an inpatient setting or allegation of sexual assault is a notifiable incident and must be reported through the clinical incident reporting system (Datix CIMS) as soon as practicable (within 48 hours) and investigated, as detailed in the [Policy for Mandatory Reporting of Notifiable Incidents to the Chief Psychiatrist](#) and the WA Health MP 0122/19 [Clinical Incident Management Policy 2019](#).

The [Children and Community Services Act 2004](#) (WA), prescribes mandatory reporters to make a report when they have a reasonable belief that child sexual abuse has occurred. Refer to the WA Health [Mandatory Reporting Guide \(WA\)](#) for support in fulfilling legal obligations in responding to child sexual abuse.

2.9 Staff Training, Education and Support

Training and education will play a critical role in supporting services to respond positively and respectfully to disclosures and provide reassurance that any sexual safety incident/breach is considered important and will be investigated.

WACHS clinicians are provided with education and training that supports sexual safety and trauma informed care. Refer to [Section 8](#) (Related Training Packages).

Vicarious trauma is an occupational hazard and a health and safety issue for staff. When responding to sexual safety incidents and working with consumers and families who have experienced abuse, clinicians may identify their personal support needs and contact their Line Manager to discuss what support they require (e.g. debriefing sessions, time out, peer support / reflective supervision, WACHS Employee Assistance Program).

3. Roles and Responsibilities

The **Regional Mental Health Clinical Director** is responsible for overall clinical governance of regional inpatient and outpatient mental health services.

The **Regional Mental Health Manager / Hospital Operations Manager** is responsible for the overall management and governance of regional inpatient and outpatient mental health services.

The **Consultant Psychiatrist**, in collaboration with the multidisciplinary treatment team, is responsible for providing clinical care in accordance with this procedure.

The **Regional Mental Health Safety and Quality Officer**, in collaboration with the **Clinical Nurse Manager / Clinic Coordinator / Team Leader** is responsible for monitoring compliance with this procedure.

All staff are required to work within policies and guidelines to make sure that WACHS is a safe, equitable and positive place to be.

4. Monitoring and Evaluation

4.1 Monitoring

Clinical incidents including those relating to breaches in sexual safety reported in CIMS are monitored through regional mental health governance meetings and the Mental Health Central Office Safety, Quality and Risk Steering Committee.

Any incident that meets the criteria for a notifiable incident as defined by the [Mental Health Act 2014](#) (WA), must be reported to the Chief Psychiatrist in accordance with the [Policy for Mandatory Reporting of Notifiable Incidents to the Chief Psychiatrist](#). The Office of the Chief Psychiatrist actively monitors and reviews reported notifiable incidents for all Health Service Providers.

Regional Mental Health Services are responsible for monitoring, investigation and responding to complaints related to sexual safety breaches as described in this procedure.

4.2 Evaluation

This procedure is to be reviewed every five (5) years.

Evaluation of this procedure is to be carried out by WACHS Mental Health directorate in consultation with relevant WACHS directorates and regional WACHS Health Services.

Policy evaluation methods and tools may include:

- Analysis of legislative requirements and evidence based practice
- Staff feedback / consultation
- Carer and consumer feedback / consultation
- Survey
- Compliance monitoring
- Benchmarking
- Reporting against organisational targets.

5. Compliance

This procedure is a mandatory requirement under the [Mental Health Act 2014](#) (WA).

Failure to comply with this procedure may constitute a breach of the [Mental Health Act 2014](#) (WA) and WA Health Code of Conduct (Code). The Code is part of the [Integrity Policy Framework](#) issued pursuant to Section 26 of the [Health Services Act 2016](#) and is binding on all WACHS staff which for this purpose includes trainees, students, volunteers, researchers, contractors for service (including all visiting health professionals and agency staff) and persons delivering training or education within WACHS.

WACHS staff are reminded that compliance with all policies and procedures is mandatory.

6. References

Government of Western Australia (WA), Department of Health. WACHS [Responding to Sexual Assault Policy](#). Perth, Australia: WA Country Health Service; 2019 [Accessed: 30 April 2024]

Government of Western Australia (WA), Department of Health. [WA Health Responding to an Allegation of Sexual Assault disclosed within a Public Mental Health Service](#). Perth, Australia: Department of Health Mental Health Policy Framework; 2012 [Accessed 30 April 2024]

Government of Western Australia (WA), Office of the Chief Psychiatrist. [Chief Psychiatrist's Guidelines for the Sexual Safety of Consumers of Mental Health Services in Western Australia](#). Perth, Australia: Chief Psychiatrist of Western Australia; 2020 [Accessed 30 April 2024]

Government of Western Australia (WA), Office of the Chief Psychiatrist. [Policy for Mandatory Reporting of Notifiable Incidents to the Chief Psychiatrist - Public Mental Health Services](#). Perth, Australia: Chief Psychiatrist of Western Australia; 2018 [Accessed 30 April 2024]

Government of Western Australia (WA), Department of Health. [SARC Procedure for Responding to a Recent Sexual Assault](#). Perth, Australia: North Metropolitan Health Service; 2017 [Accessed: 30 April 2024]

Government of Western Australia (WA), Department of Health. MP 0124/19 [Code of Conduct Policy](#). Perth, Australia; 2019 [Accessed: 30 April 2024]

7. Definitions

Term	Definition
Inpatient Treatment Order	An inpatient treatment order is an order in force under this Act under which a person can be admitted by a hospital, and detained there, to enable the person to be provided with treatment without informed consent being given to the provision of the treatment. MHA 2014 s.22
Sexual Contact	For the purposes of this procedure sexual contact includes any sexual activity/behaviour (including sexual touching) that occurs between people over the age of 16 years where mutual consent has been granted by those involved and they are considered to have capacity to provide consent.
Sexual Safety	Sexual safety refers to being and feeling psychologically and physically safe, including being free of, and feeling safe from, behaviour of a sexual nature that is unwanted, or makes another person feel uncomfortable, afraid or unsafe. This includes sexual assault and harassment. It also extends to being spoken to using sexualised language or observing other people behaving in a sexually disinhibited manner, including nakedness

Term	Definition
	and exposure or masturbation, being made to watch or shown pornographic images and lacking privacy and dignity when naked.
Sexual Assault	Sexual assault is a broad term used to describe a range of sexual acts committed against a person without their consent. It occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent.
Sexual Safety Breach	Any behaviour of a sexual nature that is unwanted, or makes another person feel uncomfortable, afraid or unsafe. This includes sexual assault and harassment. It also extends to begin spoken to using sexualised language or observing other people behaving in a sexually disinhibited manner, including nakedness and exposure or masturbation.
Staff	For the purposes of this procedure, Staff means: <ul style="list-style-type: none"> i. Staff members of a Health Service Provider as defined by the <i>Health Services Act 2016</i> means: <ul style="list-style-type: none"> a) an employee in the Health Service Provider. b) a person engaged under a contract for services by the Health Service Provider. ii. Employees of the Department of Health. iii. Trainees, students, volunteers, researchers, contractors for service (including all visiting health professionals and agency staff) and persons delivering training or education within a Health Service Provider or the Department of Health.
Support Person	Any person the consumer chooses to provide support throughout the process, including family members, carers, social workers, nurses, Aboriginal mental health workers, etc. It is not encouraged for family members to be present during the forensic examination and an alternative staff support person can be arranged.
Urgent Non-Psychiatric Treatment	Means treatment urgently needed by a consumer — <ul style="list-style-type: none"> (a) to save the consumer’s life; or (b) to prevent serious damage to the consumer’s health; or (c) to prevent the consumer from suffering or continuing to suffer significant pain or distress, but does not include — (d) psychiatric treatment, which is treatment as defined in the <i>Mental Health Act 2014</i> section 4; or (e) the sterilisation of the consumer. GAA 110ZH

8. Document Summary

Coverage	WACHS Mental Health Services
Audience	All staff working in WACHS Mental Health Services
Records Management	Clinical: Health Record Management Policy
Related Legislation	<ul style="list-style-type: none"> • Children and Community Services Act 2004 (WA) • Criminal Code Act Compilation Act 1913 (WA) • Criminal Investigation Act 2006 (WA) • Guardianship and Administration Act 1990 (WA) • Health Practitioner Regulation National Law (WA) Act 2010 • Health Services Act 2016 (WA) • Mental Health Act 2014 (WA)
Related Mandatory Policies / Frameworks	<ul style="list-style-type: none"> • MP 0122/19 Clinical Incident Management Policy 2019 • MP 0124/19 Code of Conduct Policy • MP 0125/19 Notifiable and Reportable Conduct Policy • MP 0127/20 Discipline Policy • MP 0166/21 Mandatory Reporting of Child Sexual Abuse Training Policy • Chief Psychiatrist's Guidelines for the Sexual Safety of Consumers of Mental Health Services in Western Australia • Coordinated medical and forensic and counselling response to patients who experience a recent sexual assault and present to an emergency department • Mandatory Reporting Guide: Western Australia • Policy for Mandatory Reporting of Notifiable Incidents to the Chief Psychiatrist • Responding to an Allegation of Sexual Assault disclosed within a Public Mental Health Service Guideline • Clinical Services Planning and Programs Framework • Employment Policy Framework • Integrity Policy Framework • Mental Health Policy Framework
Related WACHS Policy Documents	<ul style="list-style-type: none"> • Adults with Impaired Decision Making Capacity Procedure • Child and Adolescent Mental Health Service Resources - Endorsed for Use in Clinical Practice Policy • Hazard and Incident Management Procedure • Identifying and Responding to Family and Domestic Violence Policy • Mental Health Clinical Handover Procedure • Responding to Sexual Assault Policy

<p>Other Related Documents</p>	<ul style="list-style-type: none"> • CAHS Guidelines for Protecting Children 2020 • CAHS-CAMHS Sexual Safety Guideline • SARC Referral Guideline • Support Services in Western Australia • Charter of Mental Health Care Principles
<p>Related Forms</p>	<ul style="list-style-type: none"> • MR3SARC WACHS SARC Emergency Care: History and Checklist • FDV951 Assessment for Family and Domestic Violence • SMHMR905 Risk Assessment and Management Plan (available in WebPSOLIS) • SMHMR907 Treatment Support and Discharge Plan (available in WebPSOLIS)
<p>Related Training Packages</p>	<p>NMHS-KEMH: SARC education and training resources Via MyLearning:</p> <ul style="list-style-type: none"> • SARC – Forensic Training Program (SARC-FTP 002) • Mandatory Reporting of Child Sexual Abuse (Theory) • Non-Fatal Strangulation (NFSA EL2) Modules 1-7 • The Impact of Trauma on the Child (TOC EL2) • Family and Domestic Violence: Screening and Responding - Mental Health (FDVMH EL2) • Mental Health Act Training (MH5 EL1)
<p>Aboriginal Health Impact Statement Declaration (ISD)</p>	<p>ISD Record ID: 3086</p>
<p>National Safety and Quality Health Service (NSQHS) Standards</p>	<p>1.07, 1.10, 1.11, 1.15, 2.04, 2.05, 2.06, 5.03, 5.04, 5.05, 5.06, 5.07, 5.10, 5.11, 5.12, 5.13, 5.33, 5.34, 6.03, 6.04, 6.09, 6.11, 8.01, 8.06, 8.10. 8.13</p>
<p>Chief Psychiatrist's Standards for Clinical Care</p>	<p>Assessment Care Planning Consumer and Carer Involvement in Individual Care Physical Health Care of Mental Health Consumers Risk Assessment and Management</p>

9. Document Control

Version	Published date	Current from	Summary of changes
1.00	10 July 2024	10 July 2024	<ul style="list-style-type: none"> new procedure.

10. Approval

Policy Owner	Executive Director Mental Health
Co-approvers	Executive Director Clinical Excellence
	Executive Director Nursing and Midwifery
Contact	Area Director – Clinical Psychiatry
Business Unit	WACHS Mental Health
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