

Search Provisions under the Mental Health Act 2013

Purpose	To clarify search arrangements under the <i>Mental Health Act 2013 (the Act)</i> within an approved facility.
Who can conduct a search?	<ul style="list-style-type: none"> • A Mental Health Officer (MHO) • A Police Officer • Authorised Person at the Secure Mental Health Unit (SMHU), Wilfred Lopes Centre (WLC)
When can a search be conducted?	<p>at any time while a patient is:</p> <ul style="list-style-type: none"> • Temporarily detained for assessment • Subject to an assessment order <p>When transporting an involuntary or forensic patient:</p> <ul style="list-style-type: none"> • To and from an approved facility • From the community or the Emergency Department • Returning from leave (including cancelled or unauthorised) • To and from court proceedings/depositions (SMHU)
Can the MHO or Authorised Person (SMHU) enlist the assistance of another person when undertaking a search?	Yes. A MHO or Authorised Person (SMHU) may enlist the assistance of any person necessary to undertake the search. The Health Service should develop a clear procedure about who may assist (e.g., Police, Hospital Security, etc.)
Reasons for which a search may be conducted	When it is reasonably believed that the person is carrying an item that could be a danger to themselves, others or could assist escape.
What types of searches can be conducted?	<p>An ordinary search</p> <p>Requires at the searchers discretion, the person to:</p> <ul style="list-style-type: none"> • Remove a coat, jacket or other outer garment, any hat, shoes, boots or other footwear, any socks, gloves, handbags, backpacks or like carrying item. • Empty their pockets; and examining the items and contents of the items that have been removed. <p>A frisk search</p> <p>Can include any combination of the following means:</p> <ul style="list-style-type: none"> • Running the hands over the person's outer clothing. • Passing a metal detection device over or in close proximity to the person's outer clothing. • Examining anything worn or carried by the person that they appear to have removed or discarded voluntarily. • Passing a metal detection device over or in close proximity to anything worn or carried by the person that they appear to have removed or discarded voluntarily.

Practice guidance	<ul style="list-style-type: none"> • Searches are to be conducted speedily, in the least restrictive way and to the least extent, balancing the protection of patients, staff members and others within the facility with the protection of the public and the proper delivery of services. • The person's individual characteristics including their age and maturity, cultural identity and religious beliefs, impairment and known history such as any experience of abuse or trauma must be taken into account whenever deciding to conduct a search, and during the search. • A frisk search, where possible, should be conducted by a person of the same sex.
Procedure to follow BEFORE a search is conducted	<ul style="list-style-type: none"> • Explain to the person in a language and form that the person can understand the reasons for the search and the manner in which the search is to be carried. • Offer an opportunity for the person to voluntarily surrender any item in their possession that is dangerous or unlawful. • Give the person an opportunity to cooperate with the search. • Give answers to any questions that the person may have about the search and how it is to be conducted.
What to do if an item or object is seized during a search	<ul style="list-style-type: none"> • A MHO, Authorised Person (SMHU) or Police Officer may seize anything found in the search. Items may be retained for later return, or if dangerous or unlawful, disposed of or handed to police if required as evidence. • A comprehensive record of retention, disposal and/or handover of the item seized must be maintained.

Guidance for approved facilities and persons in charge

- Ensure policies and protocols are aligned with this guideline.
- Provide education and training programs that support provisions in this guideline.
- Ensure appropriate documentation is maintained.