

Inmate Classification and Placement Corrective Services NSW

Mental Health Review Tribunal, Forensic Patients, and Correctional Patients



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Table of Contents

1	Overview 4			
2	Related documents 4			
3	Definitions			
	3.1	Mental Health (Forensic Provisions) Act 1990	4	
	3.2	Forensic Patients (FPs)	5	
	3.3	Correctional Patient (CP)	5	
	3.4	Mental Health Review Tribunal (MHRT)	5	
	3.5	Forensic Community Treatment Orders (FCTO)	5	
4	Mental	Health (Forensic Provisions) Act 1990 - Reference table	6	
5	Forens	ic Patient (FP) - Orders	7	
	5.1	Section 14 - Unfit to be tried - Order for Detention	7	
	5.2	Section 17 - Orders Court may make - Order for Detention	7	
	5.3	Section 24 - Limiting Term - Order for Detention	7	
	5.4	Section 27 – Limiting term – Order for Detention	9	
	5.5	Section 38 – Special verdict	9	
	5.6	Section 39 - NGMI - Order for Detention	9	
6	Mental	Health Review Tribunal (MHRT) Orders	9	
	6.1	Section 44 – FP NGMI – initial review	9	
	6.2	Section 46 – Further reviews by MHRT of FPs	10	
	6.3	Section 47 (1) – Orders and recommendations on further MHRT reviews	10	
	6.4	Section 48 – Transfer of FPs	10	
	6.5	Section 49 - MHRT may grant leave	10	
	6.6	Procedures for placement of FP's in NSW correctional centres	10	
7	Correc	tional Patient (CP) - Orders	11	
	7.1	Section 55 - Transfer from correctional centre by Secretary	11	
	7.2	Section 56 - Transfer	12	
	7.3	Reviews by MHRT of CPs	12	
8	Section	n 59 – Review of persons transferred from correctional centres	12	
	8.1	Section 61 – Reviews by MHRT of CPs	12	
9	Forens	ic Community Treatment Orders	13	
	9.1	Procedures – OIMS FCTO Offender Management Program	13	
10	Section 68 (1) – Breach of orders for release/leave			
11	Functions of Commissioner of CSNSW and Secretary of Department of Justice 14			

	11.1	Procedures to utilise 76C or 77C	14
12	JH&FN	IHN Orders for transfer	15
	12.1	76D – Security conditions for patients	15
	12.2	76E – Transfer and transport of patients	15
13	FPs – I	External Leave Program (ELP)	16
14	Senior	Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders	16
	14.1	OIMS - Mental Health Alerts/Management Program	16
15	Abbrev	viations	17
16	6 Document history		17

1 Overview

The policy and procedures within this document must be utilised in conjunction with the OVERARCHING POLICY - Policy for Inmate Classification and Placement.

All staff must be familiar with the overarching policy prior to utilising this document.

The overarching policy and the instructions and procedures within this document apply to all staff involved in the inmate classification and placement processes within New South Wales (NSW) correctional centres.

Forensic Patients (FPs) and Correctional Patients (CPs) are managed within correctional centres in NSW.

FPs are managed under the jurisdiction of the Department of Health. The Justice Health & Forensic Mental Health Network (JH&FMHN) is who oversee the care and treatment of the patients. The Minister of Health maintains control over placement of FPs in correctional centres in NSW.

Nevertheless, for the purpose of maintaining the security, good order or safety, in any way, of the correctional centre, detention centre, or where its inmates are concerned, the Commissioner of CSNSW has the overall control of FPs detained in correctional centres in NSW.

2 Related documents

The policy and procedures within this document must be utilised with the:

Inmate Classification and Placement - Initial Classification and Placement

The policy and procedures within this document are intended to be implemented in conjunction with the relevant sections of the Custodial Operations Policy and Procedures (COPP) and other related policy and procedures, including:

- Management of Public Correctional Centres Services Specifications
- Commissioner's Memorandum 2014/32 Forensic Patients Compliance with Court and Tribunal Orders
- <u>Limiting Term Sentences and CSNSW approach to Classification and Case Planning</u> -Briefing Note 2015
- Inmate Classification and Placement Reviews
- Inmate Classification and Placement Change of Placements (COP's)

3 Definitions

3.1 Mental Health (Forensic Provisions) Act 1990

The Mental Health (Forensic Provisions) Act 1990 (the MH (FP) Act 1990) deals with the:

- care, treatment, control and release of FPs and CPs, their transfer from correctional (and detention) centres; and
- Functions of the MHRT.

3.2 Forensic Patients (FPs)

The <u>MH (FP) Act</u>, defines an FP as a person who is detained in a mental health facility, correctional centre or other place, or released from custody subject to conditions, pursuant to an order under with the Act and:

- section 7 (4) of the <u>Criminal Appeal Act 1912</u> (including that subsection as applied by section 5AA (5) of that Act), or
- a person in respect of whom an extension order or interim extension order is in force, or
- a person who is a member of a class of persons prescribed by the regulations for the purposes of this section.

The sections of the Act utilised commonly throughout correctional centres in NSW include; 14, 17, 24, 27 and 38, 39 and 59.

The Mental Health Review Tribunal (MHRT)/Court may issue an order pursuant to the <u>MH (FP) Act</u> <u>1990</u> ordering that a FP is to be housed in a particular location, either a correctional centre or a Mental Health Facility. If the direction specifies a particular correctional centre, Corrective Services NSW (CSNSW) must comply with the MHRT/Court Order and house the FP accordingly.

This must be in accordance with <u>Commissioner's Memorandum 2014/32 - Forensic Patients - Compliance with Court and Tribunal Orders.</u>

3.3 Correctional Patient (CP)

A CP is a person (other than a FP) who has been transferred from a correctional centre in NSW to a mental health facility while serving a sentence of imprisonment, or while on remand, pursuant to an order under:

- sections 55, 56, 59, or 61 of the MH(FP) Act, and
- who has not ceased to be a CP under section 64 or 65 of the Act.

3.4 Mental Health Review Tribunal (MHRT)

The MHRT is a specialist quasi-judicial body constituted under the <u>Mental Health Act 2007</u>. The Forensic Division of the MHRT has a statutory role in making decisions about FPs who are mentally ill or have some other form of mental or cognitive impairment.

The MHRT must review the case of each FP every 6 months but may review the case of any FP at any time. The MHRT may find an inmate "Fit to be Tried"; in such cases, the inmate's status as a FP will be revoked and the inmate will be managed as per the Crimes (Administration of Sentences) Act 1999C.

3.5 Forensic Community Treatment Orders (FCTO)

The MHRT may make a Forensic Community Treatment Order in relation to inmates managed in correctional centres in NSW.

4 Mental Health (Forensic Provisions) Act 1990 - Reference table

In accordance with the <u>MH (FP) Act</u>, the following sections are commonly utilised throughout correctional centres in NSW.

Classification and placement assessment types will vary depending on the order issued. Assessment types must be in accordance with the section, as indicated in the table below, where applicable.

The classification and placement assessments must be conducted in accordance with the following applicable procedures:

- > Inmate Classification and Placement Initial Classification and Placement
- Inmate Classification and Placement Reviews
- Inmate Classification and Placement Change of Placements (COP's)
- > Inmate Classification and Placement SORC and Subcommittee Managed Inmates
- Inmate Classification and Placement Progression to C3/Cat 1, and ELP

JUSTICE HEALT	H ORDER TO TRANSFER	CLASSIFICATION (where applicable)	
S76D & 76E	Notice to transport and transfer FP/CP	N/A	
FORENSIC PATI	ENTS (FPS) - COURT ORDERS		
S14 & 17	Unfit to be Tried	Un-sentenced	
S24 & 27	Limiting Term	Sentenced	
S38	Special verdict of Not Guilty by Reason of Mental Illness	Consideration given to placement recommendations	
S39	Not Guilty by Reason of Mental Illness (NGMI)	Sentenced	
MHRT ORDERS			
S44(2)	NGMI initial review by MHRT - Order for Detention	N/A	
S44(2) & 48	Initial review & transfer - Order for Detention and Transfer	N/A	
S47(1)(a)	Further orders and recommendations - Order for Detention	N/A	
S47(1)(b)	Order for Conditional release	N/A	
S47(1) & 48	Further review & transfer - Order for Transfer and Detention	N/A	
S47(1) & 49	Order for Detention and Leave of Absence	N/A	
S47(1), 48 & 49	Order for Transfer, Detention and Leave of Absence	N/A	
S68(1)	Breach of Conditional Release	N/A	
CORRECTIONAL PATIENTS (CPs)			
S55(1)	Notice to transfer from a correctional centre to a MHF	N/A	
S55(5)	Revocation of a transfer order	N/A	

JUSTICE HEA	ALTH ORDER TO TRANSFER	CLASSIFICATION (where applicable)
S56(2)	Notice to remain in a MHF	N/A
S56(3)	Notice to return to correctional centre	N/A
S 58	Review by the MHRT of persons awaiting transfer to MHF	N/A
S58(3)	Order for detention (another location other than MHF)	N/A
S59(1)	Review of persons transferred from a correctional centre / Review of CP	N/A
S61	Review by the MHRT of CP's	N/A
S 67	Forensic Community Treatment Order (FCTO)	N/A

5 Forensic Patient (FP) - Orders

A FP in a correctional centre in NSW is someone who has been issued one of the following Court orders pursuant to the <u>MH (FP) Act</u>:

5.1 Section 14 - Unfit to be tried - Order for Detention

In accordance with <u>section 14,</u> when an inmate is found to be unfit to be tried at court, the matter is referred to the MHRT who then makes a determination as to whether or not they will become fit within 12 months. If the MHRT determines that they will not become fit, a date for a special hearing is made.

5.2 Section 17 - Orders Court may make - Order for Detention

If a Court is notified by the MHRT of its determination in respect of a person under <u>section 17 (3)</u>, if the person is suffering from mental illness, or a mental condition, the Court may:

- order that the person be taken to and detained in a mental health facility, or
- order that the person be detained in a place other than a mental health facility.

5.3 Section 24 - Limiting Term – Order for Detention

In accordance with <u>section 24</u> if, following a special hearing, the inmate is found to be guilty of the offence on the limited evidence available, the Court can nominate a limiting term. A limiting term is similar to a fixed term of imprisonment; however, if the matter is referred to the MHRT, it can release the FP at any time during the sentence.

5.3.1 Procedures – inmates serving Limiting Terms

Although classification is to take place only for those inmates serving a limiting term, following the classification guidelines contained within the:

- Inmate Classification and Placement Initial Classification and Placement
- Inmate Classification and Placement Reviews

Allowances for flexibility are to be made on an individual basis.

On initial classification and placement, limiting terms will have a 25% reduction in total sentences when determining the security rating, in accordance with the approved:

Limiting Term Sentences and CSNSW approach to Classification and Case Planning

For example, 8 years sentenced, will have a 25% reduction applied, which will result in 6 years.

C1 is not given on initial classification for Serious Offender inmates or FP inmates with limiting terms greater than 7 years.

Where the lead agency is Statewide Disability Services (SDS), placement must be approved:

- MSPC Area 1 for maximum and medium security male inmates, and
- MSPC Area 2 or 3 for minimum security male inmates.

In all cases, inmates must have an initial classification and placement with a 3 month review for the Case Plan to be developed by SDS. Frequency of reviews is increased to 6 monthly to coincide with MHRT review hearings, unless there is a trigger for earlier reviews.

5.3.2 MHRT Limiting Term - checklist

PRO	CEDURE	RESPONSIBILITY
1	FP limiting term nominated.	Courts
2	Order issued within provisions of the MH (FP) Act.	Courts
3	Order issued and disseminated to the: • Assistant Director Classification and Placement, • Metro Remand MCP, and • Metro (Long Bay) MCP	Senior Project Officer (Forensic Liaison), State- wide Administration of Sentences & Orders
4	Mental health – FP alert entered on the OIMS	Senior Project Officer (Forensic Liaison), State- wide Administration of Sentences & Orders
5	Liaise with Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders to determine the lead agency: • State-wide Disability Services (SDS); or • JH&FMHN	M/DMCP
6	Complete Initial Classification and Placement Assessment in accordance with Inmate Classification and Placement - Initial Classification and Placement	CPT M/DMCP
7	Lead agency is SDS - placement to be approved MSPC: • Area 1 for maximum and medium security inmates • Area 2 or 3 for minimum security inmates	M/DMCP
8	SDS lead agency - Case Plan development 3 month review to be developed by SDS. Increased to 6 monthly to coincide with MHRT review hearings, unless there is a trigger for earlier reviews.	SDS
9	Where the lead agency is JH&FMHN – placement is to be approved for MRRC	M/DMCP
10	JH&FMHN lead agency – Case Plan development	JH&FMHN

11	MHRT will review the current order, case plan and placement	MHRT
12	Where a new MHRT order is received, a Classification and Placement Review Assessment is to be triggered and completed in accordance with Inmate Classification and Placement - Reviews.	CPT M/DMCP
13	Where applicable arrange transfer via S23 to GOC	S/CAPO

5.4 Section 27 – Limiting term – Order for Detention

In accordance with <u>section 27</u>, if a Court is notified by the MHRT of its determination in respect of a person under section 24 (3), if the person is suffering from mental illness, or a mental condition, the Court may:

- · order that the person be taken to and detained in a mental health facility, or
- order that the person be detained in a place other than a mental health facility.

5.5 Section 38 – Special verdict

In accordance with <u>section 38</u>, if a Court returns a special verdict of not guilty by reason of mental illness, the Court may remand the person in custody until the making of an order under section 39 of the Act.

Although in this instance the person is not considered an FP at this stage, consideration must be given to any placement recommendations by the Court.

5.6 Section 39 – NGMI – Order for Detention

In accordance with <u>section 39</u>, if a special verdict is returned that the accused person is not guilty by reason of mental illness, the Court may order that the person be detained in such place and in such manner until released by due process of law, or may make such other order (including an order releasing the person from custody, either unconditionally or subject to conditions).

6 Mental Health Review Tribunal (MHRT) Orders

FP's in correctional centres in NSW, are managed under the following sections of the MH (FP) Act:

6.1 Section 44 – FP NGMI – initial review

In accordance with <u>section 44,</u> the MHRT must review a FP's case as soon as practicable after the person is found NGMI, or after a special hearing, a trial or on an appeal, and ordered to be detained in a mental health facility or other place or to be released from custody subject to conditions.

The MHRT must, after reviewing a FP's case, make an order:

- as to the FP's care, detention or treatment; or
- as to the FP's release (either unconditionally or subject to conditions).

6.2 Section 46 – Further reviews by MHRT of FPs

In accordance with <u>section 46</u>, the MHRT must review the case of each FP every 6 months but may review the case of any FP at any time.

6.3 Section 47 (1) – Orders and recommendations on further MHRT reviews

In accordance with <u>section 47 (1).</u> the MHRT may, after reviewing the case of a FP under section 46, make an order as to the FP's:

- continued detention, care or treatment in a mental health facility, correctional centre or other place; or
- release (either unconditionally or subject to conditions).

6.4 Section 48 – Transfer of FPs

In accordance with <u>section 48</u>, the MHRT may make an order for the transfer of a FP to a mental health facility, correctional centre or other place.

6.5 Section 49 – MHRT may grant leave

In accordance with <u>section 49</u>, the MHRT may make an order allowing a FP to be absent from a mental health facility, correctional centre or other place for such period and subject to such terms and conditions, if any, as the MHRT thinks fit.

6.6 Procedures for placement of FP's in NSW correctional centres

In the event an inmate in a correctional centre in NSW receives a MHRT/Court order under any of the above sections, the inmate must be placed in the correctional centre as per the order.

The following procedures apply to all above sections, with the exception of limiting terms (s24). In the event the order directs the inmate to be housed "in a correctional centre", the following procedures must apply:

PROCEDURE		RESPONSIBILITY
1	FP determined	Courts
2	Order issued within provisions of the MH (FP) Act.	Courts
3	Order issued and disseminated to the:	Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders
4	Mental health – FP alert entered on the OIMS	Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders

Liaise with Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders, lead agency JH&FMHN identified Complete Initial Classification and Placement Assessment in accordance with Inmate Classification and Placement - Initial Classification and Placement. Where inmates are not housed at MRRC/LBH, placement must result in MRRC for a period of 3 months to allow the MHRT to interview in person the FP at the first MHRT review 3 month classification and placement review scheduled M/DMCP Case Plan development Review order, case plan and placement Complete 3 month Classification and Placement Review in accordance with Inmate Classification and Placement - Reviews. COMPLET Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where applicable arrange transfer via S23 to GOC S/CAPO			
Where inmates are not housed at MRRC/LBH, placement must result in MRRC for a period of 3 months to allow the MHRT to interview in person the FP at the first MHRT review 8 3 month classification and placement review scheduled M/DMCP 9 Case Plan development JH&FMHN 10 Review order, case plan and placement Complete 3 month Classification and Placement Review in accordance with Inmate Classification and Placement - Reviews. CPT Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP Metro Remand MCP Metro Remand MCP	5	Administration of Sentences & Orders, lead agency	M/DMCP
MRRC for a period of 3 months to allow the MHRT to interview in person the FP at the first MHRT review 8 3 month classification and placement review scheduled M/DMCP 9 Case Plan development JH&FMHN 10 Review order, case plan and placement Review in accordance with Inmate Classification and Placement Reviews. 11 Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP Metro Remand MCP	6	·	M/DMCP
9 Case Plan development 10 Review order, case plan and placement Complete 3 month Classification and Placement Review in accordance with Inmate Classification and Placement - Reviews. 11 Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP Metro Remand MCP	7	MRRC for a period of 3 months to allow the MHRT to interview in person the	M/DMCP
10 Review order, case plan and placement Complete 3 month Classification and Placement Review in accordance with Inmate Classification and Placement - Reviews. Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP Metro Remand MCP	8	3 month classification and placement review scheduled	M/DMCP
Complete 3 month Classification and Placement Review in accordance with Inmate Classification and Placement - Reviews. Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP Metro Remand MCP	9	Case Plan development	JH&FMHN
Inmate Classification and Placement - Reviews. Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Where the order directs placement "in a correctional centre" this must be determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP Metro Remand MCP	10	Review order, case plan and placement	MHRT
determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to ratifying the review. Metro Remand MCP	11	Inmate Classification and Placement - Reviews. Note: where no updated order is available, consultation must occur with the Senior Project Officer (Forensic Liaison), State-wide Administration of	
13 Where applicable arrange transfer via S23 to GOC S/CAPO	12	determined in consultation with JH&FMHN and the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders prior to	Metro Remand MCP
	13	Where applicable arrange transfer via S23 to GOC	S/CAPO

7 Correctional Patient (CP) - Orders

A person (other than a forensic patient) who has been transferred from a correctional centre to a mental health facility while serving a sentence of imprisonment, or while on remand, is managed under the following sections of the <u>Mental Health (Forensic Provisions) Act 1990</u>:

7.1 Section 55 - Transfer from correctional centre by Secretary

In accordance with <u>section 55</u>, the Secretary may direct that a person imprisoned in a correctional centre be transferred to a mental health facility i.e. Long Bay Hospital (LBH), and may make a transfer order on the basis of two certificates about the person's condition issued by two medical practitioners, one of whom is a psychiatrist.

See Mental Health (Forensic Provisions) Act 1990 - Reference table for further information.

A transfer order may be made without the person's consent if the person is a mentally ill person or is suffering from a mental health condition.

The MHRT on occasions issue an order for CP's who have been detained in the Forensic Hospital (FH) and will continue to do so when appropriate – they still remain an "inmate" as per <u>Crimes</u> (Administration of Sentences) Act 1999.

Note: a section 55 order does not affect or override Parole or release.

7.1.1 Procedures when Section 55 received

In the event a section 55 is received, the following must occur:

PROCEDURE		RESPONSIBILITY
1	Section 55 received	Courts
2	Placed on the waiting list for placement at LBH	JH&FMHN Bed Demand Team
3	Priority for placement determined. Note: this Team meets weekly. With changing priorities, a person's priority may vary from week to week.	JH&FMHN Bed Demand Team
4	Bed becomes available and LBH issue Acceptance Form	JH&FMHN Bed Demand Team
5	LBH acceptance forwarded to the S/CAPO at the correctional centre housing the person	JH&FMHN Bed Demand Team
6	Request a section 23 transfer request for transfer to LBH, the LBH acceptance must be included	S/CAPO
7	Raise a section 23 for transfer to LBH	Inmate Transfers Unit

7.2 Section 56 - Transfer

<u>Section 56</u> applies to a person transferred from a correctional centre to a mental health facility, in accordance with the Act.

7.3 Reviews by MHRT of CPs

In accordance with the Act, the MHRT must review the case of a person transferred to a mental health facility from a correctional centre as soon as practicable, and may make an order as to the person's continued detention, care or treatment in a mental health facility or a correctional centre.

On review, the MHRT must determine if the person is a mentally ill person who should continue to be detained in a mental health facility.

8 Section 59 – Review of persons transferred from correctional centres

Section 59 deals with the first review of persons transferred from correctional centres.

8.1 Section 61 – Reviews by MHRT of CPs

Section 61 deals with subsequent reviews of persons transferred from correctional centres.

The MHRT must review the case of each CP every 6 months, but may also review at any time. They must review a case if requested by the Minister for Health, the Attorney General, the Minister for Justice, the Minister for Juvenile Justice, the Secretary or the Medical Superintendent of the mental health facility in which the patient is detained.

The period within which a particular review under this section must be held may, on the motion of the MHRT, or on the application of the patient, or a designated carer, or the principal care provider of the patient, be extended by the MHRT to a maximum of 12 months.

The MHRT may make an order as to the CP's continued detention, care or treatment in, or transfer to, a mental health facility, correctional centre or other place.

9 Forensic Community Treatment Orders

In accordance with <u>section 67</u>, inmates are managed in correctional centres in NSW on Forensic Community Treatment Orders (FCTO). Inmates with a FCTO must be placed only in correctional centres that have JH&FMHN operating within.

The MHRT reviews the case of each person in a correctional centre who is subject to a FCTO no later than 3 months after the FCTO is made, and at least once every 6 months during the term of the order.

FCTOs do not affect the classification or release of an inmate.

In the event a CP is issued with a FCTO, it in effect, discharges the CP from the mental health facility and the person ceases to be a CP.

9.1 Procedures – OIMS FCTO Offender Management Program

Inmates on FCTOs managed in correctional centres in NSW are identified in the Offender Information Management System (OIMS) via an FCTO *Offender Management Program*. The following procedures must be followed:

PRO	PROCEDURE RESPONS			
1	FCTO determined	MHRT		
2	Order issued within provisions of the MH (FP) Act	MHRT		
3	Order issued and disseminated to the:	Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders		
4	OIMS Offender Management Program (OIDMPROG) entered Note: data entry must include the requirement for the inmate to be managed in a CC with JH&FMHN coverage	Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders		
5	OIMS Offender Management Program (OIDMPROG) verified Note: data entry must include the requirement for the inmate to be managed in a CC with JH&FMHN coverage	D/MCP		
6	Ensure placement of inmate in a correctional centre with JH&FMHN coverage	D/MCP Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders		

10 Section 68 (1) - Breach of orders for release/leave

In accordance with <u>section 68 (1).</u> the President of the MHRT may make an order for the apprehension of a person if it appears to the President that the person has:

- breached a condition of an order for the person's conditional release, or
- committed a breach of an order releasing the person from custody under section 39, or
- · breached a condition of leave of absence granted under this Part, or
- been granted conditional release or leave of absence and has suffered a deterioration of mental condition and is at risk of causing serious harm to themselves, or to any member of the public because of their mental condition.
- The MHRT will nominate where the person is to be taken and detained, the order will specify and in most cases the Metropolitan Remand and Reception Centre (MRRC) will be nominated.

In such cases the inmate's Initial Classification and Placement must be in accordance with the order managed in the previous order, for example:

SECTION	DESCRIPTION	ASSESSMENT TYPE
68	Breach of orders	Refer to order as per previous episode of custody. I.e. S24 and S39 Sentenced

11 Functions of Commissioner of CSNSW and Secretary of Department of Justice

In accordance with <u>section 76C</u>, nothing in the *Act* or any order made under the *Act*, prevents the Commissioner of CSNSW, or the Secretary of the Department of Justice from exercising (or limits the exercise of) a function of the Commissioner or Secretary in relation to an FP or CP who is detained in a correctional centre or detention centre if the function is exercised for the purpose of maintaining the security, good order or safety, in any way, of the correctional centre or detention centre or its inmates.

In accordance with <u>section 77C</u>, if an order is made by a Court, the MHRT or the Secretary of the Ministry of Health, specifying that a FP is to be detained in or transferred to a specified correctional centre or detention centre, the Commissioner, or the Secretary of the Department of Justice may cause that FP to be detained in any correctional centre or detention centre in NSW.

11.1 Procedures to utilise 76C or 77C

In the event an FP or CP is required to be detained in a correctional centre for the purpose of maintaining the security, good order or safety, in any way, of the correctional centre, or as determined by the Commissioner, the centre housing the inmate must provide evidence and justify the need for the section to be utilised. The following procedures must be followed:

PROCEDURE		RESPONSIBILITY
1	Centre identifies inmate requiring 76C or 77C	Governor Centre Management
2	Complete written request of utilising 76C or 77C. Package must include: Covering Report Intelligence Report JH&FMHN Reports Any other relevant reports or information source Note: this list is not exhaustive	Governor Centre Management
3	Complete submission to utilise 76C or 77C	Senior Project Officer (Forensic Liaison), State- wide Administration of Sentences & Orders
4	Forward submission to utilise 76C or 77C to the Commissioner for determination	Senior Project Officer (Forensic Liaison), State- wide Administration of Sentences & Orders
5	Determine utilisation of 76C or 77C	Commissioner

12 JH&FMHN Orders for transfer

JH&FMHN in accordance with <u>section 76D</u> and <u>section 76E(1)</u>;may order the transfer of a FP or CP housed in a mental health facility to another mental health facility. These orders are to be treated the same as a MHRT/Court order and must be complied with.

12.1 76D - Security conditions for patients

In accordance with section 76D:

- a FP who is detained in a mental health facility or other place (other than a correctional centre) or absent is to be subject to any security conditions that the Secretary considers necessary, and
- a FP who is detained in a correctional centre, or in any part of a correctional centre that is a
 mental health facility, or a CP who is detained in a mental health facility or other place or
 absent, is to be subject to security conditions in accordance with relevant legislation and as
 agreed between the Secretary and the Commissioner, or the Secretary of the Department
 of Justice.

12.2 76E – Transfer and transport of patients

In accordance with section 76E(1);

 the Secretary may, by order in writing, order the transfer of a FP or CP detained in a mental health facility to another mental health facility. The order is sufficient authority for the transfer.

13 FPs – External Leave Program (ELP)

FPs will only be permitted to participate in an ELP, if the Commissioner has given approval after consideration of a recommendation from the Pre-Release Leave Committee (PRLC) for such participation.

See <u>Inmate Classification and Placement - SORC and Subcommittee Managed Inmates</u> – PRLC - FPs for further information.

14 Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders

All inquiries pertaining to FPs, CPs, FCTOs, Court Orders, requests for information /Court documents or MHRT notifications must be made via the Senior Project Officer (Forensic Liaison) State-wide Administration of Sentences & Orders via:



14.1 OIMS – Mental Health Alerts/Management Program

All Mental Health – FP and CP Alerts, and FCTO Offender Management Program in the OIMS must be entered by the Senior Project Officer (Forensic Liaison), State-wide Administration of Sentences & Orders.

15 Abbreviations

ACRONYM	MEANING	
CP	Correctional Patient	
CPT	Classification and Placement Team	
COPP	Custodial Operations Policy and Procedures	
CSNSW	Corrective Services NSW	
ELP	External Leave Program	
FP	Forensic Patient	
FCTO	Forensic Community Treatment Order	
JH&FMHN	Justice Health & Forensic Mental Health Network	
M/DMCP	Manager/Deputy Manager Classification and Placement	
MH	Mental Health	
MHRT	Mental Health Review Tribunal	
NGMI	Not Guilty by reason of Mental Illness	
NSW	New South Wales	
PRLC	Pre Release Leave Committee	
SDS	State-wide Disability Service	
SORC	Serious Offenders Review Council	

16 Document history

VERSION	DATE	REASON FOR AMENDMENT
1.0	25 October 2019	In line with Case Management Review outcomes
1.1	23 October 2020	General formatting update and improvements
2.0	1 February 2021	Full review conducted