

Examination Orders

What is an Examination Order?

An Examination Order made by a Magistrate under the *Mental Health Act 2016* authorises an authorised doctor to undertake an examination of a person without their consent, to determine whether:

- the person requires treatment and care for a mental illness
- to make a Treatment Authority for the person
- to make a recommendation for the person's treatment and care, or
- to change the patient's treatment and care if the person is already subject to a Treatment Authority, Treatment Support Order or Forensic Order.

Generally, an Examination Order will not be required as a person's mental condition can be assessed by the Court Liaison Service prior to the Magistrate hearing the matter or the Magistrate request an assessment by the Court Liaison Service. See [Frequently Asked Questions on the Role of the Court Liaison Service in the Magistrates Court](#).

How is an Examination Order made?

An Examination Order is made by a Magistrate.

The Magistrate can make an Examination Order if:

- the person is charged with a simple offence, and
- the Magistrate has concerns about the mental condition of the person.

What happens once an Examination Order is made?

Once the Examination Order has been made, if the person's charges have not already been dismissed, the Magistrate may adjourn the person's hearing.

Under an Examination Order, the person will be directed to either:

- be immediately transported to an Authorised Mental Health Service for an examination, or
- attend an Authorised Mental Health Service or public sector health service facility within a stated time of not more than 28 days.

If the person is required to attend immediately for an examination, they may be transported under the Examination Order by a health practitioner, ambulance officer or police.

What happens during the examination?

A person may be detained at an Authorised Mental Health Service or public sector health service facility for up to 6 hours for an examination. This period may be extended by an authorised doctor for a further 6 hours. The total examination period must not extend 12 hours.

The authorised doctor completing the examination is required to complete an Examination Report.

The Report includes information on:

- details of the examination carried out
- the recommendation or decision reached in relation to treatment, and
- if a recommendation for treatment has been made, details of the explanation given to the patient regarding the benefits of being treated voluntarily.

The Examination Report should not provide commentary on the person's offence, criminal responsible or fitness for trial.

How can an Examination Report be used?

The purpose of the Examination Report is to provide clinical information about the person's treatment and care needs.

A copy of the Examination Report will be placed on the person's clinical record.

The Authorised Mental Health Service or public sector health service facility must also provide a copy of the Examination Report to Magistrates Court that made the Examination Order.

The Examination Report is admissible at Court hearings only for the following purposes:

- to decide whether to make an Examination Order for a person at a future proceeding, or
- to decide whether to refer the matter of the person's mental state to the Mental Health Court.

Although the Examination Report may be used by the Court, statements made by the person in the process of an examination are not admissible in any criminal or civil proceedings.

This does not apply if the proceedings relate to charges of contempt of the court or an offense relating to the administration of justice (Chapter 16 of the Criminal Code).

If the report is received into evidence, it can only be used with permission from the Court.

What happens after the examination?

After the examination, if it is determined that a person requires treatment for a mental illness, they may receive their treatment as a voluntary or involuntary patient. This is a clinical decision.

If the person requires treatment as an involuntary patient, a Treatment Authority will be made by the authorised doctor.

If the person has a custodial status (e.g. a person on remand or sentenced prisoner) and they require an admission to an authorised mental health service, consent of the custodian and the Administrator of the authorised mental health service is required. This is referred to as a classified admission.

A person who attends an Authorised Mental Health Service or public sector health service facility under an Examination Order made by a Magistrate should be reasonably assisted to return to a reasonable place once they are no longer required to be at the Service or facility.

Where can I get more information?

Mental Health Act 2016 website – This website provides the Act (see Chapter 6), Chief Psychiatrist policies and practice guidelines, fact sheets, forms and other helpful resources. (www.health.qld.gov.au/mental-health-act).