



Director of  
Forensic Disability

# ANNUAL REPORT

Director of Forensic Disability

2019 – 2020

This Annual Report details the administration of the *Forensic Disability Act 2011* (Qld) and the associated activities and achievements for the 2019–20 financial year in an open and transparent manner to inform the Minister for Communities and Minister for Disability Services and Seniors, the Queensland Parliament and members of the public.

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*We acknowledge Aboriginal and Torres Strait Islander peoples as the Traditional Owners and Custodians of this country and recognise their connection to land, wind, water and community. We pay our respect to them, their cultures, and to Elders both past and present.*

9 October 2020

The Honourable Coralee O'Rourke MP  
Minister for Communities and  
Minister for Disability Services and Seniors  
GPO Box 806  
Brisbane QLD 4001

Dear Minister

I am pleased to present the 2019–20 Annual Report of the Director of Forensic Disability. This report is made in accordance with section 93 of the *Forensic Disability Act 2011* (Qld) (the Act).

The Annual Report provides information on the statutory responsibilities and key activities of the Director of Forensic Disability from 1 July 2019 to 30 June 2020. Specifically, this report outlines the function and operation of the Forensic Disability Service (FDS) and its compliance with the relevant legislative provisions, governance and administration as contained in the Act.

Yours sincerely

Jenny Lynas  
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## Message from the Director of Forensic Disability

Reflecting on 2019-20, this year has been marked by change and continuous improvement within the forensic disability space for the Director of Forensic Disability, the Department of Communities, Disability Services and Seniors (the Department) and its Forensic Disability Service (FDS).

In August 2019, the Queensland Ombudsman's report *The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service* was tabled within Queensland Parliament. This report identified that a range of system-wide issues had contributed to administrative and operational issues at the FDS as well as a lack of clarity and understanding in relation to governance and responsibilities of the Director of Forensic Disability and the Department. The Ombudsman made 15 broad recommendations with 49 sub-recommendations to improve service delivery at the FDS. Understandably, addressing the Ombudsman's recommendations has been a key focus for both the Director of Forensic Disability, the FDS and more broadly, the Department for 2019-20. Some of the key actions and improvements are referenced within the content of this Annual Report. All recommendations made by the Ombudsman have been completed by the Director of Forensic Disability or the Department, with the exception of one sub-recommendation which remains in progress.

There have also been changes in key statutory appointments with Professor Karen Nankervis acting as the Director of Forensic Disability between 1 July 2019 and 31 December 2019 pending my own appointment as Director effective 1 January 2020. During her tenure, Professor Nankervis was instrumental in highlighting the historical, contextual and systemic challenges for the FDS and individuals with both forensic and disability issues across Queensland.

Professor Nankervis' valued contributions when appointed as Director of Forensic Disability between July and December 2019 included:

- Responding to the findings and recommendations of the Ombudsman's report and supporting the initial implementation activities;
- Facilitating access for all FDS clients to the NDIS Complex Support Needs Pathway, providing access to specialist planners and support coordinators to support transition of FDS clients;
- Ongoing advocacy for systemic changes to the forensic disability service system to improve pathways in and out of the FDS, such as greater coordination across government and non-government services; step down accommodation options for the FDS; and linkages between the FDS and the wider service system; and lastly but no less important,
- The appointment of a new Administrator for the FDS.

Mr Stan Pappos was appointed to the role of Administrator of the FDS in September 2019. Mr Pappos possesses a wealth of relevant experience, having over 15 years of experience working within the forensic disability area within non-government organisations and alongside government. The Administrator role presents inherent complexity, with challenges of operating a medium secure forensic disability service in the absence of connection with a wider forensic disability service system, as well as being accountable to both the Director of Forensic Disability and the Director-General, Department of Communities, Disability Services and Seniors. The Administrator has outlined some of the achievements of the FDS during 2019-20 within this report. Given both the Director of Forensic Disability and the Administrator have roles and functions under the *Forensic Disability Act 2011*, a collaborative working relationship is essential. In that regard, I have valued the opportunity to work with Mr Pappos during this period.

Returning to the focus of the Director of Forensic Disability for 2019-20, further achievements and activities have included:

- The full review and release of policies and procedures of the Director of Forensic Disability, including undertaking the human rights compatibility assessments in accordance with the *Human Rights Act 2019*;
- A comprehensive review of intervention and programs at the FDS;
- A review of culturally appropriate care at the FDS;
- Contributions to, and preparation for, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the United Nations OPCAT subcommittee visit; and
- Establishing the Director of Forensic Disability web presence as a means of providing public accessibility to Director of Forensic Disability policies and procedures guiding the support, care and management of clients at the FDS.

This year has also been impacted by the COVID-19 pandemic with plans put in place to ensure the safety of clients and staff at the FDS. I commend the efforts of the FDS in ensuring client and staff safety whilst endeavoring to limit restrictions on clients given the importance of Limited Community Treatment (LCT), program attendance and engagement in meaningful activities in the community.

Jenny Lynas

**Director of Forensic Disability**

# The Forensic Disability Act 2011

The *Forensic Disability Act 2011* (the Act) provides for the involuntary detention, and the care and support and protection, of particular people with an intellectual or cognitive disability.

The Act was passed into law as a direct response to two seminal reports<sup>1</sup> into the area of care and treatment of persons with intellectual disability. Both reports highlighted the inappropriateness of detention of persons with intellectual or cognitive disability on forensic orders in mental health facilities.

The purpose of the Act is to provide involuntary detention and care and support and protection of the forensic disability clients<sup>2</sup> while at the same time safeguarding their rights and freedoms; balancing their rights with the rights of other people, promoting individual development and enhancing their opportunities for quality of life and maximizing their opportunities for reintegration into the community. In order to meet the purpose of the Act, separate and distinct entities were established – FDS, and the Director of Forensic Disability.

## Forensic Disability Service (FDS)

The FDS is a purpose built, medium security facility located at Wacol. The service cares for and supports up to 10 adults with an intellectual disability or cognitive impairment who have been detained to the service on forensic orders (disability).

The service is operated by the Department of Communities, Disability Services and Seniors (the Department). The Department has operational responsibility, controls the budget and provides the infrastructure for the day-to-day running of the service.

Although separate and distinct to the FDS, the Director of Forensic Disability works closely with the Administrator and staff at the FDS with the goal of transitioning clients through the programs and services provided so that they may safely return to their community with an enhanced quality of life.

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<sup>1</sup> *Challenging Behaviour and Disability: A targeted Response* by Justice Bill Carter and *Promoting Balance in the Forensic Mental Health System: Final Report* by Brendan Butler SC.

<sup>2</sup> Section 10 of the Forensic Disability Act 2011 defines a forensic disability client as an adult who has an intellectual or cognitive disability for whom a forensic order (disability) is in force if, under the Mental Health Act 2016, the Forensic Disability Service is responsible for the adult.

# Statutory Roles under the *Forensic Disability Act 2011*

## The Director of Forensic Disability

The Director of Forensic Disability is an independent statutory appointment made under the *Forensic Disability Act 2011* (the Act) by the Governor in Council. The main functions of the Director include:

- ensuring the protection of the rights of forensic disability clients under the Act;
- ensuring the involuntary detention, assessment, care, support and protection of forensic disability clients complies with the Act;
- facilitating the proper and efficient administration of the Act;
- monitoring and auditing compliance with the Act;
- promoting community awareness and understanding of the administration of the Act; and
- advising and reporting to the Minister on any matter relating to the administration of the Act.

The Director of Forensic Disability may also be a party in Mental Health Court proceedings involving individuals with an intellectual or cognitive disability. The Director's role is to assist the Mental Health Court and contribute to decision-making and outcomes for individuals diagnosed with an intellectual or cognitive disability who find themselves in the Mental Health Court system.

The current Director of Forensic Disability was appointed in January 2020 for a five year term. From 1 July 2019 to 31 December 2019, Professor Karen Nankervis held the appointment as acting Director.

The Director of Forensic Disability is not responsible for the day to day operations of the FDS. The day to day operations including the running of the facility and the management of the clients is the responsibility of the Administrator and the Department.

The Director of Forensic Disability reports to the Minister for Communities and Minister for Disability Services and Seniors

## Officers of the Director of Forensic Disability

The Director of Forensic Disability is supported to perform the statutory functions by four officers (4 FTE) permanently appointed under the *Public Service Act 2008* (Qld) specifically, a Principal Legal Officer and three Principal Advisors. During 2019-20, the team were supported by temporary administrative and business support roles (2 FTE) funded by the Department for 9 months.

The Director of Forensic Disability and her team uphold the Queensland Public Service values, which are customers first; ideas into action; unleash potential; be courageous; and empower people.

As Departmental employees, the officers of the Director of Forensic Disability also abide by the Code of Conduct for the Queensland Public Service. The Code of Conduct reflects ethical values contained in the *Public Sector Ethics Act 1994* and is based on principles and values including integrity and impartiality, promoting the public good, commitment to the system of government, and accountability and transparency.

### **The Director of Forensic Disability approach to Compliance, Monitoring and Quality Improvement**

In 2020, the Director adopted an approach to compliance monitoring and quality improvement that is risk based, proportional, transparent and accountable, and impartial and objective in line with the independence of the Director of Forensic Disability. The approach encourages a high level of compliance from the FDS and quality service delivery to FDS clients.

A range of compliance monitoring and quality improvement activities were conducted between January and June 2020 under this approach, targeting areas of key risk including:

- Individual development planning for FDS clients;
- The use of regulated behaviour controls;
- The application of LCT provisions; and
- Recordkeeping as required under the Forensic Disability Act (2011).

Relevant findings from these activities are documented throughout this report. In addition to the legislative compliance monitoring activities, the Director of Forensic Disability has also undertaken a range of clinical compliance activities to ensure that the care provided to clients is both legislatively compliant and in line with best practice. These include involvement in clients' Individual Development Plan reviews, regular case discussions on all clients under the management of the FDS, participation in NDIS Complex Needs Pathway meetings for clients at the FDS, and engagement with the FDS client reference group. The Director of Forensic Disability also has direct engagement with the clients and regular engagement with the Administrator.

## **Statutory Officers at the Forensic Disability Service**

### **The Administrator**

The Administrator is appointed by the Director of Forensic Disability under the *Forensic Disability Act 2011* (the Act) and is responsible for the day to day operation of the service in addition to a range of statutory responsibilities under the Act. Forensic order (disability) clients detained to the FDS are in the legal custody of the Administrator.

The primary functions of the Administrator include:

- ensuring care of people detained to the FDS;
- giving effect to policies and procedures developed by the Director of Forensic Disability;
- appointing Senior Practitioners and Authorised Practitioners;
- maintaining records and registers;
- providing a copy of the Statement of Rights and Responsibilities to clients; and
- choosing an allied person for forensic disability clients who do not have capacity to choose their own allied person.

In operating the service, the Administrator and the Department have staffing and human resource, finance and infrastructure responsibilities under the *Financial Accountability Act (2009)* and the *Public Service Act (2009)*. The Administrator reports to the Director-General of the Department through the Assistant Director-General, Disability Accommodation, Respite Services and Forensic Disability Service in relation to the operational management of the FDS.

The Administrator also has a legislative reporting obligation to the Director of Forensic Disability in relation to client care and legislative functions under the Act.

#### **Highlights from the Administrator for 2019-20**

During the 2019-20 financial year, there has been significant operational and transformational change at the Forensic Disability Service (FDS). The focus throughout this period has been on enhancing the operating and service model, ensuring that program delivery is evidence based and effective in addressing client treatment and habilitative needs, enhancing record keeping, and ensuring that key continuous improvement projects remain on track.

Whilst the onset of the COVID-19 pandemic has not been without its challenges, the FDS has nevertheless maintained a consistent focus on the delivery of rehabilitative and habilitative programs to clients which are tailored to meet clients' identified needs and strengths, whilst incorporating elements of culturally sensitive practice. There has been a continued focus on supporting a number of the current clients to work towards the goal of community transition and reintegration and there has been a significant amount of work undertaken in working with key stakeholders in terms of addressing identified barriers, including the need for suitable specialist disability accommodation and service connection within the client's community of origin.

The FDS has worked steadfastly to implement key recommendations from the Ombudsman's review. A number of the recommendations were successfully implemented including but not limited to the following:

- Enhancing record keeping practices across the service, particularly in relation to decision-making under the Act,

- Delivering staff training regarding Positive Behaviour Support and Trauma Informed care,
- Reviewing the FDS operating model and structure, and
- Ensuring that programs delivered are evidence based, effective and targeted in their approach to clients who are lawfully detained on forensic orders at the FDS.

### **Client outcomes and successes**

The FDS has been working with clients and their care teams to increase social and community participation through the utilisation of Limited Community Treatment (LCT). Clients were supported in a broad range of activities, including health appointments, external community treatment (e.g. 1:1 counselling, alcohol and drug intervention), social activities and participation (e.g. attending church, art groups), activities of daily living (e.g. grocery shopping, budgeting), family visits, volunteer work, education and training and health and well-being activities. LCT enables clients to actively generalise skills learnt in treatment and assists clients to increase their sense of confidence and safety in the community, whilst supporting their progress towards a successful transition to community. During the 2019-20, there were 906 LCT events planned and completed, representing on average 76 LCT events per calendar month.

Additionally, there were five extended LCT events for three clients with connections to other communities, including Townsville and Rockhampton. During these extended LCT events, clients were supported to reconnect with their community, to meet with NDIS service providers and to engage with family and support networks in the region.

Over the past 12 months, the FDS in collaboration with the clients' stakeholders have progressed plans regarding future transition arrangements for all seven clients that are receiving services from the FDS. The FDS remains focused on working collaboratively with the client, their Legal Guardian and Allied Person to resolving barriers, including suitable and safe housing, securing NDIS funded supports and rebuilding positive connections with family and community support networks. For at least three of the clients at the FDS, transfer is anticipated during 2020-21 once accommodation and support arrangements are in place to meet the client's individual needs in the community.

### **New FDS operating model and structure**

In September 2019, the FDS embarked on a review of its operating model and structure. This was the first time in the FDS 10 year history that the operating model had been reviewed and re-designed. Consultation regarding the FDS operating model and structure was undertaken to ensure that it aligned with the service's vision and purpose, specifically with regards to the treatment, care and support of clients. As part of the process, the FDS in conjunction with the Department reviewed the structure, key roles and responsibilities ensuring that:

- All positions with the remodel remained aligned to supporting clients to achieve positive outcomes and to re-engage safely with the community;

- Operational and clinical responsibilities and roles remained clearly defined and client focused;
- A focus on the support, supervision and professional development of Operational, Clinical and Business Administration staff employed across the service ensuring appropriate mechanisms are in place to operate an efficient and effective FDS; and
- The operating model and structure was effective in supporting clients to improve quality of life and able to deliver key outcomes identified in client Individual Development Plans.

The revised model incorporates the current features that support client rehabilitation and habilitation, whilst incorporating components around clinical leadership and practice that enhance outcomes for clients. The transition to the new operating model and structure has commenced and it is anticipated that it will be fully implemented in 2020-21.

### **Enhancement to Record Keeping**

FDS staff have worked closely with the Department's Information, Innovation and Recovery team to improve the Forensic Disability Act Information System (FDAIS). The Stage 1 enhancements of the FDAIS project have resulted in the following improvements to the system:

- Reviewing and monitoring client progress, particularly with regards to Individual Development Plan goals;
- Integrated Behaviour and Incident reporting;
- Monitoring and recording of Regulated Behaviour Control: Seclusion; and
- Recording of Limited Community Treatment outcomes.

These elements will substantially improve the record keeping and will enable increased visibility for the service, as well as assisting the Director of Forensic Disability with monitoring the treatment, care and support arrangements of clients at the facility.

With the support of the Queensland State Archive, the FDS conducted a Record Maturity Assessment in early 2020. This assessment enabled the FDS to critically analyse and assess strengths and weaknesses regarding electronic and hard copy record keeping practices. Key actions with regards to enhancing records have since been implemented to ensure that there are accurate, timely and effective records maintained at the FDS.

Further work has commenced to implement the Department's iDocs electronic and hard copy record keeping system at the FDS. This will further embed good record keeping practices at the FDS and ensure compliance with relevant public record keeping standards.

Stan Pappos

**Administrator, Forensic Disability Service**

## **Other statutory appointments at the Forensic Disability Service**

The Administrator is supported by other statutory roles including the Senior Practitioner and Authorised Practitioners. Appointments of Senior Practitioners and Authorised Practitioners are made by the Administrator.

Under the Act, the main functions and powers of a Senior Practitioner relate to the clinical management of clients at the FDS and include:

- preparing an Individual Development Plan (IDP) for the client;
- modifying the IDP as the client's needs and requirements change;
- overseeing the implementation of the client's treatment in accordance with the IDP;
- authorising Limited Community Treatment for the client;
- overseeing and implementing the use of regulated behaviour control for clients if required;
- searching forensic disability clients and possessions; and
- returning clients to the care and support of the FDS, where required.

# Client management at the FDS

## Individual Development Plans (IDP)

IDPs are integral to a forensic disability client's care and support while detained to the FDS. It is designed to promote the client's development, habilitation and rehabilitation, provide for the client's care and support, and support the client to participate, and be included in, the community and ultimately transition from the FDS to the community. The IDP is reviewed on a three monthly basis to ensure it remains up to date and takes into account changes for clients, including those related to risk, skill development and current habilitation and rehabilitation needs. The plan also includes activities and planning for a return to the community as a critical component recognising that the FDS is a residential treatment facility where the expectation is that clients are supported to transition back to the community following engagement in treatment.

Quarterly IDP review meetings occur at the FDS with the client, the clinical team, a representative of the Director of Forensic Disability and any other relevant stakeholders, including family members, Guardians, Legal Representatives and Advocates as well as, in some instances, representatives from an Authorised Mental Health Service (AMHS). The FDS take the lead in coordinating these reviews.

Over the past 12 months, the FDS has focused on ensuring that IDPs are capturing rehabilitative and habilitative goals that are specific, measureable and realistic for each client over a three month period, and ensuring they are developed in collaboration with the client and relevant stakeholders.

### **Director of Forensic Disability monitoring and compliance activity in relation to IDP**

During 2019-20 the reviews and changes to IDPs have been monitored through attendance by a representative of the Director of Forensic Disability at each client's IDP meeting as well as a thematic review focused on the quality and compliance of IDPs.

Key findings include:

- All clients had an IDP that had been subject to a regular review that articulated appropriate goals, interventions and strategies to meet the client's needs.
- All IDPs contained a risk management plan that gave effect to the conditions of the Forensic Order.
- The Senior Practitioner regularly engaged with the client to review their care and support under the IDP.
- Some areas for improvement were identified including ensuring that updated assessments informed client care, capturing how progress with rehabilitation, habilitation will be measured, highlighting transition and NDIS planning progress,

and providing clarity around behaviours of concern with consideration of the least restrictive management approach.

The thematic review made recommendations for ongoing improvement to the quality of the IDPs, a small number of recommendations to improve compliance and a broad recommendation in relation to documenting decisions or actions that may limit human rights. Subsequent engagement with the FDS has occurred to monitor quality improvements with the IDP template undergoing revision to better meet the legislative requirements while ensuring the document is meaningful for clients and stakeholders. Overall, it was considered that the quality of IDPs had improved since the last audit in 2018.

## Support and Care at the Forensic Disability Service

The provision of rehabilitative and habilitative intervention is a cornerstone to service delivery at the FDS and is embedded within the Act. As the only service of its kind in Queensland, the FDS offers an intensive, residential treatment option with rehabilitative programs addressing forensic needs to reduce the risk of recidivism, as well as habilitative programs and interventions aimed at increasing quality of life and the client's ability to function in the community. Intervention at the FDS is considered across four broad domains, however, it is noted that these domains are not mutually exclusive and may intersect in service delivery. These domains are:

**Rehabilitation** – provision of offence-specific intervention targeted to meet each client's criminogenic needs;

**Habilitation** – provision of holistic skill building interventions, targeting individual needs in social, health and wellbeing, self-care and hygiene, and aimed at enhancing quality of life;

**Community Treatment** – safe and considered use of community access to develop and consolidate rehabilitative and habilitative skills, and support the transition of the client to the community with appropriate care and support; and

**Vocation and Education** - vocational or educative activities, often building on client's interests or strengths, promoting structure and routine, pro-social relationships and positive boost to self-esteem.

The provision of **culturally appropriate, safe and respectful care** is also important in terms of FDS service delivery. The FDS continues to strive to ensure cultural sensitivity, and responsiveness is embedded within all targeted interventions delivered to Aboriginal and Torres Strait Islander clients and clients from differing cultural backgrounds

## **Program delivery at the FDS**

The Clinical Habilitative and Rehabilitation Therapy (CHART) team is a multidisciplinary team of clinicians providing clinical interventions to the clients within the FDS. The CHART team provide a key role in undertaking assessment, developing clinical formulations, and facilitating or coordinating specialised, adapted programs and individualised intervention. The team may also provide clinical guidance to direct support staff at the FDS, to ensure they can reinforce key program concepts or skills.

The FDS has engaged professional external support, where this is determined to be a necessary and appropriate alternative. This has included culturally appropriate programs and supports as well as engagement with community-based psychologists for sexual offending needs or mental health treatment.

Programs coordinated or delivered by CHART in 2019-20 to address criminogenic needs, meet identified gaps in client adaptive functioning skills and increase client skills for community reintegration. These include:

- Anger Management;
- Social Problem Solving and Offence Related Treatment (SPORT);
- Good Lives model program;
- Sexual offending treatment – individual delivery (outsourced to local forensic psychologist); and
- Access to external drug and alcohol services.

The focus for the current cohort of clients is treatment consolidation and preparation for transition, noting that most of these clients have already completed the relevant group and individual intervention offerings. Clients are supported to utilise the skills they learn in programs and demonstrate pro-social, positive behaviours while they are in the community.

Habilitation and daily living skills are an important area of development for clients, particularly as they move toward transition from the service to community based living. The skills learnt through habilitative programs and individual learning set the client up to succeed in community while encouraging client interests and new activities. Habilitative programs accessed by FDS clients this year have included:

- Literacy and Numeracy programs;
- Computer skills and competency;
- ‘New World’ cooking program;
- Healthy Living and Life Skills;
- Psychoeducational programs (such as ‘Everybody Needs to Know’);
- ‘Money Matters’ budgeting program;
- Pathways to transition program;
- Engagement with local TAFE institutes regarding vocational opportunities; and
- Volunteer opportunities for FDS clients.

## **Director of Forensic Disability review of Intervention and Programs at the FDS**

In June 2020, the Director of Forensic Disability completed a review of interventions and programs at the FDS culminating in the identification of appropriate intervention options for forensic disability clients and recommendations for consideration of the FDS, and the Department.

This review included:

- Consideration of the evidence base for programs for clients with intellectual disability, forensic issues and best practice approaches to meeting client needs;
- Analysis of historical and current program delivery at the FDS;
- Consultation with the FDS clinical and intervention team members regarding group and individual program delivery at the FDS to identify any clinical or operational opportunities or barriers;
- A jurisdictional scan examining programs and approaches adopted in similar services or forensic disability networks within Australia as well New Zealand; and
- Targeted engagement with program authors where appropriate.

When considering intervention holistically across the domains identified above, it was observed that there was a considerable amount of activity and involvement of clients in intervention, skills development and skills consolidation at the FDS during 2019-20. However, this effort may not necessarily be formally recognised, measured, sustained, or aligned for best effect.

The jurisdictional scan also revealed that the intervention offered at the FDS is broadly aligned and not dissimilar to that provided by similar services supporting clients with forensic and disability needs across Australia and New Zealand

An identified opportunity and a key recommendation of the review was for the FDS to develop and implement a service wide 'Model of Care' to align all intervention activities and ensure that there is a coherent and consistent approach to promoting the client's development, habilitation, rehabilitation, and supporting the client's reintegration into the community.

The review identified that similar services which have adopted a model of care pathway approach have identified a range of positive outcomes, including greater client throughput, reductions in length of stay, and timely assessment and treatment<sup>3</sup>. The Director of Forensic Disability remains committed to supporting the FDS with their development and implementation of a suitable model of care that provides for the clients at the FDS.

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<sup>3</sup> Devapriam, J., Alexander, R., Gumber, R., Pither, J., & Gangadharan, S. (2014). Impact of care pathway-based approach on outcomes in a specialist intellectual disability unit. *Journal of Intellectual Disabilities*, 18(3), 211-220

## **Director of Forensic Disability review of Cultural Care at the FDS**

In 2020, the Director of Forensic Disability undertook a review of how the FDS currently provides supports and services that are culturally responsive to client needs and considered opportunities to enhance and further embed culturally appropriate care at the FDS.

The review involved engaging with clients to hear their views about what was culturally important to them, what the FDS does to respect and support their connection to culture, what prevents them from having a more connected experience while at FDS, and how to meet their cultural needs in future. Staff were consulted to seek their views about cultural support and care at the FDS.

The review recognised that the delivery of services to clients at the FDS is embedded within the Department of Communities, Disability Services and Seniors' approach to integrating an understanding of Aboriginal and Torres Strait Islander cultures and histories into work practices, and its commitment to promoting inclusion and diversity.

A range of specific measures were identified as being in place at the FDS including:

- An Elder Visits program supported by a local Indigenous organisation;
- Use of culturally appropriate methods such as the Knowledge Lens<sup>4</sup> and Eight Ways of Learning<sup>5</sup> to adapt program content and support provided to meet the needs of Aboriginal and Torres Strait Islander clients;
- Use of project based learning strategies with clients that take into account culturally relevant themes and concepts;
- Use of culturally appropriate materials and learning aids to enhance client engagement (e.g. 'Reading Tracks' - culturally affirming book series developed collaboratively by Indigenous Elders to support literacy development);
- Use of culturally appropriate clinical assessments where relevant;
- Support for clients to access and establish links with Aboriginal and Torres Strait Islander Health Services and other cultural services;
- LCT funding and resourcing to maintain links with community of origin and/or kinship and land connections;
- Support for clients to engage in Aboriginal and Torres Strait Islander activities and celebrations in the community;
- Promotion of cultural events within the FDS (e.g. NAIDOC week, National Sorry Day, National Close the Gap Day and Harmony Day etc.);
- Facilitating access and providing linkages with online cultural supports, virtual communities and using technology to link clients with cultural and familial supports from their community (e.g. Gamarada; Skype connections with community);

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<sup>4</sup> State of Queensland (Department of Child Safety, Communities and Disability Services) (2016). Valuing Aboriginal and Torres Strait Islander Peoples' Knowledge Lens

<sup>5</sup> Yunkaporta, T. (2009) Aboriginal Pedagogies at the Cultural Interface. PhD thesis, James Cook University. <http://eprints.jcu.edu.au/10974>

- Supporting clients to participate in culturally relevant art activities at the FDS and in the community;
- Staff engagement with clients' family members to gain insight into clients' culture, and to share information about clients' progress and learnings while at the FDS; and
- Supporting staff to access additional training and education to increase their ability to provide culturally appropriate, safe and respectful care (e.g. Aboriginal and Torres Strait Islander Mental Health First Aid).

Clients positively reflected on activities and supports provided at the FDS that enabled them to connect with their culture. The main difficulty identified by clients was the reduced access to family, missing them and not being able to share significant family and cultural experiences with them. Clients were also concerned about forgetting their 'growing up', and some of their language and culture.

The review identified opportunities to enhance cultural care at the FDS through supporting staff knowledge and promoting culturally appropriate, safe and respectful care.

Opportunities to increase culturally meaningful activities and engagement for clients were also identified, such as exploring life story work, culturally appropriate programs and cultural learning that could be facilitated at the FDS or in the community. It was noted that some of these options were already under consideration by the FDS.

## **Limited Community Treatment (LCT)**

LCT is an integral part of a client's support and care whilst at the FDS and contributes to their rehabilitation and habilitation, as well as supporting them to actively participate in the community. LCT involves the client spending time outside of the FDS engaging in activities that will contribute to skill development, increase quality of life and assist in community reintegration. As such, LCT is a critical component in working towards a client's transition from the FDS.

LCT conditions are determined by the Mental Health Review Tribunal and authorised by the Senior Practitioner. LCT differs for individual clients and is determined based on the client's individual skills and interests and is directly linked to their assessed risk, need and the goals they need to achieve for successful transition to community living. LCT is a significant part of the IDP process and the approach to a client's LCT is documented in their IDP.

Clients have accessed a range of activities, programs and appointments in the community over the past 12 months. These included:

- attendance at religious venues and related activities to support spiritual development and community inclusion;
- overnight stays in community of origin to maintain connection with community and assist clients' reintegration;

- regular volunteering with community organisations to support skill development and engage with client’s specific interests;
- visits with family members;
- walks to local organisations to promote health and wellbeing;
- visits to the library to support literacy skill development and prosocial activity;
- medical appointments and medical reviews to promote health goals;
- participation in community groups to connect to culture and other opportunities;
- attendance at community events, such as markets, cultural festivals, music concerts and art events;
- swimming and attendance at the gym to promote health and wellbeing;
- shopping activities to support community engagement skills, literacy, numeracy and budgeting;
- regular participation in social sporting activities to promote health and social goals;
- meetings to explore study/vocational options; and
- travelling by public transport to assist with the development of community living skills.

LCT may also be used for clients to maintain connection with their community of origin. A number of clients at the FDS have links to communities outside of south east Queensland. Three of these clients have accessed extended LCT to maintain connection and prepare for transition.

**Director of Forensic Disability monitoring and compliance activity in relation to the application of LCT provisions**

The Director of Forensic Disability is represented at each client’s IDP meeting to monitor the use of LCT including how it links with specific rehabilitative, habilitative and reintegration goals.

A thematic review of the application of LCT provisions was undertaken in May 2020. This review considered legislative compliance as well as recommendations for quality improvement.

The review found that most clients were supported to participate in a range of LCT events over a 12 month period and there was evidence of links to IDP goals. However, two clients were identified as having high and complex needs, including high levels of anxiety (especially in relation to LCT), and accessed minimal LCT over the 12 month period examined.

A sample of LCT event plans authorised by the Senior Practitioner were reviewed and appeared to have due regard for subsection s20(3)(a) to (f) of the Act. There was also evidence in LCT plans that risks were assessed in consideration of the community and the proposed venue. Furthermore, where a risk was identified, there was evidence of corresponding strategies that considered safety within each LCT Event Plan.

It was recommended that the FDS continue to support access to LCT for all clients, and document the planning and efforts undertaken for the two clients who access minimal LCT to evidence how these clients are being supported to increase their access to the community.

### **LCT Incident Review**

During 2019-20, there was one recorded critical incident related to LCT. In September 2019 a client failed to comply with his LCT requirements while on extended LCT. He was located within four hours with no reported police incidents or contact of concern with members of the community during that period.

The acting Director of Forensic Disability conducted a review of the incident and found that the client was supported well by his staffing group and in line with risk management plans. Opportunities to improve practice and recommendations to prevent similar incidents in the future were identified. The FDS have implemented improved processes for extended LCT as a result.

## **Regulated Behaviour Control**

The Act has provisions and safeguards for the use of regulated behaviour control including behaviour control medication, mechanical restraint and seclusion. The Act aims to protect the rights of forensic disability clients by regulating the use of any regulated behaviour control, and ensure that it is only used if considered necessary and the least restrictive way to protect the health and safety of clients or to protect others. Policies and procedures have been issued by the Director of Forensic Disability to ensure any use of regulated behaviour control is compliant with the Act and is the least restrictive way to protect the health and safety of clients or to protect others. The Regulated Behaviour Control policy and related procedures directs the FDS to notify the Director of Forensic Disability of any potential use or use of a regulated behaviour control so that the Director may implement any legislative provisions to review or cease use if deemed necessary.

## **Director of Forensic Disability monitoring and compliance activities in relation to the use of regulated behaviour controls**

In accordance with Chapter 6 of the Act, the Director must be notified of any use of regulated behaviour control. Further, specific documentation and registers must be kept in relation to any use.

### **Use of Behaviour Control Medication**

According to the Act, behaviour control medication is *“the use of medication for the primary purpose of controlling the client’s behaviour. However, using medication for a client’s health care is not a behaviour control medication.”*

There were no instances where behavioural control medication was administered at the FDS during 2019-20.

There have been recent improvements in the documentation used by the FDS to clarify the purpose of medication which provides greater assurance in this area. Further, the FDS has sought additional medical advice in instances where there was a lack of clarity in relation to the client’s medication regime.

### **Use of Seclusion**

Seclusion is defined under the Act as *“the confinement of the client at any time of the day or night alone in a room or area from which the client’s free exit is prevented”*. Seclusion can only be used if it is necessary to protect the client or other persons from imminent physical harm, and if there is no less restrictive way to protect the client’s health and safety or to protect others.

During 2019-20, two clients were subject to seclusion. One client was secluded on one occasion for a brief period. For another client, seclusion was a more consistent feature due to the client’s high level of complexity and risk however, there have been ongoing opportunities presented to the client to reduce the use of seclusion, encourage appropriate engagement with others, and engage with activities including LCT.

The review of regulated behaviour control identified that the FDS fulfilled legislative requirements in relation to notification and documentation for instances of the use of seclusion. It was evident that a Senior Practitioner had made a written order for each instance the client had been placed into seclusion. It was found that seclusion orders met the requirements under s 62(2), including outlining the reasons for seclusion, the time the order was made and when the authorisation ended, minimum observation intervals and strategy, and special measures of care and support (e.g., staffing model, interaction style). A Regulated Behaviour Control Register was maintained in accordance with s74.

While improvements were noted in the overall quality of seclusion orders, the level of detail and clarity varied across orders and authors. Opportunities for improvement were noted within the relevant documentation regarding the level of detail provided in some instances.

### **Use of Mechanical Restraint**

The definition of Restraint under the Act is *“the restraint of the client by use of an approved mechanical appliance preventing the free movement of the client’s body or a limb of the client”*.

There were no instances where mechanical restraint was used at the FDS during 2019-20.

The Director of Forensic Disability did not receive any requests for mechanical restraint approval during 2019-20. Further, there are no mechanical restraints approved for use for any of the clients at the FDS.

### **Use of Reasonable Force**

The Act provides that a Senior Practitioner or Authorised Practitioner may, individually or with lawful help, and using the minimum force that is necessary and reasonable in the circumstances administer behaviour control medication to a forensic disability client, use restraint on a forensic disability client, or place a forensic disability client in seclusion.

The review considered whether there was any ‘Use of Reasonable Force’ with any client at the FDS over the 12 month period. There were no entries for the use of physical restraint within the 12 month period in the relevant register, and there was no evidence in any other reports that physical restraint had been used.

## **Assisting Clients to Meet Their Medical Needs**

In January 2020, the Director of Forensic Disability issued a policy providing guidance in relation to supporting clients to access appropriate health care and prescribed medication. The policy emphasises proactive management and monitoring of clients’ health needs, safe administration of any prescribed medication and compliance with relevant legislation.

The FDS made a number of improvements in supporting clients to meet their health needs during 2019-20. In line with best practice, all FDS clients have a current and active Comprehensive Health Assessment Program (CHAP). The CHAP specifically addresses disability-related medical issues as well as an in-depth general assessment of health and includes a plan for follow up medical care.

Additionally, the FDS reviewed and streamlined their systems around supporting health needs. The FDS developed a practice guide for supporting clients’ health needs and delivered training to staff in relation to supporting clients with medication. The FDS have embedded processes to ensure medication reviews occur in accordance with the Act, the purpose of medications is clearly documented, client health files are kept up to date and all record keeping pertaining to

health is maintained to a high standard. Access for some clients to specific services such as the dentist remain a focus for the FDS for 2020-21.

## **Admission and Transfer**

Placement at the FDS is intended to be time limited, with the client to transfer out once relevant interventions are completed, or it is ascertained that the person is not benefiting from their placement at the FDS and the programs available.

The Director of Forensic Disability holds legislative powers and functions within the *Mental Health Act 2016* to facilitate transition for clients from the FDS (section 353 – transfer of responsibility by agreement with the Director and the Chief Psychiatrist). These functions allow the Director of Forensic Disability to negotiate with the Chief Psychiatrist and reach agreement on the transfer of the responsibility of forensic orders (disability) between the FDS and Authorised Mental Health Services (AMHS).

During 2019-20, one client transferred in and out of the FDS. A number of other clients progressed toward transition by engaging in treatment and meeting identified milestones, linking with NDIS supports coordinators and service providers, and participating in graduated LCT. Transition planning during this period was enhanced by inclusion in the NDIS Complex Support Needs Pathway, regular strategic interagency meetings, and transition meetings involving the client, client's representatives, NDIS supports coordinator and service providers, and the FDS.

As at 30 June 2020, there were six clients accommodated at the FDS. Further, the FDS provided forensic oversight for one community client subject to a forensic order (disability) accommodated on the Wacol Disability Precinct.

## Information Systems and Recordkeeping

The Queensland Ombudsman outlined a range of concerns in relation to the effectiveness of record keeping at the FDS. The Ombudsman recommended that the Director of Forensic Disability issue a policy and procedure that ensure records about the detention, care and support of people detained at the FDS adequately protect their rights and interests; and complete audits and reports on compliance by the FDS with relevant recordkeeping standards at least annually.

In January 2020, the *Director of Forensic Disability Policy – The keeping of records at the Forensic Disability Service* was released. Support was provided by the Queensland State Archives to review the policy to ensure it reflected good record keeping requirements.

### **Forensic Disability Act Information System (FDAIS) Improvements**

There has been significant work undertaken this year on enhancing the Forensic Disability Act Information System (FDAIS) being the electronic client information system used at the FDS to increase compliance with the relevant legislation. This work was funded and commissioned by the Department and was overseen by a project board of which the Administrator and Director of Forensic Disability were a part.

The initial upgrade to the system in June 2020 enabled staff to record behavioural incidents and use of regulated behaviour control (seclusion) on FDAIS. Additional planning and development work was undertaken focused on IDPs and the remaining regulated behaviour control options for releases scheduled in 2020-21.

These FDAIS enhancements are considered significant improvements to record keeping practices at the FDS. Benefits are noted in terms of accessibility including the ability to use this information to inform client care, as well as monitoring legislative compliance in accordance with the Director of Forensic Disability's functions under the Act.

### **Recordkeeping in accordance with the *Forensic Disability Act 2011***

In June 2020 the Director of Forensic Disability undertook an audit of FDS recordkeeping in accordance with the *Forensic Disability Act 2011* for the period 1 January – 14 June 2020. It was determined that the FDS was compliant with its record keeping obligations under the Act. Further that the introduced and planned enhancements to record keeping at the FDS would further embed good record keeping practices at the FDS, with some of these having direct bearing on legislative compliance related activities, and therefore of benefit to the Director of Forensic Disability in performing statutory duties.

However, it was noted that there was scope for further enhancements to FDAIS in order for it to be an integrated client information management system. Further consideration and potential investment in FDAIS or a similar electronic information management solution was recommended.

## Other Matters

### COVID-19

On 29 January 2020, the Minister for Health and Minister for Ambulance Services declared a public health emergency in Queensland in response to COVID-19. The public health emergency has necessarily changed how we interact in the community with each other and introduced social distancing measures and periods of restricted movements.

These same impacts were experienced by the clients and staff at the FDS to varying degrees, and FDS operations needed to adapt to public health directives as they changed. Managing the COVID-19 situation involved supporting clients to be tested where symptoms were observed, complying with hygiene and social distancing practices, modifying LCT in light of the movement restrictions imposed on the broader community, and self-isolation and quarantine where required.

Observations by the Director of Forensic Disability were that the FDS was highly responsive and considered in their approach to managing the COVID-19 threat at the FDS. Additional health and wellbeing measures such as temperature checks for staff and visitors and considerable business continuity planning was undertaken to manage a range of scenarios.

In response to the circumstances, there were increases in client use of technology for the purposes of continuing intervention with external psychologists and other professionals, and maintaining connection with family, community and culture.

While a number of clients were tested as a precaution, no clients contracted COVID-19.

### **COVID-19 and legislative amendment to the *Forensic Disability Act 2011***

On 21 May 2020, in response to the declared public health emergency to the COVID-19 virus outbreak, the Queensland Parliament passed the *Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020* which amended various sections of the *Forensic Disability Act 2011*.

These amendments are temporary, only applying while the public health emergency declaration made under the *Public Health Act 2005* remains in place, and will expire on 31 December 2020.

The amendments permit the Administrator of the FDS to refuse visitor entry to the FDS in order to protect health and safety during the COVID-19 emergency, limit client community treatment and/or amend a client's individual development plan, where the delivery of treatment presents a risk to the health or safety of the client or others.

The Administrator has confirmed that the temporary provisions were not relied upon to refuse entry or limit community treatment up until 30 June 2020.

## **Human Rights at the FDS and the introduction of the *Human Rights Act 2019***

Since commencement, the *Forensic Disability Act 2011* has contained a number of important general principles and safeguards relating to the human rights, care and protection of clients detained to the FDS.

Chapter 1 Part 3 of the *Forensic Disability Act 2011* sets out the general principles for administration of the Act that the FDS staff must abide by, which in turn safeguard client rights, care and protection. The general principles relate to:

- clients having the same basic human rights as others;
- promoting habilitation and rehabilitation;
- meeting clients' individual needs and goals;
- maintaining supportive relationships and community participation;
- including clients' views in making decisions;
- supporting and informing clients about the exercise of their rights; and
- the right to confidentiality.

The commencement of the *Human Rights Act 2019* on 1 January 2020 and the provisions contained therein further reinforced and enhanced the safeguards and general principles related to human rights within the *Forensic Disability Act 2011*.

The provisions of the *Human Rights Act 2019* apply to all government agency employees, including the FDS staff. In accordance with the *Human Rights Act 2019*, all FDS staff have an obligation to ensure they give proper consideration to human rights when making a decision that affects a client and that the decision is compatible with human rights.

In order to assist FDS staff to understand the requirements under the *Human Rights Act 2019*, the Director issued a new Director of Forensic Disability policy relating to human rights. There were no complaints pertaining to human rights matters received by the Director of Forensic Disability during 2019-20.

## **Queensland Ombudsman and *The Forensic Disability Service report: An investigation into the detention of people at the Forensic Disability Service***

In August 2019 the Queensland Ombudsman tabled The Forensic Disability Service report in Parliament after completing an investigation into the administrative actions of the Department and the Director of Forensic Disability related to the operation of the FDS.

The recommendations were directed towards the Director-General of the Department of Communities, Disability Services and Seniors (the Department) and the Director of Forensic Disability.

The Director of Forensic Disability wrote to the Ombudsman and formally accepted all 25 of the 49 sub-recommendations relevant to the role of the Director of Forensic Disability. Throughout the year and despite the COVID-19 interruptions, the Director of Forensic Disability and her staff worked tirelessly to progress and implement the recommendations. In addition to addressing the recommendations particular to the Director of Forensic Disability, the Director of Forensic Disability worked closely with Department and the Administrator of the FDS to support the implementation of the recommendations more broadly.

### **Disability Royal Commission**

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established in April 2019 (Disability Royal Commission). The powers of the Disability Royal Commission are independent of government and are wide ranging. The purpose of the Disability Royal Commission is, amongst other things, to make recommendations to governments regarding what additional actions may be taken to achieve best practice. Accordingly, it was expected that the FDS – an involuntary detention service that provides care, support and protection of forensic disability clients – would come within the purview of the Disability Royal Commission.

In response to requests from the Disability Royal Commission, the Director of Forensic Disability provided documentation and a statement to the Disability Royal Commission in March 2020, in preparation for the criminal justice system hearings initially scheduled for April 2020. Due to the impact of COVID-19, this hearing has been rescheduled.

## Glossary and short forms

Short forms that may be used in the Director’s Annual Report may include:

Short forms	Full phrase
AMHS	Authorised Mental Health Service(s)
CHART	Clinical Habilitation and Rehabilitation Teams
DCDSS	Department of Communities, Disability Services and Seniors
DIRECTOR	The Director of Forensic Disability
FDS	Forensic Disability Service
FDAIS	Forensic Disability Act Information System
IDP	Individual Development Plan
LCT	Limited Community Treatment
MHA	<i>Mental Health Act 2016</i> (Qld)
MHC	Mental Health Court
MHRT	Mental Health Review Tribunal
NAIDOC	National Aborigines and Islanders Day Observance Committee
NDIS	National Disability Insurance Scheme
NGO	non-government organisation
PBS	positive behaviour support

Defined terms that may be used in the Director’s Annual Report may include:

Defined term	Meaning
Act, the	The <i>Forensic Disability Act 2011</i> (Qld)
Administrator	The Administrator of the Forensic Disability Service
Chief Psychiatrist	The chief psychiatrist is an independent statutory officer under the <i>Mental Health Act 2016</i> (Qld). The primary role of the chief psychiatrist is to protect the rights of voluntary and involuntary patients in authorised mental health services and ensure compliance with the <i>Mental Health Act 2016</i> (Qld).
Director	The Director of Forensic Disability
Director-General	The Director-General, Department of Communities, Disability Services and Seniors
Forensic Disability Client	Section 10 of the <i>Forensic Disability Act 2011</i> (Qld) defines a forensic disability client as an adult who has an intellectual or cognitive disability for whom a forensic

order (disability) is in force if, under the *Mental Health Act 2016* (Qld), the Forensic Disability Service is responsible for the adult.

**Forensic Disability Service**

The secure residential facility at Wacol, Queensland, for people with an intellectual disability who are subject to a forensic order (disability)

**Forensic Order (Disability)**

Forensic order (disability) is defined in section 134 of the *Mental Health Act 2016* (Qld).

**Information Notice**

An information notice is a notice that entitles the applicant for the notice, or the applicant's nominee, to receive relevant information provided for in Schedule 1 of the *Mental Health Act 2016* (Qld) about the forensic disability client from the Director or Chief Psychiatrist.

**Limited Community Treatment**

Under Limited Community Treatment, a client receives care and support in the community for up to seven days.

**Mental Health Court**

The Mental Health Court decides whether a person charged with a criminal offence was of unsound mind or diminished responsibility when the offence was allegedly committed or is unfit for trial. The court also hears appeals from the Mental Health Review Tribunal and inquiries into the lawfulness of a patient's detention in authorised mental health services.

**Mental Health Review Tribunal**

The Mental Health Review Tribunal is an independent statutory body under the *Mental Health Act 2016* (Qld). The primary purpose of the Mental Health Review Tribunal is to review the involuntary patient status of persons with mental illnesses, as well as individuals subject to a forensic order (disability).

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