



Forensicare

# Governance Framework

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## About this Framework

This document sets out Forensicare's governance Framework and describes the systems in place to ensure our Board, Executive and all staff of the organisation are accountable for the clinical, corporate, financial and operations of our organisation.

**Governance** defines relationships between the Board and senior management, the Minister, stakeholders (including consumers), and others interested in the affairs of the public entity, including regulators and auditors.

Governance encompasses authority, accountability, stewardship, leadership, direction and control exercised in the organisation.

**Victorian Public Sector Commissioner**



## Forensicare Overview

The Victorian Institute of Forensic Mental Health (Forensicare) is an incorporated public statutory authority established under Part 14 of the *Mental Health Act 2014*. Forensicare is governed by an independent Board, reporting to the Minister for Mental Health.

The governance of Forensicare operates within a broader public sector accountability framework. In this framework, the Minister for Mental Health is accountable to Parliament and the community for the performance of Forensicare and the Board is accountable to the Minister. The Secretary of the Department of Health and Human Services provides the Minister with advice and assists the Minister in accounting to Parliament.

Forensicare is the state wide provider of forensic mental health services in Victoria. Forensicare provides an integrated range of clinical services for people with a serious mental illness in the criminal justice and general mental health systems. Forensicare services include the operation of Thomas Embling Hospital, Prison Mental Health Service and the Community Forensic Mental Health Service. While the primary focus is the provision of clinical services, which includes effective assessment, treatment and management of forensic patients and clients, a comprehensive research program operates and specialist training and professional education is provided for Forensicare staff and the broader mental health and criminal justice fields.

Forensicare is committed to providing services within a recovery framework<sup>1</sup> and consistently with the mental health principles.<sup>2</sup> Forensicare collaborates with consumers and carers through the Clinical Governance Framework and through the participation of consumers and carers on Forensicare governance and management committees. Forensicare recognises that our patients and clients have rights under the *Mental Health Act 2014*, the *Victorian Charter of Human Rights and Responsibilities Act*, and the [Australian charter of healthcare rights in Victoria](#).

## Forensicare Vision

Clinical excellence and translational research enable our consumers to lead fulfilling and meaningful lives in a safer community.

## Forensicare Mission

We will provide high quality, specialist clinical services that focus on the recovery of our consumers, support our workforce, build our translational research capacity and work collaboratively with our stakeholders to achieve better and safer outcomes for our consumers and the community.

## Forensicare Values

### Responsiveness

- > providing frank, impartial and timely advice to the Government
- > providing high quality services to the Victorian community
- > identifying and promoting best practice

### Integrity

- > being honest, open and transparent in their dealings
- > using powers responsibly
- > reporting improper conduct

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<sup>1</sup> A Recovery Orientated Forensicare.

<sup>2</sup> Section 11, *Mental Health Act 2014*.

- > avoiding any real or apparent conflicts of interest
- > striving to earn and sustain public trust of a high level

### **Impartiality**

- > making decisions and providing advice on merit and without bias, caprice, favouritism or self-interest
- > acting fairly by objectively considering all relevant facts and fair criteria
- > implementing Government policies and programs equitably

### **Accountability**

- > working to clear objectives in a transparent manner
- > accepting responsibility for their decisions and actions
- > seeking to achieve best use of resources
- > submitting themselves to appropriate scrutiny

### **Respect**

- > treating others fairly and objectively
- > ensuring freedom from discrimination, harassment and bullying
- > using their views to improve outcomes on an ongoing basis

### **Leadership**

- > actively implementing, promoting and supporting these values

### **Human rights**

- > making decisions and providing advice consistent with the human rights set out in the *Charter of Human Rights and Responsibilities Act 2006*
- > actively implementing, promoting and supporting human rights.

## **Forensicare Functions**

Forensicare has the following statutory functions under the *Mental Health Act*<sup>3</sup>:

- to provide, promote and assist in the provision of forensic mental health and related services in Victoria;
- to provide clinical assessment services to courts, the Adult Parole Board and other relevant government agencies;
- to provide inpatient and community forensic mental health services and specialist assessment and treatment services;
- to provide community education in relation to the services provided by Forensicare and forensic mental health generally;
- to provide, promote and assist in undergraduate and postgraduate education and training of professionals in the field of forensic mental health;
- to provide, promote and assist in the teaching of, and training in, clinical forensic mental health within medical, legal, general health and other education programs;
- to conduct research in the fields of forensic mental health, forensic health, forensic behavioural science and associated fields;

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<sup>3</sup> Section 330, *Mental Health Act 2014*.



- (h) to promote continuous improvement in the quality and safety of forensic mental health and related services provided in Victoria;
- (i) to promote innovations in the provision of forensic mental health and related services in Victoria;
- (j) to perform any other functions conferred on Forensicare under the *Mental Health Act* or any other Act.

### **Forensicare Powers**

Under the *Mental Health Act 2014* Forensicare has power to do all things that are necessary or convenient to be done for, or in connection with, or as incidental to, the performance of its functions.

Without limiting the above statement, Forensicare may:

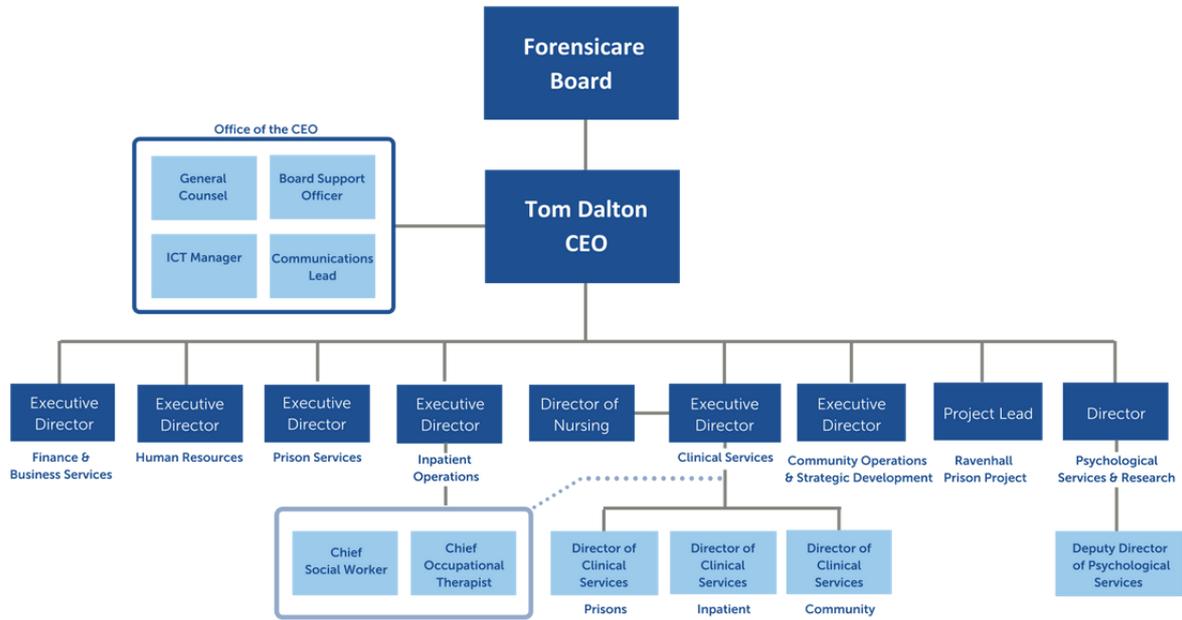
- (a) enter into arrangements for services provided by Forensicare; and
- (b) impose fees and charges for the provision of services; and
- (c) seek and accept funds from any person for the purposes of performing its functions.

In performing its functions and exercising its powers, Forensicare must have regard to:

- (a) the needs and views of:
  - i. persons receiving mental health services and related services provided by Forensicare; and
  - ii. the communities served by Forensicare; and
  - iii. providers of mental health services and related services; and
  - iv. other relevant parties; and
- (b) the need to ensure that Forensicare uses its resources in an effective and efficient manner;
- (c) the need to ensure that it continuously strives-
  - i. to improve the quality and safety of the services it provides; and
  - ii. to promote innovation.



## Organisational Chart



## Forensicare Board

The role and duties of the Forensicare Board include: strategy, governance and risk management.

The Forensicare Board sets the strategic direction of Forensicare and monitors that Forensicare is meeting its objectives and performance targets outlined in our Strategic Plan and Statement of Priorities.

The Forensicare Board has established this governance framework and monitors compliance with the framework. This framework covers the clinical work of the organisation, as well as the corporate and financial aspects of our operation.

The Board also ensures that risk management is integrated into Forensicare's systems and reviews the effectiveness of operational risk management, compliance and reporting systems.

### Function of the Board

The functions of the Forensicare Board are:

- a) to develop statements of priorities and strategic plans for the operation of Forensicare and to monitor compliance with those statements and plans; and
- b) to develop financial and business plans, strategies and budgets to ensure the accountable and efficient performance of the functions of Forensicare and the long term financial viability of Forensicare; and
- c) to monitor the performance of Forensicare to ensure that:
  - i. Forensicare operates within its budget; and
  - ii. its audit and accounting systems accurately reflect the financial position and viability of Forensicare; and
  - iii. Forensicare adheres to:
    - A. Its financial and business plans; and
    - B. Its strategic plan; and
    - C. Its statement of priorities; and
  - iv. Effective and accountable risk management systems are in place; and
  - v. Effective and accountable systems are in place to monitor and improve quality, safety and effectiveness of mental health services by Forensicare; and
  - vi. Any problems identified with the quality, safety or effectiveness of the mental health services provided are addresses in a timely manner; and
  - vii. Forensicare continuously strives to improve the quality and safety of the mental health services it provides and to promote innovation; and
  - viii. Committees established by Forensicare operate effectively; and
- d) During each financial year, to monitor the performance of the chief executive officer of Forensicare (including at least one formal assessment in relation to that financial year), having regard to the objectives, priorities and key performance outcomes specified in Forensicare's statement of priorities; and
- e) To develop arrangements with other relevant agencies and service providers to enable effective and efficient service delivery and continuity of care; and
- f) To establish a finance committee, an audit committee and a quality and safety committee; and
- g) To provide appropriate training for directors.

## Board Membership

The membership of the Board is set out in the *Mental Health Act*. The Board contains a nominee of the Attorney-General, a nominee of the Minister administering the *Corrections Act 1986*, and four to seven other members, including at least one member able to reflect the perspective of persons receiving mental health services and at least one with knowledge of or experience in accountancy or financial management.

For further information regarding the appointment and selection of Directors' to the Forensicare Board, see the information under the Forensicare Board Membership heading of this Framework.

## Board Procedures and Policies

The *Mental Health Act* provides that the procedure of the Board is at the discretion of the Board, however the Minister may publish guidelines relating to the role and procedure of the board and how it may carry out its functions. The procedures of the Board are contained in the Board Charter.

The Board has developed policies to ensure compliance with Director's Ethical and Legal Obligations.

## Appointment of delegate to Board

The Minister may appoint not more than two delegates to the Board, if the Minister considers that such an appointment will assist the board to improve the performance of Forensicare. A delegate is not a director of the Board.

## Board Committees

The Board delegates some aspects of its work to its committees. The committees are able to carry out a more detailed analysis of certain issues and make recommendations for the Board to consider. The Board remains accountable for all decisions.

Forensicare's Board committees are each established with:

- > A specific charter, with clear terms of reference
- > Procedures for agendas, minutes and reporting to the Board
- > Delegations that do not undermine the Board's delegations to the CEO
- > Appropriate membership
- > A clear expectation that the decision-making responsibilities of the full Board are not compromised by the activities of the committee and that significant issues will be reported to the Board for discussion and decision-making.

Forensicare has established the following six committees:

- > Audit, Security and Risk Management Committee<sup>4</sup>
- > Clinical Governance and Quality Committee
- > Executive Performance and Remuneration Committee
- > Finance Committee
- > Research Committee
- > Strategic Planning and Oversight Committee

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<sup>4</sup> An audit committee is a requirement under the Standing directions of the FMA.

### **Audit, Security and Risk Management Committee**

The primary role of the Audit, Security and Risk Management Committee is to assist the Board to fulfil its corporate governance and oversight responsibilities in relation to Forensicare's financial reporting, internal control structure, legal and regulatory compliance, risk management systems, security and the internal and external audit functions.

The Committee is chaired by Ms Farrow and the Committee members are Mr Buckle, Dr Mileskin, Ms Roberts and an independent member. The Committee meets quarterly.

### **Clinical Governance and Quality Committee**

The primary role of the Clinical Governance and Quality Committee is to ensure effective clinical governance by providing leadership and advice to the Board in the assessment and evaluation of the safety and quality of clinical services provided by Forensicare, by monitoring and oversight of the Clinical Governance Framework, Quality Improvement, Accreditation, Clinical Risk Management and Consumer Participation and Satisfaction.

The Committee is chaired by Ms Farrow and the Committee members are Dr Mileskin, Ms Anderson, A/Prof Vine and Forensicare's Executive Director, Clinical Services. The Committee meets six times a year.

### **Executive Performance and Remuneration Committee**

The role of the Executive Performance and Remuneration Committee is to determine Forensicare's policy and practice for executive remuneration, review the performance and remuneration of the Chief Executive Officer and his or her direct reports and ensure that Forensicare complies with the [government's executive remuneration policy](#).

The Committee is chaired by Mr Healy and the Committee members are Ms Farrow, Mr Pullen and Mr Rimmer.

### **Finance Committee**

The primary role of the Finance Committee is to assist the Board to fulfil its financial governance responsibilities, including budgeting, financial management and performance, capital expenditure, investment management and finance policies and procedures.

The Committee is chaired by Mr Pullen and the Committee members are Mr Healy, Ms Farrow, Mr Rimmer and an independent member. The Committee meets monthly.

### **Research Committee**

The primary role of the Research Committee is to assist the Board in ensuring effective and accountable systems are in place for research governance and that high quality research is undertaken to inform clinical practice.

The Committee is chaired by Professor Janet Hiller (External Chair) and the Committee members are Mr Healy, Dr Mileskin, Ms Anderson and A/Prof Vine, Forensicare's Clinical Director and Director of Psychological Services. The Committee meets bi-annually.

### **Strategic Planning and Oversight Committee**

The primary role of the Strategic Planning and Oversight Committee is to review and propose matters of strategic challenge and risk for Forensicare and develop recommendations for the Board on strategic plans and the governance framework.

The Committee is chaired by Mr Rimmer and the Committee members are Ms Farrow, Mr Buckle, Mr Healy, Forensicare's CEO, Executive Director of Clinical Services and Director of Psychological Services. The Committee meets six times a year.

### **Board effectiveness and evaluation**

The Board evaluates its own performance annually in order to identify areas of improvement and to provide development for the Directors' and the Board.

The Board Committees review their performance annually and provide recommendations to the Board of any actions that should be taken to improve the Committee's performance.<sup>5</sup>

### **Relationship with the Minister for Mental Health**

The Board is accountable to the Minister for Mental Health for the performance of Forensicare and must comply with any direction issued by the Minister under the *Mental Health Act*.<sup>6</sup> In practice the relationship is fostered between meetings with the Minister and Board Chair.

The Board submits a Strategic Plan<sup>7</sup> and an annual Statement of Priorities<sup>8</sup> to the Minister and Secretary.

The Board notifies the Minister and the Secretary about any issues of public concern or risk that may affect Forensicare.<sup>9</sup>

### **Relationships with other Ministers and Government Departments**

Due to Forensicare's role in both the mental health and criminal justice systems, we work with both the Department of Health and Human Services and the Department of Justice and Regulation to ensure that we operate in a manner consistent with Government policy. Forensicare has contractual obligations to the Department of Justice and Regulation. In recognition of these obligations and Forensicare's role in the criminal justice system, we consult closely with the Department of Justice and Regulation in setting our strategic directions and Statement of Priorities and report to the Minister for Corrections on our performance.

### **Delegations to the Forensicare Executive**

The Board has delegated powers to the CEO and Executive. The delegation manual provides a list of functions that have been delegated by the Board. The delegation manual includes a description of the delegated power and any conditions limiting the exercise of these powers (including financial limits).

## **Forensicare Strategic Direction**

### **Strategic Plan**

The Board must prepare a Strategic Plan for the operation of Forensicare under the *Mental Health Act*<sup>10</sup>, at a frequency determined by the Minister and in accordance with guidelines determined by the Minister.

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<sup>5</sup> Committee Charters.

<sup>6</sup> Section 342, *Mental Health Act 2014*.

<sup>7</sup> Section 343, *Mental Health Act 2014*.

<sup>8</sup> Section 344, *Mental Health Act 2014*.

<sup>9</sup> Section 345, *Mental Health Act 2014*.

<sup>10</sup> Section 343, *Mental Health Act 2014*.

The Board is required to advise the Minister if it intends to exercise its functions in a manner that is inconsistent with the Strategic Plan.<sup>11</sup>

Forensicare's Strategic Plan is aligned to government policy directions and priorities within both the criminal justice and general mental health systems.

### Statement of Priorities

The Board must prepare a Statement of Priorities, in consultation with the Secretary to the Department of Health and Human Services, each financial year.<sup>12</sup> The Statement of Priorities sets out:

- > the services to be provided by Forensicare
- > the funding provided by the Department of Health and Human Services
- > the objectives, priorities and key performance outcomes to be met; and
- > the performance measures against which we are assessed and monitored.

The government's requirements about Statements of Priorities are set out in the annual Guidelines for Preparing Statements of Priorities. In recognition of Forensicare's role in both the criminal justice and general mental health systems, we prepare our Statement of Priorities in consultation with the Department of Justice and Regulation as well as the DHHS. While the Statement of Priorities is agreed with the Minister for Mental Health, we report to both the Minister for Mental Health and the Minister for Corrections on our performance on a quarterly basis.

The Statement of Priorities may be varied at any time if the Board and Minister for Mental Health agree.<sup>13</sup>

## Forensicare Clinical Governance

Clinical Governance is a systematic and integrated approach to assurance and review of clinical responsibility and accountability that improves quality and safety and patient outcomes. Clinical Governance is linked to corporate governance, strategic risk and service planning, informatics, performance and business management. The Forensicare Clinical Governance Framework is the system by which the Board, Executive, clinicians and staff share responsibility and accountability for the safety and quality of care. Clinicians and clinical teams are responsible and accountable for the quality of care provided. The Board and Executive are responsible and accountable for ensuring the systems, structures and processes are in place to support clinicians in providing safe, high quality care and for clinician engagement in improvement and risk management activities.

Forensicare's clinical governance policies and frameworks comply with the [Victorian clinical governance policy framework](#). Compliance of clinical governance is measured through accreditation mechanisms and through the Clinical Governance & Quality Committee which provides leadership and advice to the Board through the continuous assessment and evaluation of the safety and quality of clinical services provided by Forensicare

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<sup>11</sup> Section 343(4), *Mental Health Act 2014*.

<sup>12</sup> Section 344, *Mental Health Act 2014*.

<sup>13</sup> Section 344(6), *Mental Health Act 2014*.

## Corporate and Financial Governance

The *Financial Management Act* 1994 applies to Forensicare, and therefore the Board meets a range of requirements under this Act, including keeping proper financial accounts, risk management, audit arrangements, financial reporting, annual reporting to Parliament and responding to Ministerial requests for information.

The Board has a [financial code of practice](#) relating to the probity of financial management and implement the requirements set out in the [Standing Directions](#) of the Minister for Finance (the Standing Directions). The public sector [Financial management compliance framework](#) is used to assist in the compliance with the Standing Directions.

To comply with the obligations in the *Financial Management Act* and the *Standing Directions*, the Board must:

- (a) ensure that government objectives and priorities, and relevant statutory purposes and functions, are furthered in a financially efficient, effective and economical way through:
  - (i) setting Forensicare's strategic Direction and priorities;
  - (ii) approving related plans, budgets and policies;
  - (iii) approving major decisions related to strategic initiatives and policies;
  - (iv) overseeing Forensicare's delivery of services, objectives and performance; and
  - (v) approving key accountability reports including the Annual Report and performance reports.
- (b) establish appropriate and effective financial governance and oversight arrangements and regularly review the effectiveness of those arrangements;
- (c) ensure the Agency implements Victorian government policy frameworks relating to the requirements of the FMA and the associated directions issued under section 8 of the FMA (including these Directions, the Instructions and the Financial Reporting Directions);
- (d) keep the Responsible Minister informed of Agency activities and strategic issues with potential financial implications for the State; and
- (e) for Agencies with a statutory board or equivalent governing body established by or under statute, conduct an annual review of their financial governance performance.

## Risk Management and Compliance

Forensicare has developed and implemented a risk management policy and framework, including associated policy and procedures, that is compliant with the [Victorian Government risk management framework](#).

The Board is required to notify the Minister and the Secretary about any issues of public concern or risk that may affect Forensicare.<sup>14</sup>

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<sup>14</sup> Section 345, *Mental Health Act*

## Other Legal Obligations

The Board ensures that Forensicare complies with all relevant legislation. In addition to the requirements in Part 14 of the *Mental Health Act*, Forensicare's other legislative obligations include:

- > Legislation relating to financial management and reporting obligations such as the *Financial Management Act 1994* and the *Audit Act 1994*;
- > Legislation relating to the administration of employee and consumer information, such as the *Health Records Act 2001*, *Privacy and Data Protection Act 2014* and the *Public Records Act 1973*;
- > Legislation relating to accountability and transparency requirements, such as the *Freedom of Information Act 1982*, the *Protected Disclosures Act 2012* and the *Ombudsman Act 1973*;
- > Legislation relating to the safety and rights of mental health consumers, such as the complaints and other provisions under the *Mental Health Act 2014*; and
- > Legislation to improve the safety and protect the rights of employees, such as the *Occupational Health and Safety Act 2004* and the *Equal Opportunity Act 2010*.

The Board receives reporting on legislative compliance on an annual basis via the Audit, Security and Risk Management Committee.

## Forensicare's Executive

Forensicare's Executive is responsible for the day to day running of Forensicare, in accordance with the law, the decisions of the Board and government policies. The Executive are responsible for formulating policy and procedure that is consistent with Forensicare's obligations and promotes the recovery framework and mental health principles.

### Chief Executive Officer

Subject to the Secretary's approval, the Board appoints the Chief Executive Officer (CEO) of Forensicare and determines the CEO's remuneration and the terms and conditions of his or her appointment.<sup>15</sup>

The CEO is subject to the direction of the Board in controlling and managing Forensicare.<sup>16</sup>

The functions of the CEO are:

- (a) to prepare material for consideration by the Board, including the Strategic Plan and Statement of Priorities;
- (b) to ensure that Forensicare uses its resources effectively and efficiently;
- (c) to implement service development and planning; and
- (d) to implement effective and accountable systems to monitor and improve the services provided by Forensicare to ensure continuous improvement in the quality and safety of the services it provides; and
- (e) to ensure that any problem in relation to the quality, safety or effectiveness of services provided by Forensicare are addressed in a timely manner; and
- (f) to ensure that Forensicare continuously strives:
  - i. to improve the quality and safety of the services it provides; and
  - ii. to promote innovation; and
- (g) to manage Forensicare in accordance with:
  - i. the financial and business plans, strategies and budgets developed by the Board; and
  - ii. the instructions of the Board;
- (h) to ensure the Board and the committees established or appointed by the Board are assisted and provided with relevant information to enable them to perform their functions effectively and efficiently; and
- (i) to ensure that the Board's decisions are implemented effectively and efficiently throughout Forensicare; and
- (j) to inform the Board in a timely manner of any issues of public concern or risks that affect or may affect Forensicare; and
- (k) to inform the Board, the Secretary and the Minister without delay of any significant issues of public concern or significant risks affecting Forensicare.
- (l) any other functions as specified by the Board.<sup>17</sup>

The role of the CEO is to:

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<sup>15</sup> Section 340(1)

<sup>16</sup> Section 340(2)

<sup>17</sup> Section 340(3)

- > manage the effective and efficient operations of Forensicare in accordance with the strategy, business plans and policies of the Board
- > implement Board decisions
- > ensure Forensicare's organisational functions are effective, including financial management, human resource management, asset management and reporting
- > maintain effective communication and co-operation with stakeholders in collaboration with the Chair of the Board
- > oversee the employment and management of staff
- > provide advice and information to the Board on any material issues concerning strategy, finance, reporting obligations and significant events<sup>18</sup> that require the Board to notify the Minister and Secretary to the Department of Health and Human Services
- > prepare Forensicare's Annual Report
- > liaise with the Department of Health and Human Services and the Department of Justice and Regulation
- > represent Forensicare to external parties as an official spokesperson for Forensicare, in consultation with the Chair of the Board

The CEO is the accountable officer for Forensicare under section 42 of the *Financial Management Act*. As the accountable officer, the CEO must:

- (a) promote and regularly review the proper use and management of public resources for which Forensicare is responsible;<sup>19</sup>
- (b) establish and maintain an effective internal control system;<sup>20</sup>
- (c) identify and manage Forensicare's risks;<sup>21</sup>
- (d) manage Forensicare's financial information;<sup>22</sup>
- (e) ensure Forensicare plans and manages performance to achieve financial sustainability;<sup>23</sup>
- (f) ensure Forensicare's financial management compliance;<sup>24</sup>
- (g) meet internal and external reporting and information provision requirements;<sup>25</sup>
- (h) provide assurance to Forensicare's Audit Committee on:
  - (i) the integrity of information relevant to financial management, performance and sustainability in the Annual Report; and
  - (ii) compliance with relevant legislation, standards and government requirements for attesting in the Annual Report;<sup>26</sup>

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<sup>18</sup> Section 345

<sup>19</sup> See Directions 3, 4 and 5.

<sup>20</sup> See Direction 3, 4.

<sup>21</sup> See Direction 3.7.

<sup>22</sup> See Direction 3.9

<sup>23</sup> See Direction 4.1.

<sup>24</sup> See Direction 5.1.

<sup>25</sup> See Directions 4.3 and 5.2.

<sup>26</sup> See Directions 5.1 and 4.3.



- (i) consult with the Board in relation to the appointment or the dismissal of the CFO;
- (j) provide assurance to the Audit Committee on the integrity of Forensicare's:
  - (i) budgets and financial projections;<sup>27</sup> and
  - (ii) financial and performance reports;
- (k) provide the CFO, Audit Committee and internal audit function with access to the CEO, to enable those positions to carry out their responsibilities;<sup>28</sup> and
- (l) ensure that exemptions from the Directions and Instructions are sought and dealt with appropriately.<sup>29</sup>

### Chief Financial Officer (CFO)

The CFO is responsible for Forensicare's financial accounting and financial reporting, the effectiveness of Forensicare's audit arrangements and the efficient and effective use of resources. The CFO is responsible to the CEO for ensuring that proper accounting records and systems and other records are maintained in accordance with the relevant regulations and [standing directions](#).

The CFO must:

- (a) prepare accurate information relevant to financial management, performance and sustainability;
- (b) establish and review accounting and financial information systems, governance and internal controls to safeguard Forensicare's resources;
- (c) provide assurance to the Audit Committee and the CEO that:
  - (i) financial reports (estimates and actuals) present fairly, and in accordance with applicable Australian Accounting Standards and the FMA, Forensicare's financial position and operating results;
  - (ii) financial reports (estimates and actuals) are founded on a sound system of risk management and internal compliance and control that implements the policies adopted by Forensicare; and
  - (iii) Forensicare's systems and controls for financial management, performance and sustainability are operating efficiently and effectively in all material respects;
- (d) provide strategic advice and options to support informed decision making and organisation strategy concerning Forensicare's:
  - (i) financial implications of, and risks associated with, current and projected services and assets; and
  - (ii) future financial sustainability;
- (e) develop Forensicare's financial management capability; and
- (f) maintain a constructive relationship within the Agency, and with the Victorian Auditor-General's Office and other CFOs in related Ministerial portfolios.

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<sup>27</sup> See also Direction 4.1.1(b) and Direction 5.3.2.

<sup>28</sup> See Directions 2.4.1, 3.2.1.3 and 3.2.2.1.

<sup>29</sup> See Direction 1.5.

## External Regulatory and Monitoring Framework

Forensicare is subject to regulation and oversight from a number of external bodies.

### Accreditation

Accreditation is part of the regulatory framework that informs government and the community that systems are present in health services to assure the provision of safe and high quality services with a focus on continual improvement. The accreditation process is a formal process of external review based on a series of standards of care and processes to determine the level of congruence between practice and quality standards. Health services are all required to be accredited by certain approved accrediting agencies.

Forensicare maintains accreditation through the [Australian Council on Healthcare Standards](#) (ACHS) against the National Safety and Quality and Health Service Standards and the National Standards for Mental Health Services. These standards provide nationally consistent statements about the level of care consumers can expect from health services. They provide a quality assurance mechanism that tests whether relevant systems are in place to ensure minimum standards of safety and quality are met and a quality improvement mechanism that allows health services to realise aspirational or developmental goals.

### Safer Care Victoria

Safer Care Victoria is the peak state authority for leading quality and safety improvement in healthcare. Safer Care Victoria oversees and supports health services to provide safe, high-quality care to patients every time, everywhere.

Created in response to the recommendations within the report [Targeting Zero: supporting the Victorian hospital system](#), Safer Care Victoria works to eliminate avoidable harm and strengthen quality of care.

### Victorian Agency for Health Information

The Victorian Agency for Health Information analyses and shares information across Victoria's public healthcare system to provide an accurate picture of hospital and health service performance.

### Mental Health Complaints Commissioner

The [Mental Health Complaints Commissioner](#) an independent specialist statutory body established under the *Mental Health Act 2014* to deal with complaints about Victorian public mental health services.

### Chief Psychiatrist

The [Chief Psychiatrist](#) is a statutory officer whose role is to provide clinical leadership and promote continuous improvement in the quality and safety of mental health services. This includes promoting the rights of people receiving mental health treatment in public mental health services.

### Health Complaints Commissioner

The [Health Complaints Commissioner](#) (HCC) is an independent statutory authority established to receive and resolve complaints about health services. The HCC also handles complaints about disclosure of health information and access to health information.



## **Victorian Ombudsman**

The [Victorian Ombudsman](#) is an independent officer of the Victorian Parliament who investigates complaints about state government departments, most statutory authorities and local government. The Ombudsman investigates complaints about administrative actions and decisions taken by government authorities and about the conduct or behaviour of their staff.

## **Victorian Auditor-General**

The [Victorian Auditor-General](#) is an independent officer providing auditing services to the Victorian Parliament and Victorian public sector agencies and authorities. The role of the Victorian Auditor-General is to examine and report to Parliament and the community on the efficient and effective management of public sector resources, and provide assurance on the financial integrity of Victoria's system of government.

## **Independent Broad-based Anti-corruption Commission (IBAC)**

[IBAC](#) is Victoria's anti-corruption agency, which receives complaints and notifications of public sector misconduct, investigates corruption and informs the public sector and community about the risks and impacts of corruption and ways it can be protected.

## **Coroners Court of Victoria**

The [Coroners Court of Victoria](#) is a specialist court established to investigate certain types of deaths and fires. The purpose of these investigations is to consider ways that similar deaths may be prevented in the future. The Coroner can comment or make recommendations about public health or safety aimed at helping prevent similar deaths from occurring.

## **WorkSafe Victoria**

[WorkSafe](#) enforces Victoria's Occupational Health and Safety laws and promotes the avoidance of workplace injuries.

## **Office of the Victorian Information Commissioner**

The [Office of the Victorian Information Commissioner](#) oversees the practices of organisations, including Forensicare, with respect to information held by the organisation.

## **Department of Health and Human Services**

The Department of Health and Human Services' [Victorian health policy and funding guidelines](#) set out the performance and financial framework within which funded agencies operate.

## **Department of Justice and Regulation**

Justice Health's Quality Framework sets out the principles of care for the delivery of mental health services in correctional facilities.

## External Reporting

### Annual Report

Forensicare provides an annual report to Parliament each year that complies with the requirements of the *Financial Management Act 1994*, the [Standing Directions of the Minister for Finance](#) under the *Financial Management Act 1994* and the [Financial reporting directions](#). The annual report includes a report on the operations of Forensicare, as well as the financial reporting obligations.

### Quality Account

Forensicare reports on the quality and safety of the services we provide annually through the Quality Account.

### Clinical Mental Health Performance Reporting

Forensicare reports on clinical events to the Department of Health and Human Services as determined by the Government.

### Statement of Priorities

Forensicare report quarterly to both the Minister for Mental Health and the Minister for Corrections on the performance measures outlined in the Statement of Priorities.

### Forensicare Board Membership

Forensicare has a Board of directors<sup>30</sup>. Reflecting our close links with the criminal justice sector, the Board must contain a nominee of the Attorney-General, a nominee of the Minister administering the *Corrections Act 1986*. The Board also consists of four to seven other members, including at least one member able to reflect the perspective of persons receiving mental health services and at least one with knowledge of or experience in accountancy or financial management.

### Board Chair

The *Mental Health Act* provides power for the Governor in Council, on the recommendation of the Minister for Mental Health, to appoint one of the directors to be the chairperson of the Board.

The position of Board chair is important because she or he leads the Board and develops its members as an effective team. The chair has a particular role to play in relation to effective Board operation. This includes effective, efficient and constructive chairing of meetings and managing the evaluation of the CEO and Board.<sup>31</sup> The Board chair is responsible for ensuring Board evaluation occurs regularly, ideally as an annual process.

### Appointment to the Board

Forensicare Board members are appointed by the Governor in Council on the recommendation of the Minister for Mental Health. The [Victorian Government Board Appointment and Remuneration Guidelines](#) outline the principles and procedures for the recruitment, selection, appointment and remuneration of Forensicare directors.

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<sup>30</sup> Section 332(1), *Mental Health Act*

<sup>31</sup> For further information, see VPSC, [Public Entity Roles and Other Stakeholders](#).

## Selection

Board composition is important for board effectiveness. Appointments to the Board are usually made in consultation with the Board Chair.<sup>32</sup> To maximise the Board's capacity for effective governance the right mix of skills, expertise and personal attributes are required. It is also important to achieve a balance between new members and ideas and corporate memory. The Board Chair and Directors, through the Board self-evaluation process, determine a view on the most effective composition for the Board, including skills mix and gaps, and provide advice on this to the Minister if required.

## Resignation and Removal

A director of the Board may resign in writing, signed by that person, and delivered to the Governor in Council.

The Governor in Council, on the recommendation of the Minister for Mental Health, may remove a director from office.<sup>33</sup> The Minister for Mental Health must recommend the removal of a person from the office of director if the Minister is satisfied that the person:

- (a) is unable to fulfil the role of director; or
- (b) has been convicted of an offence, the commission of which, in the opinion of the Minister, makes the person unsuitable to be a director; or
- (c) has been absent, without leave of the Board of directors, from all meetings of the Board of directors held during a period of 6 months; or
- (d) is an insolvent under administration.

## Reappointment

A director is eligible for reappointment to the Board, but must not serve on the Board for more than three terms.<sup>34</sup>

## Board Deputy Chair

The Board may nominate a director to be the Deputy Chairperson. The Deputy Chairperson is to preside at meetings of the Board in the absence of the Chairperson.

## Director's Ethical and Legal Obligations

### Code of Conduct

The Forensicare directors' are subject to the [Directors' Code of Conduct](#) set out in the *Public Administration Act 2004*.<sup>35</sup> The code of conduct expresses the public sector values in terms that are most relevant to the special role and duties of Directors. The Directors' code of conduct is based on the same set of values (the public sector values) that apply to all public officials, including employees.

A Forensicare director must:

- > Act with **honesty and integrity**. Be open and transparent in their dealings; use power responsibly; not place oneself in a position of conflict of interest; strive to earn and sustain public trust of a high level.

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<sup>32</sup> [The Victorian health services governance handbook](#), Department of Health, page 34.

<sup>33</sup> Section 336(2), *Mental Health Act 2014*.

<sup>34</sup> Section 335(2), *Mental Health Act 2014*.

<sup>35</sup> Section 79.



- > Act in **good faith in the best interests of Forensicare**. Demonstrate accountability for their actions; accept responsibility for their decisions; not engage in activities that may bring themselves or Forensicare into disrepute.
- > Act **fairly and impartially**. Avoid bias, discrimination, caprice or self-interest; demonstrate respect for others by acting in a professional and courteous manner.
- > **Use information appropriately**. Ensure information gained as a director is only applied to proper purposes and is kept confidential.
- > **Use their position appropriately**. Not use their position as a director to seek an undue advantage for oneself, family members or associates, or to cause detriment to Forensicare; decline gifts or favors that may cast doubt on their ability to apply independent judgment as a Forensicare Board member.
- > Act in a **financially responsible** manner. Understand financial reports, audit reports and other financial material that comes before the Forensicare Board; actively inquire into this material.
- > Exercise **due care, diligence and skill**. Ascertain all relevant information; make reasonable enquiries; understand the financial, strategic and other implications of decisions.
- > **Comply with the establishing legislation** for Forensicare. Act within the powers and for the functions set out in the *Mental Health Act 2014*.
- > Demonstrate **leadership and stewardship**. Promote and support the application of the Victorian public sector values; act in accordance with the Directors' Code.

### Conflicts of Interest

The Directors' Code of Conduct requires Directors to act with honesty and integrity and to act in the best interests of Forensicare. This means avoiding placing themselves in a position of conflict of interest. Obligations in relation to conflicts of interests are further articulated in [government policy](#) and Forensicare's Conflict of Interest Policies.

### Duties of Directors

Forensicare Directors must act honestly, in good faith in the best interests of Forensicare, with integrity, in a financially responsible manner, with a reasonable degree of care, diligence and skill, and in compliance with the *Mental Health Act*.

Forensicare Directors must not give to any other person, directly or indirectly, any information acquired through being a director (apart from when carrying out functions authorised, permitted or required under an Act).

Forensicare Directors must not improperly use his or her position, or any information acquired through that position, to gain a personal advantage, or for the advantage of another person, or to cause detriment to Forensicare.

### Declaration of Private Interests

A Declaration of Private Interests must be completed by all short-listed candidates prior to their appointment to the Forensicare Board. The Department of Health and Human Services provides a declaration of interest form to Directors for this purpose. This provides the opportunity to disclose pecuniary interests or other private interests that could conflict with the proper performance of a director of the Forensicare Board. Pecuniary or other private interests covered in the declaration are: shareholdings and other business interests; trusts; real estate; contracts, agreements or understandings entered into by the person or a family member; and other significant financial or other interests held or accruing to a family member.



The appointment of individuals to the Forensicare Board, including the re-appointment of any current member, is subject to the satisfactory completion of the Declaration of Private Interests.

Forensicare Directors' are required to complete an updated Declaration of Private Interests on an annual basis, to be submitted before 30 September each year. Any perceived or actual conflict of interest which is declared by a director is to be managed in accordance with the Board's Conflict of Interest Policy.

### **Indemnity**

Under section 337 of the *Mental Health Act 2014*, directors of the Forensicare Board are not personally liable for anything done or omitted to be done in good faith when carrying out their duties. Any such liability attaches to Forensicare rather than to the director personally.

Insurance through VMIA covers Forensicare's corporate liability arising from claims of negligent treatment, as well as the individual liability of those for whom Forensicare is vicariously liable as employees. The precise nature and extent of an indemnity in any particular case will depend on the circumstances.