MENTAL HEALTH LAW CENTRE WA

Submissions to the Senate Select Committee by the Mental Health Law Centre of Western Australia

1. Adequacy of modes of care

Terms of reference (b)

The current mode of treatment for persons with a mental illness relies almost exclusively on the medical model of treatment by medication and hospitalisation. Whilst in some severe cases, this is the only mode of treatment initially, there is a need for psycho-social supports and other forms of treatment that are less restrictive for early prevention, after care and community care.

A common concern expressed by our clients who are on involuntary community treatment orders is that their treatment is limited to medication often reported to cause mild to severe side-effects and a monthly appointment with a psychiatrist or registrar. **Greater funding is needed for the provision of psycho-social supports** including psychotherapy and skills training for employment. Greater acceptance for other modes of treatment that are less restrictive than the current medical model should also be considered thus giving people a choice in treatment.[1]

2. Lack of unsupported accommodation

Terms of reference (e)

A small population of individuals live in an authorised hospital in the Perth metropolitan area in conditions that fall far short of the standards respecting their rights to housing, right not to be discriminated on the basis of their mental

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[1] Principle 9, Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, U.N. doc A/46/49 (1991) (MI Principles).

illness, right to rehabilitation and right to education.[2] But for the lack of supported accommodation in the community they have been living in an institutionalised environment that gives them little real hope of rehabilitation in the community and unless immediate funding is made available, their plight represents a sad indictment on the Federal and State government's spending priorities.

Some have lived in the hospital ward for between two and seven years and suffer from mild to severe mental illness and in some cases, it is doubtful whether they in fact have a mental illness. They have little privacy sharing dormitories with others. One person describes her life as "being locked up like an animal in a cage". The lack of supported accommodation is a barrier to living in the community depriving these people of the less restrictive option of treatment than hospitalisation. The result is that some involuntary patients are detained for an *indeterminate period of time* in conditions that foster feelings of hopelessness and futility contributing to a downward spiral of their mental, physical and emotional state.[3]

A report by the Word Health Organisation states:

> "In many countries, the absence of adequate community programs and services for persons with mental illness leads to an unnecessary reliance on institutions to provide care and treatment. Admission to these facilities is usually necessitated not so much by the clinical condition of the patient but by the absence of any other alternative. Once in the institution, the same lack of community alternatives serves to retain patients in the institution long after their psychiatric condition has stabilized and they could function in the community if adequate services and supports were

[2] Principle 13.1, 13.2 MI Principles; International Covenant on Economic, Cultural and Social Rights (ICESCR), U.N Doc A/6316 (1996) Articles 2(2),11,12 and 13. International Covenant on Civil and Political Rights (ICCPR), U.N. Doc A/6316 (1966), Article 26.

[3] People who are not challenged to use their social skills over time, lose those skills and develop an institutionalised mentality. Protections against inhuman and degrading treatment under Article 7 ICCPR are 'heightened' for long term involuntarily detained persons: "The Role of International Human Rights in National Mental Health Legislation" Rosenthal. & Sundram, Department of Mental Health and Substance Dependence, WHO, 2004, pg, 31, 56. http://www.mdri.org/resources/index.htm

available. This common condition, in which patients who no longer clinically require this level of service occupy institutional beds, also makes mental health care inaccessible to many who need it because the available beds are full. In some institutions, long-term patients are confined for whom there are no bona fide diagnoses of mental illness but who remain simply due to an absence of other alternatives. *The doctrine of the least restrictive environment is meaningless unless States take affirmative steps to create less restrictive alternatives in the community to meet a range of needs that can be predicted (emphasis inserted)".*[4]

Immediate funding is required to provide more supported accommodation in the Perth metropolitan and rural areas.

3. Special needs of those in rural and remote areas and Indigenous Australians

Terms of reference (f)

The absence of an authorised hospital in the north of Western Australia has had a profound impact on people who require hospitalisation. The mode of transportation have on occasions involved people being transported to Perth in police wagons over large distances in extreme conditions of heat.[5]

For those who have never previously been involved in the mental health system, which is in itself a confronting and alien experience, being hospitalised in Perth miles away from their home in an unfamiliar environment is disorientating and isolates them from their home, family, friends and other significant social supports.[6]

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[4] Supra note 3, pg. 33.

[5] Review of the Mental Health Act 1996 and Criminal Law (Mentally Impaired Defendant's) Act 1996 Rural and Remote Consultation – June/July 2003, report Page 7 & 8. http://www.health.wa.gov.au/mhareview/reports/index.cfm

[6] Principle 7.1, 7.2 MI Principle.

A person felt his anxiety levels increased during his stay in hospital in Perth because he was so far removed from his business in Broome which was his sole means of income. The frustration he felt compounded the tension and stress during his stay in hospital.

Additional funding is required to provide for greater mental health care in rural Western Australia.

The problems for rural West Australians who have a mental illness requiring treatment equally apply to the Indigenous. There are no official Aboriginal visitors for patients in authorised hospitals and limited access to spiritual elders and healers in Perth.[7] The recommendations of the Rural and Remote Consultation over the Review of the Mental Health Act is supported[8]:

> "83. *The legislation should support the principle that Traditional aboriginal healing should be acknowledged taking into account the various communities.*
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> 84. *All mental health workers should receive mandatory cultural awareness training.*
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> 85. *The legislation should provide for the recognition of all cultural options to alternative therapies other than western medicine."*

4. Practice of Detention and Seclusion

Terms of reference (k)

The use of seclusion should only be resorted to when it is necessary for the protection, safety or well-being of the patient or other person whom the patient is in contact with.[9] Consistent reports have been made that **the practice of seclusion is used as a form of punishment** for non-compliant behaviour.

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[7] Principle 7.3 MI Principle.

[8] Supra note 5, Page 18

[9] Sections 116 – 120 Mental Health Act WA 1(996); Principle 11.11 MI principle states that seclusion should be employed when it is the only means to prevent immediate or imminent harm to the patient or others.

One person in a rural authorised hospital reported that she was placed in isolation overnight after she walked to the shops and returned to hospital in contravention of rules prescribed during her inpatient stay in hospital.

In addition to resorting to the practice of seclusion as a form of punishment there have been reports that **the conditions of seclusion have been less than humane.**[10] One person reported that his home leave was cancelled when he informed his doctor he could not attend his appointment in hospital. The person returned to hospital as requested and agreed to go into seclusion as requested.
A was left in seclusion for 7 hours and was declined access to the toilet twice. He was left with no option but to urinate in the cell and had to use the blanket to wipe the floor, leaving him cold and without cover. He found the experience humiliating and frightful as he had never been in seclusion before.

5. Adequacy of education in de-stigmatising mental illness

Terms of reference (l)

The West Australian newspaper recently published a photograph of a mentally ill person naked on the front page naming him as a suspect in a murder case. The publication which was in blatant disregard for the person's right to dignity and prejudiced his right to a fair trial especially since the person is from a small country town. It demonstrates the need for greater funding to educate society on the rights of the mentally ill.[11]

Additional funding is required to educate the community on the human rights of the mentally ill. This includes education to all trainee medical students and psychiatric registrars, other mental health service providers and the justice department including police officers.

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[10] Supra note 3, pg. 60.
[11] The West Australian Newspaper, pg. 1, Wednesday 16 March 2005.