



Joint Submission

Response to the Mental Health and Wellbeing Act: Update and Engagement paper

August 2021

Who we are

About Mind Australia Limited

Mind Australia Limited (Mind) is one of the country's leading community-managed specialised mental health service providers. We have been supporting people who are dealing with the day-to-day impacts of mental ill-health, as well as their families, friends and carers for over 40 years. Our staff deliver a range of services and supports to people challenged by mental ill-health, in psychological distress, at risk of suicide and those with suicidal thoughts and intentions. In the 2019-20 financial year, Mind provided recovery focused, person centred support service to over 11,000 people, including residential rehabilitation, personalised support, youth services, family carer services and care coordination. Mind also operates as a provider of services and supports to individuals who have NDIS funding packages in multiple locations across Australia.

We also work with people to address poverty, housing, education and employment. It is an approach to mental health and wellbeing that looks at the whole person in the context of their daily life, and focuses on the social determinants of mental health, as they play out in people's lives. We value lived experience and diversity and many of our staff identify as having a lived experience of mental ill-health.

Mind significantly invests in research about mental health recovery and psychosocial disability and shares this knowledge, developing evidence informed new service models, evaluating outcomes, and providing training for peer workers and mental health professionals. We also advocate for, and campaign on basic human rights for everyone; constantly challenging the stigma and discrimination experienced by people with mental health issues.

About Neami National

Neami National (Neami) is a community mental health service that provides rehabilitation and recovery support services across Australia. We support people to improve their health, live independently and pursue a fulfilling life based on their strengths and goals.

As one of Australia's largest providers of community mental health services, we work in diverse communities across Australia, ranging from the inner-city suburbs to regional and remote areas. Drawing on the knowledge, capacity and expertise of a national organisation we work in partnership at a local level, to deliver services that meet individual and community needs.

Our evidence-based approach supports innovation, improvement and the quality of our services. Guided by the participation of consumers in shaping our services, and our peer workforce, we know the benefit that lived experience brings to the quality and integrity of our services.

Over 30 years, we have built partnerships with hospitals, clinical mental health services, non-government services, universities and community health services. Together, Neami and Me Well, a division of Neami National, focusing entirely on NDIS services, support more than 21,000 individuals to achieve greater independence.

About Wellways Australia

- 1,800-plus staff across over 100 offices throughout eastern Australia, from Tasmania to Queensland.
- 158 people working in peer support roles
- 189 volunteers contributing over 14,000 hours
- Our services reach thousands of people every year

Originally established in Victorian in 1978, today Wellways Australia is a provider with over 40 years' experience and a recognised specialise in mental health, disability support and carer services. We dedicate resources to advocacy, to ensure systems are responsible and equitable, and society is inclusive. To us recovery means all Australians lead active and fulfilling lives in their community. We work with individuals, families, and the community to help them imagine and achieve better lives. We provide a wide range of services and assistance for people with mental health issues, disabilities and those requiring community care, as well as carers as a Carer Gateway regional delivery partner throughout Queensland and the New South Wales regions of South West Sydney and Nepean Blue Mountains.

Our vision is for an inclusive community where everyone can imagine and achieve their hopes and potential. Our vision underlies the many direct services we deliver to thousands of people each day across the Australian eastern seaboard.

Introduction

Mind, Neami and Wellways jointly present this submission to assist the Department of Health to develop a new Mental Health and Wellbeing Act for Victoria (the Act).

As three of Victoria's leading community-managed mental health organisations, we have combined our experience, practice wisdom and insight to respond to the Update and Engagement paper.

Our responses are also informed by consultation with people with lived experience; consumers, carers and peer workers.

We welcome the ambitious roadmap outlined by the Royal Commission into Victoria's Mental Health System and the Victorian Government's subsequent \$3.8 billion commitment to start delivering on this reform. We are supportive of the Royal Commission into Victoria's Mental Health System's recommendation for a new Mental Health and Wellbeing Act for Victoria. We see this as an essential step in establishing the roles, responsibilities and governance arrangements of the new system, as well as raising the standard of services for Victorians.

Each of our organisations has experience in supporting people experiencing mental ill health in their recovery. We understand from the Commission's Final Report that the new Act will govern the entire mental health system in Victoria, including providers like us who will be responsible for delivering mental health and wellbeing services in the community. However, the consultation paper provides little clarity as to how the Act will apply to community managed mental health providers.

We have provided input on elements of the engagement paper where we felt we had expertise to offer or queries to raise about how the new Act will impact our services and the people we provide services to. Rather than focus on whether the paper has met recommendations in the Royal Commission, which the Victorian Government has already committed to implementing in full, we have focused on how elements in the paper could be improved.

Moreover, it is the place of people with lived experience, carers, families and supporters to provide further input into this process, and we strongly encourage the Victorian Government to listen to their voices.

We are determined to provide our expertise and practice wisdom to inform the new Act, and would welcome clarity on how we can further assist as the Act continues to be developed.

Response to the Mental Health and Wellbeing Act: Update and Engagement paper

Objectives and Principles

The proposed new objectives and principles for the Act will guide the rest of the Act, including how it guides services. They tell us the values of the Act and are therefore imperative to get right, as they will provide a framework for the new mental health and wellbeing system in Victoria and be applicable to every organisation providing mental health services.

We are pleased to see the proposed objectives include a focus on promoting recovery, reducing inequities, recognising the value of lived experience, and recognising and respecting the rights of people living with mental illness or psychological distress.

The new Act must include principles and objectives which result in a system that is:

- person-centred
- compassionate
- safe for all
- inclusive and acknowledges diversity
- transparent
- recovery oriented
- accessible and affordable
- easy to understand
- free from discrimination and stigma
- protective of the individual and their rights, including:
 - prioritising their will and preferences
 - supporting informed consent and confidentiality
- supportive of carers and family members
- adequately staffed
- integrated across services
- prioritises a person's autonomy.

How will the Act apply to community-managed mental health organisations?

We recognise as a sector, whether we are defined as the community-managed mental health sector or the psychosocial disability services sector, that our work is part of a wider mental health and wellbeing system. We understand the new Act will not specifically refer to providers by name or service provision type. However, many of the services provided by organisations, including Mind, Neami and Wellways, will be captured by provisions of the new Act.

These types of services include:

- psychosocial rehabilitation day programs
- home-based outreach
- respite
- residential rehabilitation
- specialist residential rehabilitation programs
- Prevention and Recovery Care (PARC) services.

It is important people experiencing mental ill health have access to an appropriate mix of clinical and non-clinical, acute and community-based services, as well as access to both public and private settings. People should be able to access the supports which best meet their needs. This may mean clinical care for an acute episode or psychosocial support provided in the community to maintain wellbeing.

The Royal Commission highlighted the importance of community-based services in ensuring successful transition from hospital-based care to the home. The community-managed mental health sector offers a range of services; it does so flexibly, aiming to ensure that it is the consumer, their family and carers who determine the help they need to recover.

In our view, we believe it is appropriate the new Act regulates the activities and requires outcomes of the services provided by the community-managed mental health sector, provided it is managed in a way that enables flexible delivery of services personalised to the individual. This includes the requirement to include in annual reports how the principles of the new Act are being embedded and what actions are being taken to meet objectives of defined by the new Act.

We are also supportive of greater protection for consumers, including consistency of service through a unified set of principles and objectives, and are supportive of a human rights framework to guide the Act, including in its application to community managed mental health organisations.

People with lived experience have raised concerns with us about the inclusion of community-managed mental health organisations under the Act, with perception being that this will create more clinical relationships between services and consumers along with the potential loss of informal peer relationships. Historically, mental health legislation has been about containing risk, with a narrow focus on compulsory treatment of people experiencing mental ill health. This has supported a crisis-driven approach to service delivery and not promotion of mental health and wellbeing. Many people have had poor experiences with the Act, and may view it as an instrument of control.

There may be a perception that services falling within the remit of the Act will be structured, inflexible and restrictive, or consumers will be compelled to accept certain supports. There will be some work required to communicate what changes relating to the new Act mean for people accessing support from community managed mental health services.

Concerns have also been raised with us about the ability of community managed mental health organisations to provide individualised supports for people in the community if there are rigid requirements in the new Act. An additional set of standards or obligations will be required to guide implementation of the Act. It will be crucial these standards are grounded in the principle of personal recovery.

There is a need for consideration and clarification of how the Act will apply to community-managed mental health organisations. We recommend appropriate guidance is provided to organisations, along with examples of how the new Act will be applied in a range of settings which may not have previously been included.

We strongly encourage the Victorian Government to run specific engagement and information sessions for the community managed mental health sector, so that we can understand our new obligations under the Act and communicate appropriately to our clients and community.

[Non-legal advocacy, supported decision-making and information sharing](#)

Supported decision making

We welcome a renewed focus on supported decision making in the new Act. The *Mental Health Act 2014* intends to promote supported decision-making and has as one of its core principles ensuring people are supported to make and participate in decisions about their assessment, treatment and recovery. Yet there is no definition of supported decision making in its definitions. Since the 2014 Act has been implemented, there have been numerous projects and work completed to define Supported Decision Making.

The new Act should draw upon the work that has been done to **include a clear definition of what supported decision making means** and be accompanied by guidelines which support implementation of supported decision making across the mental health and wellbeing system. This will assist to ensure that Supported Decision Making is truly embedded into practice.

Further, training will be required to ensure those providing mental health and wellbeing services can promote supported decision making and incorporate it into their practice as standard operating procedure.

Advance Statements

There must be a consistent system and structure for advance statements which ensures they are easy to prepare, regularly updated and adhered to by all services. It will be essential to reduce the bureaucracy and administrative burden on consumers and ensure that Advance Statements are – with consent – available to service providers across different streams in the system.

We ask the Department to consider whether or not access to and application of advance statements will be extended to non-clinical providers, such as community managed mental health organisations. We believe that providing access to advance statements for all providers is likely to improve communication, transparency and choice for a person and to ensure a more holistic approach in their recovery. However, it will be essential that there is informed consent about how advance statements will be shared and who they will be shared with.

In terms of who can witness an advance statement and nominated person application, it seems reasonable that this list be expanded. However, it will be essential for people witnessing advance statements to have an understanding of what it is, when it can be used and what their role is as a witness. Support workers, medical and allied health, and peer workers would be well placed to be witnesses.

Where relevant, a person should also be given the choice to have more than one nominated person. For example, a primary and secondary nominated person.

Non-legal advocacy

Adequate and sustained funding must be provided for non-legal advocacy in order for this instrument of the new Act to be implemented.

Our understanding of the engagement paper is that non-legal advocacy will be provided on an opt-out basis for people on Compulsory Treatment Orders. We are supportive of this active approach to offering advocacy. In addition, we believe non-legal advocacy is something all consumers of mental health services, whether on compulsory orders or not, should have access to and that funding should be allocated accordingly.

Information Sharing

If the new Act is to be truly focused on mental health and wellbeing, there should be appropriate information sharing between the multiple services and systems that a person interacts with to ensure a person's wellbeing is looked after holistically. Any information sharing should be undertaken transparently and with informed consent. For example, a person may have a comorbid physical and mental health condition for which they access multiple services, or they may access both community mental health and clinical services. Information-sharing infrastructure should allow information to be shared between the services they are engaged with.

As outlined in the engagement paper, sharing across a range of services is important if the desired aim of a seamless experience for consumers accessing multiple services is to be met.

Treatment, care and support

We are supportive of the recommendations in the Royal Commission to ensure compulsory treatment is only used as a last resort, and to reduce the use of seclusion and restraint.

Community managed mental health organisations report and monitor restrictive practices in-line with relevant legislation and compliance requirements. It is likely that changes to the Act will have a flow-on effect to compliance requirements.

The Act should promote the reduction of restrictive interventions and their use only as a last resort across all mental health settings, not just those where there are mandatory reporting requirements. This will also aid in reinforcing supported decision making as part of standard practice. We believe consumer and carer peak bodies are well-placed to provide further comment on whether proposals in the engagement paper are adequate.

Governance and oversight

We are supportive of arrangements which allow for full implementation of the Royal Commission's recommendations. We trust that establishing the role of the Chief Officer for Mental Health and Wellbeing in legislation will result in realisation of this, including ensuring representation of lived experience leadership in new bodies and structures.

Conclusion

We have high hopes the new Act will fulfil recommendations of the Royal Commission and that the aspirations it contains will be fully realised.

Those drafting the new Act must consider the views of people with lived experience of mental ill-health and psychological distress, families, carers, supporters and the workforce contained in the Commission report.

We would welcome further information about the Act's application to the community managed mental health sector. We are determined to provide our expertise and practice wisdom to inform the new Act, and would welcome clarity on how we can further assist as the Act continues to be developed.