



Submission to the Productivity Commission

THE SOCIAL AND ECONOMIC BENEFITS OF IMPROVING MENTAL HEALTH

Issues Paper

Date: 5 April 2019

Contact: Charlotte Jones, Manager

Ann Jorgensen, Principal Solicitor

(03) 9629 4422

Overview

The Mental Health Legal Centre is a community legal centre based in Melbourne that has been providing legal services for more than 30 years to people who have experienced mental illness. We provide a range of innovative services in the community, in treatment facilities and in prisons. We work in partnership with other agencies to provide integrated services that address the needs of the most complex and vulnerable members of our community.

This submission addresses four key areas from the Issues Paper drawing on our experience of working closely with clients experiencing mental health issues, homelessness and incarceration. These are:

- 1) Housing and homelessness
- 2) Income support
- 3) Justice system
- 4) Co-ordinated care and a fully integrated system

We have set out not just our concerns about where the system is failing but some of the projects and partnerships we have developed to help address these issues. This submission draws on the experience of our lawyers, our social work team, our night service volunteers and our administrative staff who handle more 4000 calls per year from people with a lived experience of mental illness.

A key recurring theme in our submission is the importance of integrated service delivery and the need to include legal services within such models. Integrated service delivery must be focussed on wrapping services around the individual rather than forcing individuals into engagement with large, monolithic service providers. Legal problems can have an enormous impact on people's mental health and failing to address them can limit an individual's recovery and connection with community, housing and work.

Housing and homelessness

The MHLC sees the impact of housing issues throughout our work and in particular through our health justice partnership with the Bolton Clark Homeless Persons program and our work in prisons.

Stable, affordable housing is a fundamental pre-condition for social and economic participation and the ability to contribute to the wider community. Without stable housing it is nearly impossible for people to manage their mental illness. However, having a serious mental illness impacts heavily on an individual's ability to secure and maintain housing.

Many individuals experiencing mental illness find themselves in private rooming house accommodation – this is often expensive, unsafe and run by unaccountable, private operators. In Victoria, a handful of operators working through constantly shifting shelf companies, control a large share of the rooming house market. Their activities distort the market and they receive significant public funds through publicly funded crisis housing services and residents paying rent directly from their Centrelink payments through Centrepay. Due to a major shortage of short-term or crisis housing, housing services feel forced to continue to use these providers even though many of our clients would arguably be safer on the streets. While some services have indicated they will stop using these providers, at present there is such enormous demand for housing that they continue to operate.

Case study – private rooming houses

Jim was living on the streets when he was placed in a private rooming house by a crisis accommodation service who paid his rent for 2 weeks. The door to his room did not close or lock properly. The rooming house operator said this would be fixed but it never was. At the end of two weeks Jim was admitted to hospital. He needed to have surgery. While in hospital he received a text message from the rooming house operator telling him that all his possessions had been put in storage and he would have to pay the fees for this. When Jim was out of hospital, he tried to get in touch with rooming house operator. They never called him back. All his possessions were gone including personal papers and a new television.

Jim was referred to us by his nurse. We helped him to apply for compensation for the illegal disposal of his goods. The rooming house operator did not attend but Jim was awarded compensation. Despite numerous attempts to recover the amount ordered, Jim never received his money. The company dissolved and the director continued operations under a new entity.

The individuals behind the company continue to operate numerous rooming houses throughout Melbourne. One of the steps we have taken in response to this case is to meet with Centrepay to address the systemic issue of companies such as this receiving direct debit payments from people's social security payments.

While better regulation of the private rooming house market is needed, more funding for community-based services is essential. Community based services (while sometimes struggling with residents with serious mental illnesses) tend to provide higher quality housing with better protections for residents and tenants. They also offer an opportunity for integrated service provision that can support people to maintain housing over the long term.

Hospitalisation can have a detrimental impact on many aspects of a person's life, in particular their housing. People already living in insecure housing on admission may find that they have been evicted (legally or otherwise) while they have been in hospital. It is not uncommon for mental health patients to be discharged to homelessness with this situation continuing until their condition deteriorates to the point of crisis again and they are re-admitted. This cycle has an enormous cost to the individual, the community and the health system.

Housing providers sometimes find it challenging to deal with people who experience mental illness. The MHLC regularly acts for people facing eviction for being dangerous or disruptive or who have been targeted by neighbours through intervention orders or body corporate processes. In many cases we can work with housing providers and housing support services to maintain people's housing. This work is vitally important because our clients struggle to find alternative housing and are at serious risk of homelessness.

Due to sustained funding cuts to specialist tenancy services, most people facing eviction in these situations are unable to access legal representation and are forced to navigate the process on their own.

Case study – eviction

Liam suffered from several serious health conditions that had an impact on his cognitive function. He also had a long history of depression. He lived in a community housing property that contained a mix of community housing tenants and private renters. Liam's housing had been stable for 4 years and he received a range of supports there including home care and nursing visits. Liam started to have some issues with bureaucracy that were causing him a lot of frustration. On two occasions he came home from dealing with these issues in an angry state and damaged a neighbour's property. The community housing organisation issued him with an immediate notice to vacate for danger.

Liam was referred to the MHLC by his outreach nurse at Bolton Clarke who had been working with him for many years. Liam was difficult to get a hold of by phone and our lawyer left many messages for him. While more traditional services may have been forced to give up, we were able to work with his nursing team to contact him when they were conducting a home visit. Our lawyer liaised with Liam's nurse, his GP and his support worker to prepare for the eviction hearing and opened discussions with the housing provider. We represent Liam at this tribunal hearing and his nurse and support worker attended with him.

The Tribunal accepted that Liam's actions were out of character and that he did not present an ongoing danger to other tenants. As a result of a multi-disciplinary team working together, he avoided the devastating consequences of immediate homelessness.

Liam was also charged by the police in relation to the incidents. He had no criminal record and our lawyer was also able to represent him at court where he was granted diversion.

The MHLC is now engaged with consultations on amendments to tenancy legislation that would provide better guidance to use of notices to vacate for danger.

Innovative Solution

MHLC health justice partnership with Bolton Clarke Homeless Persons Program

The MHLC has worked in partnership with the Bolton Clarke Homeless Persons Program (formerly the Royal District Nursing Service) to develop a project to address the legal needs of patients of the service. The nurses recognised that legal issues were having a significant impact on the mental and physical health of their patients.

The lawyers in the team partner with the nurses to provide assertive outreach services to some of the most vulnerable members of our community. These include people who are street homeless, living in crisis accommodation or in rooming houses and caravan parks. It also includes people at risk of homelessness and those who are newly placed in housing. An important aspect of the program is that the lawyers meet the clients where they are rather than expecting them to access formal appointments and centre-based services. The clients already have a relationship of trust with their nurses and MHLC can build on that relationship to quickly establish rapport and identify how to most effectively assist clients. The nurses facilitate contact with the client, in many cases attend client interviews, prepare support letters and help the lawyer to link into other service providers if needed.

The lawyers assist with a broad range of legal issues and endeavour to address multiple issues for a client rather than having strict guidelines for assistance. The main areas of law are fines, debt, housing, access to health services, minor criminal matters, social security, Mental Health Tribunal, family violence and crimes compensation.

The project has been independently evaluated. It is highly valued by both the partner nurses and the clients with both identifying that it has had an impact on health outcomes for the clients involved.

The project has been funded for four years now by the Victorian Legal Services Commission and Board. The funding will come to an end in 2019.

Periods of imprisonment also have a significant impact on an individual's ability to maintain housing. In Victoria, the Department of Health and Human Services will place a hold on a person's public housing tenancy and significantly subsidise the rent for people imprisoned for 6 months or less. People on longer sentences or those not in public housing, have no similar protection.

Housing services within prison are limited and many individuals leave prison without a place to live. Housing support services are offered in the later stages of a person's sentence, meaning that they miss the opportunity to be placed on public housing waitlists early. If a person is homeless on release, they are given access to 3 nights of accommodation in a motel or similar. The three nights may not even be at the same place. Better housing support upon release would improve their ability to transition back into society, stabilise living arrangements, seek training or employment and importantly avoid being pulled back into offending.

Income support

The current system of obtaining income support for people with significant mental illness is difficult to navigate and often inconsistent in application. The requirement for a condition to be stabilised and fully treated for an individual to be eligible for the disability support pension is a huge impediment for many seriously unwell individuals. Changes made to the eligibility criteria have meant that many of our clients, though very unwell, find themselves unable to access the disability support pension. Although they have limited prospects of returning to work in the short term, they remain on Newstart. This has two key impacts. The first is that there has been no real increase to the rate of Newstart in 25 years and as a result the payment is significantly less than the disability support pension. The second is that many of our clients find Newstart's reporting and other requirements impossible to meet and therefore risk having their payments cut off.

Centrelink processes are opaque, slow and enormously difficult to navigate. There are limited services available to support people applying for payments or appealing against payment rejections or alleged debts.

It is our view that the disability support pension does not reduce the propensity of some recipients to seek work. What deters people with mental health issues from seeking employment is discriminatory workplaces and a lack of tailored supports to facilitate a return to work.

CASE STUDY – income support

Our client, Jane, who had previously received DSP, moved to regional Victoria for work. A couple of months later her mental health deteriorated and she was admitted to hospital for treatment for her anorexia. A traumatic incident during the admission caused her anorexia and related mental health issues to deteriorate further. She lost her job and was unable to work or even to leave the house. Jane started to receive Newstart payments and applied for the disability support pension. She had limited assistance to do so and was navigating the application on her own while seriously unwell.

She approached her treating team for a letter to support the application. The psychiatrist that she was meeting for the first time wrote a letter stating that Jane was very unwell but was refusing treatment which she was not. Jane's application for DSP was knocked back 42 weeks after she made her application. Jane came to our service for assistance at a time of crisis. We prepared an application for an internal review by Centrelink. This was unsuccessful on the grounds that Jane's condition could not be considered stabilised because her psychiatrist had said she was refusing some aspects of her treatment. This review process took another 6 months.

We appealed on Jane's behalf to the Administrative Appeals Tribunal. The AAT found in Jane's favour almost 2 years to the day after she first applied for the DSP. The difference between Newstart and DSP was so significant that Jane received over \$18,000 in backpay.

On Newstart Jane struggled to afford her basic expenses. Her private rental payments took up much of her income. On top of that she spent large sums on petrol to travel to the nearest large town to access community mental health care. There were no bulkbilling GPs in her town and the gap payment was difficult for her to afford. She was unable to access any private psychology or psychiatric services. Once she was receiving DSP, she was able to move back to Melbourne to be closer to specialist eating disorder services and a bulk billing private psychiatrist. She was able to move out of being in crisis mode and take some control over her life.

A number of reforms are urgently needed to improve income support for people with mental illness so that they are not forced to live in a level of poverty that makes recovery almost impossible. These include a substantive increase to the rate of Newstart, more timely processing of DSP applications and a review of eligibility criteria for the DSP to ensure that it meets the needs of individuals with a mental rather than a physical impairment.

Justice system

People who have experienced mental illness have higher levels of interaction with the justice system. Many people in prison would be more appropriately and effectively dealt with through diversion or comprehensive mental health or drug and alcohol treatment programs. In Victoria, as in other states, incarceration rates are increasing, and the costs of the corrections system are rising significantly. The community has a strong interest in ensuring that this increasing expenditure on prisons is an effective use of funds and leads to improvements in community safety. At present for many prisoners their time inside prison represents a lost opportunity – with inadequate mental health treatment, insufficient drug and alcohol rehabilitation programs, limited training and

workforce readiness opportunities and, in most prisons, a lack of legal support to address non-criminal law issues.

Innovative solution
Inside Access Program

MHLC operates its Inside Access Program at two Victorian prisons – the Dame Phyllis Frost Centre (a women’s prison) and Ravenhall (Victoria’s newest men’s prison). The program provides civil legal services to prisoners with mental health issues.

Inside Access has been running at DPFC for 9 years with a team of lawyers providing a weekly outreach service in conjunction with a social worker and social work students through RMIT’s Centre for Innovative Justice. The team includes a generalist lawyer and co-ordinator, a specialist family violence lawyer, a specialist child protection lawyer and a fines lawyer. The social work team supports women to apply for public housing early in their sentence to move them through long waiting lists and seeking to prevent a return to highly unstable accommodation. Inside Access is well respected by prison staff and importantly, the women in the prison. Referrals come almost entirely through word of mouth and through prison staff. The program is now running at Ravenhall prison.

Inside Access helps people within prison to transition back into the community by helping them to deal with their legal issues prior to release. This includes helping people to address outstanding fines, Centrelink issues and debts, supporting victims of violence to seek intervention orders or victims of crime compensation, facilitating contact with children and a range of other issues which cause stress and anxiety for people. An example of our work is Clean Slate, a bulk debt negotiation project. In 2017/18 this project assisted 100 women and resulted in the waiver of more than \$300,000 worth of outstanding debt, allowing women to exit prison with a “clean slate”. Unfortunately, the program only received short term funding and did not continue.

Case study – transitioning from prison

Ricki was serving a sentence in prison when she contacted Inside Access requesting assistance with victim support. A few years earlier, Ricki had been the victim of an extremely violent crime. The trauma of this event caused Ricki’s life to rapidly fall apart, she developed severe Post Traumatic Stress Disorder, became addicted to drugs and was imprisoned for drug offences.

To support Ricki moving forward with her life, we assisted her to make an application to the Victims of Crime Assistance Tribunal (VOCAT). We were able to obtain funding for therapy and safety related expenses, as well as training course in counselling that Ricki can complete online. Ricki left prison with a plan in place for her future and options that she hadn’t previously thought were possible.

As in non-prison settings, people with mental illness would benefit from integrated, personalised services that comprehensively address the issues underlying their offending. At present program delivery is disjointed and treatment within prison is not integrated with that in the community upon incarceration or release. The frontline of mental health treatment in Victorian prisons are mental health nurses. Prisoners have irregular visits from psychiatrists and regular psychological treatment

is almost impossible to access. Many people within prison have a history of severe trauma and this is not well understood or treated within the prison system.

Case studies – accessing appropriate mental health services in prison

Peter sought the assistance of Inside Access to help with parole issues. During a conversation with our lawyer he disclosed that he had been a victim of sexual abuse as a child. He was unable to stop thinking about it and he wanted to take steps to deal with its impact before his release. Peter struggled to access appropriate counselling services from within prison. One service providing telephone counselling only provided access through a 1300 number which cannot be called from a prison. Another service was blocked by the prison because it was a service for victims and there was no recognition that men within the prison could also be victims. Eventually Peter gave up on seeking counselling.

John had a history of mental health issues and PTSD. He had been a victim of institutional child sex abuse. John received various psychiatric medications while he was in prison and had occasional reviews with a psychiatrist. He wanted to access psychological treatment, but this was very difficult. He felt that psychological treatment would help him to address his history of trauma and help him to prepare for his upcoming release. Despite numerous requests and the involvement of our service, John had only a handful of appointments with a psychologist during his four year sentence.

Towards co-ordinated care and a fully integrated system

Person centred care sits at the heart of co-ordinated care and a fully integrated system. Supports that empower individuals to actively participate in their care facilitate better clinical outcomes and give people more choice and control over other aspects of their lives. Supported decision making is recognised by the international community through the Convention for the Rights of Persons with Disabilities as a means for people to exercise their fundamental rights of autonomy and self-determination. Although some advances have been made in this area, people with a lived experience of mental illness still find themselves treated in a paternalistic manner with their views and preferences given less weight than those of the professionals they interact with. This discourages engagement with treatment and participation in society more broadly.

The lack of integration between health care and various social supports has a significant impact on the overall wellbeing of individuals. An integrated system would ensure that individuals receive timely treatment and appropriate psycho-social supports, while also being able to access and maintain stable housing, obtain appropriate income support and participate as fully as possible in society.

Although it is often overlooked, legal services can play a vitally important role in integrated service delivery. People experiencing poor mental health will often have a variety of legal issues including debts and fines incurred when acutely unwell, tenancy, social security, family violence, child protection and family law issues. These issues can arise as a result of someone's mental illness or exacerbate a person's condition due to the enormous stress caused.

Numerous health justice partnerships have been established in recent years to address these issues. Our own health justice partnership with Bolton Clarke focusses on people experiencing, or at risk of, homelessness. The service has been independently evaluated and found to have a real impact on the health of our clients. It has been funded for 4 years by the Legal Services Board and Commission but the funding ceases at the end of this year. Without sustainable government funding this service will be unable to continue and our clients, who do not access other legal services, will return to a situation where their legal needs are not met.

Innovative, outreach based, integrated service delivery models must be supported to effectively deliver services to the most complex individuals within our community. The expansion of models such as this will improve people's mental health and have genuine social and economic benefits.