

Productivity Commission Mental Health Inquiry consultation with Justice Action

27 November 2019

The Productivity Commission attended the JA office as part of its Inquiry into mental health, meeting with stakeholders getting feedback about its [Draft Report](#). Four members of the Commission including Commissioners Stephen King, Julie Abramson and Rosalyn Bell attended with four of the JA team presenting.

JA's focus was on the getting the voices of those most isolated in custody in the locked hospitals and on forced treatment in the community before them and the need for that continuously to be part of the solution. It presented peer workers and social support as essential and pointed to the Inquest into the Death of David Dungay as a testament to the urgent need for better Aboriginal prisoner delegate support.

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians.

The Commission's [Inquiry](#) is for rebuilding our mental health system, including how it could improve the quality of life for mental health consumers in locked hospitals and in prisons. Their role is to look at how governments across Australia, employers, professionals and community groups in health care, education, employment, social services, housing and justice can contribute to improving mental health for people of all ages and cultural backgrounds.

Justice Action reaffirmed its matchless solidarity with those suffering the worst abuses of the prison and mental health systems. Many service providers depend upon Health Department funds so face conflicts of interest when advocating for consumer rights. Since 1984, JA's opposition to abuse of authority has been funded by the social enterprise printer [Breakout](#). Our independence allows us to work on the hardest problems in the toughest neighbourhoods. Our presentations include [Mad in Australia](#).

Brett Collins focussed on the endemic disrespect for essential consumers' rights. This was presented as the result of the lack of proper representation. The [Our Pick Report](#) proposals were read out as an answer to the problem:

- That a fixed percentage of 0.1% of the mental health budget be set aside as mandatory funding of independent consumer groups;
- That those consumer groups be democratically responsive to consumer concerns addressing issues of general importance, funding consumer-directed research and interacting with government policies;
- That in the interim, all service providers in the mental health industry fund independent consumer functions with a percentage of their budgets.

The history of the Miriam Merten Reform negotiations with NSW Ministers and Local Health Networks was presented in a [Report to highlight the problem](#) of no direct control by consumers and the lack of person-centred care despite the rhetoric. The self-criticism of the NSW mental health industry in the Wright Report had no effective follow through. This showed the powerlessness of consumers, and the ineffectiveness of the funded representation. Ensuring accountability was asserted as essential for the safety of isolated consumers, but was openly rejected by LHD's as documented in that Report.

Similarly the newspaper [JUST US](#) carrying the statements of political parties directed to consumers in locked hospitals before the federal election, was rejected by some Local Health Services. The publication is constitutionally protected and had been to the Supreme Court three times. JA presented the detailed [Report nationally](#) of what had happened, and the [Report of responses by authorities](#) in mental health across each jurisdiction. It shows that even the right to political involvement and a community of common interest is not conceded by authorities.

Michael Riley shared his story of being hospitalized throughout a two-decade period in which he was forcibly injected, handcuffed, and restrained. He has never been violent to himself or others, but all that interference in his life happened supposedly to assist his relationship with his family. Since then, he has had negative relationship with the mental health industry. He says that consumers are often “assumed to be incompetent and completely inept”. Likewise, Michael avoids seeking treatment for fear that he will be deprived of his autonomy and his right to make his own choices. “Therapeutic relationships cannot be forced. It has to be voluntary” he said.

Michael said he felt disenfranchised by a system that purports to help individual's mental health issues.

He talked about the use of the Advance Directive and the Personal Management Plan that was created for him leaving him control of his life in a safe and workable way.

Michael talked about his experience with Mental Health Review Tribunals and the Mental Health Advocacy Service. He said he was continually let down by legal aid who worked against him, and was only able to get support from peer workers in JA to defend his rights. On the last occasion a JA worker in Melbourne exerted pressure on the Advocacy Service to help him properly.

He said: "My ex-partner became unwell and she had to go to hospital. I was studying a certificate IV in community services at TAFE at the time and also was about to start a job in disability care."

"During that time my family became concerned about me although my wife was not. I was hospitalized and my wife had to take on full care of my daughter. At the time the company where I had secured work was happy to keep the position open. I was in hospital for about 2 weeks and was then released. Then about two weeks later I was re-hospitalized, this time for about 5 weeks. The company was unable to keep my position open so I lost my job. I also had to withdraw from TAFE."

"It was after this I came in to contact with the Assertive community care team. At first I was opposed to the idea of being transferred to them. The name is not the most reassuring name particularly I refer to the use of the word Assertive. I thought they would be trying to micromanage my care and place further restriction on me."

"However to my surprise they were really good. They only deal with the top 25% of consumers which I assume means repeat offenders. However their model is different in that they have better funding and are better resourced. They have a smaller case load too so are more able to be responsive and available when you need them. They encourage and help me to find a private psychiatrist. They encourage me to continue to see my psychologist."

"They wanted to know what it was that I needed. I identified a few things such as independent housing and NDIS funding for a private psychiatrist and psychologist. And getting off the CTO."

"With 6 months I now have my own housing and they are following up on NDIS funding. I am now off the CTO too. They come and see me once a week and update me on the progress they are making and ask to see if there is any other way they can help me. They take care of all the related paper work and applications. They are even assisting me in getting some white goods and furniture for my new apartment. Now I have a private psychiatrist. I have even been re-diagnosed from schizo affective to bipolar affective. The former diagnosis I long argued was incorrect and the latter I am far more willing to accept. I am now also voluntarily taking my oral medication. I have been taking it now for more than five months. The longest I had previously stayed on it was 1 to 2 months and I plan to continue to take it. My medication is also in the process of being changed from fortnightly injections to 3 monthly injections."

"Cahoots stands for Caring And Helping Out On The Streets. It is an organisation in Oregon in the US. They are an alternative to police as first responders. They are comprised of 2 paramedics and one mental health nurse. They have reduced the number of mentally ill people being killed by the police by over 50% and have attended to over 23,000 call outs. They have also reduced hospitalization in Oregon."

“Other organisations here in Australia which are helpful but unfortunately only available after release from hospital are Partners In Recovery and After Care. I have used the services before.”

Michael Strutt read a message from Saeed Dezfouli in the Long Bay Forensic hospital, of how mental health service delivery feels from where he has languished for the past 18 years.

Saeed Dezfouli statement from the Forensic Hospital Sydney to the Australian Productivity Commission November 27, 2019

I have been in the NSW dysfunctional, corrupt, inhumane and clogged up mental health system since January 2002.

Although I have the right to receive the best possible care and treatment under s 68 (a) Mental Health Act NSW 2007 and I am costing tax payers \$1,182 a day but what I received is ill treatment, abusive, suppression and negligence.

Nurses write clinical notes merely based on their observations of the patient without interacting or talking to the patients and doctors read those notes and trial medications to the patients for being used as guinea pigs.

We have a rec hall, gym and pool, which is being seldom used due to the shortage of nurses to monitor us. All we do the whole day is sitting on the chair, watching the TV (the idiot box) and have to be compliant with the sit down, put up, shut up policy, otherwise it has serious consequences on us.

The life in the inside should be as active as the life in the outside so that when we are released into the community it doesn't hit us and to get back into incarceration and forensic hospitals and it is unproductive, inactive, boarding depressing and maddening daily routines.

In here patients are not allowed to change their consultant or primary nurse so if for any reason you cannot get along with them you are stuck, trapped and stuffed.

Patients should be allowed to change their consultant and primary nurses just like the way it is in the community, just like the people in the community.

The law has given too much power and authorities to psychiatrists and psych nurses and they abuse the power and authorities over us.

The system is not patient focused, it should be patient focused not staff focused.

Most of the patients don't have community support and sufficient funds when they are released into the community, that's why they reenter into the system and become a burden on the taxpayers.

Prior to release patients into the community accommodation and funds should be arranged for them and then ongoing support in the community.

Michael sat beneath a collage of [Roni Levi's final moments](#) on Bondi Beach, speaking of the difficulty of accessing mental health services that can be oppressive, abusive or homicidal. He told of his long struggle with suicidality and how he felt unable to ask for professional help for fear of losing his physical, medical and mental autonomy. He spoke of being unable to see how that might contribute to his healing. He suggested coercion and compulsion were poisoning the mental health well for all of those seeking relief.

Michael touched on alternative methods of mental health service delivery; the White Card used by Australian military veterans to access healthcare without needing to define 'cause' or place blame; the 'Stabilising Home' principles pioneered by [Loren Mosher](#) at [Soteria](#) and how it's presently being [implemented in Israel](#); the [Open Dialogue](#) approach to finding healing in communication between people and their supporting communities instead of locating illness in individuals and inflicting therapy from above.

Michael suggested that service delivery may be better served by improving communication between 'consumers' themselves and with those purporting to help them than between providers and those with their hands on the purse strings.

Loretta Picone spoke about the coronial inquest into the death of Aboriginal prisoner David Dungay that ended on Friday November 22nd. He was held in the mental hospital at Long Bay prison in G Ward under a community treatment order, held in a cell by himself for 23 hours daily and forcibly medicated. He was suffocated to death by a six member IAT group of guards, with nursing staff nearby (and medical staff onsite, contacted via telephone), after he had refused to surrender some rice crackers due to their health concerns for him. The Coroner Derek Lee concluded that there was no medical nor security emergency, there was no need for the IAT to be called, and that various forms of de-escalation practices should have been engaged.

The Coroner recommended that de-escalation and Aboriginal delegate peer workers be engaged. The use and training of peer workers for mentally ill prisoners is now being negotiated with Corrective Services Commissioner Severin and Justice Action. Justice Action referred particularly to the recommendations made by Deputy State Coroner Derek Lee which included:

Alternative: use of Aboriginal inmate delegates and welfare officers

14.16 Officer F was asked whether he considered seeking the assistance of a doctor, an Aboriginal inmate delegate, or an Aboriginal welfare officer to de-escalate the situation. Officer F said that the Justice Health nurses had already spoken to David unsuccessfully, and that he did not consider seeking the assistance of an Aboriginal delegate or welfare officer.

Officer F agreed that Aboriginal welfare officers and delegates were available to be used. However, he said that he did not give any thought to such alternatives because he had already tried to reason with David three times and he remained unreasonable, and that he had known David for a number of years. He also said that unlike other wards, he had never taken an Aboriginal delegate or welfare officer into G Ward. However, when taken in evidence to certain CSNSW records, Officer F agreed that an Aboriginal delegate was previously used in another volatile situation involving David on 22 August 2012. (p 32)

Recommendation 6.

I recommend that all necessary steps be taken to make an Aboriginal Welfare Officer or Aboriginal Inmate Delegate available within Long Bay Hospital to assist where required, in interactions with Aboriginal or Torres Strait Islander inmates in the Mental Health Unit and that Corrective Services New South Wales inform and train officers working in the Mental Health Unit to utilise this process where appropriate. (rec 6, p 91)

and:

It is accepted that the rigidity of the approach by the IAT was to a large degree dictated by training which had been provided to them and the distinct lack of emphasis on de-escalation techniques in CSNSW policies which applied at the time. (p 37)

Recommendation 13.

I recommend that CSNSW, through the Special Operations Group, create and implement a revised use of force training package for Mental Health Unit staff which places greater emphasis (50% weighting) on de-escalation techniques versus physical control and restraint techniques. (rec 13, p 92)

The Productivity Commission, in its Draft Report, acknowledged the role of consumers, stating that “services are often not delivered in ways that account for the nature of mental illness, impeding recovery or contributing to a relapse in mental ill-health”. This highlights the need for consumer choice (the basis of NDIS) and the enfranchisement of mental health consumers.

These sentiments were shared and expanded on by the MHCC and MHA responses to the draft report.

Conclusion

Justice Action found the Commissioners to be receptive and that they respected the lived experience of mental health consumers.

They were attentive to the compelling evidence of the coercive nature of the mental health system as well as the central need for consumer empowerment. They heard of the recent David Dungay Inquest Recommendations for the intervention of Aboriginal inmate delegates and peer mentors to give distraught people social support rather than be violently overcome by staff. Also their involvement to improve the design and implementation processes of a failing system.

In the words of the Productivity Commission themselves: “A generational shift is needed in our approach to changes in the mental health system.”

See the [video analysing the meeting](#).