

Submission template

Response to *Review of the Mental Health Act 1986 Some key questions*

Introduction

This template is designed to assist people in making a submission in response to the *Review of the Mental Health Act 1986 Some key questions* paper. It contains a list of the questions posed in the paper. Comment is welcome on any matter related to the Act, and need not be limited to the questions in the paper or the *Consultation paper*.

Please note: Closing date for submissions is 5:00pm on Friday 27 February 2009. The use of this template is optional.

Contact details

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List of questions in *Review of the Mental Health Act 1986 Some key questions* paper

Framework for reform (Ch.2)

(a) What other reforms could the new Act include?

The Act should include the provision of "patient" advocates, called community advocates.

Mentally distressed and/or depressed people are quite often in need of some assistance. So, to make it possible for them to be heard in the clinic, with their rights appreciated, it is necessary to have community advocates who can serve in this way, to enable the right message(s) to be offered to the treating team.

Seriously mentally ill "patients" can be supported by the Office of the Public Advocate, but less ill "patients" need a "community advocate"

Involuntary orders (Ch.3)

(b) When should people who are seriously mentally ill be able to be placed on an involuntary order under the new Act?

When there is a sufficient body of EVIDENCE to demonstrate that the person IS REALLY, in point of fact, seriously mentally ill - evidenced by NOT ONLY a doctor and a psychiatrist familiar with the "patient", but also by a third person who is a community professional working in the field of people well-being.

The Act should say to be "seriously mentally ill" does NOT include the view that the person does not accept they are schizophrenic.

The Act should say an involuntary CTO should ONLY be made when there is "patient" refusal to accept an offer to them to sign a written undertaking to medicate orally. Or, when the "patient" is unable to comprehend/understand the personal undertaking offered - thereby providing "patient" consent to a level of "treatment" by medication - and when their action as a person with limited sense of responsibility, who is in need of help. Only then do grounds for compulsion exist.

(c) How could the new Act improve ITOs and CTOs to better meet patients' needs?

Outline patient responsibility, regular treating team responsibility to review, and acceptable limits as to when a CTO can be put in place, and then held in place, without infringing the human rights of the person. See item (b) above.

Patient participation (Ch.4)

(d) How could the new Act improve patient participation in decisions about treatment and care?

"Patients" often have limited capacity to express themselves. Many do not even know their rights, and they need assistance.

The Act should outline the use of community advocates to assist patients with administration issues, and to be witnesses in all processes/interviews/meetings as the "patient" may require, able to assist the patient with their rights at the coal face.

The new Act should make it an offence for a treating member to refuse a "patient" the right to have such a witness, or advocate, at any time.

Electroconvulsive therapy (ECT) (Ch.5)

(e) How should the new Act deal with ECT?

Outlaw electroconvulsive "therapy" treatment completely!

Restraint and seclusion (Ch.6)

(f) How should the new Act deal with restraint and seclusion?

Police and Ambulance should only be able to handle supposedly mentally ill people if there is at least two (doctors, and/or psychiatrists, and/or community professionals) in agreement that the person is mentally ill, requiring restraint and/or transportation.

Medication should NEVER be forced upon a person through restraint and/or by involuntary injection - for human rights are involved.

External review (Ch.7)

(g) How should the new Act deal with external review of involuntary orders?

The Mental Health Review Board is greatly reliant on the advice from the treating team - as the MHRB is not as close to the "patient" with his/her matters. Also, it is noted there are few involuntary "patients" willing and able to stand at a review for themselves - and some are not financial to be able to engage another person to assist them in the review process.

Therefore, to make it just, it is necessary for public funds to be available for either Legal Aid, other legal people, or community advocates to be involved to "defend" the "patient" - otherwise there is a huge hiatus in delivery of that person's rights.

I ponder whether it is considered satisfactory to have a three member panel with a lawyer, a psychiatrist and a community person present. Maybe the new Act should permit the vote of a community advocate representing the "patient" to be part of the panel outcome. I feel it requires another call in dealing with this matter. Certainly, such a panel of three is a minimum.

Monitoring patient wellbeing (Ch.8)

(h) How could patient rights and wellbeing be protected and monitored in the new Act?

The Act must have provision for community advocates to assist/support "patients", and have a say in their "treatment".

Complaints (Ch.9)

(i) How could the new Act improve the complaint system for mental health?

Community advocates would be able to assist in resolving "complaints" at the coal face. Formal complaint processes are costly to all concerned, and patient rights are not attended to quickly enough through present processes.

Confidentiality and information sharing (Ch.10)

(j) When should patient information be shared with others?

Mental Health seem to be a law to themselves with the authority to do some drastic things!

The new Act should provide for openness of patient files to community advocates - with copies of whatever documents are needed for discussion with outside parties (doctors, etc.) with a view to patient well-being.

Community advocates would need to be respected as having client confidentiality at times.

Please attach any further comments.

The new Act must refer to the Charter of Human Rights and Responsibilities Act 2006 as primary law - requiring all other statute law in the MHAct to be considered in light of that Charter.

To ensure human rights are truly respected there is need for people who can stand beside those troubled by the mental health system, and who need help to maintain sanity in their setting.

To be effective in public delivery of such a responsibility at government level the new Act should refer to community advocates, providing for their lawful standing, and for funding of that service to enable such human rights matter to be outworked.

In the event that less cost to the public purse is managed because there is a lesser number of people left in the system as a result of proper advocacy, then we all make progress from that viewpoint. Equally, people frustrated with the present MH system will have a better opportunity to be free of its clutches.