

15 September 2014

Dr Panayiotis Tyllis  
Chief Psychiatrist and Director Mental Health Policy  
Office of the Chief Psychiatrist  
SA Health  
Via email: [OCP@health.sa.gov.au](mailto:OCP@health.sa.gov.au)

Dear Dr Tyllis

## **REPORT OF THE REVIEW OF THE MENTAL HEALTH ACT 2009**

The Health Consumers Alliance (HCA) is the peak body for health consumers in South Australia. As an independent alliance of health consumers and health consumer organisations, we work together with our members to achieve our vision of consumers at the heart of health care. A strong and effective voice for the promotion and protection of health consumer wellbeing and rights, HCA promotes health equity and provides systemic advocacy to inform, shape and sustain consumer centred care.

### **Consumer Engagement**

HCA welcomes the opportunity to comment on the Review of the Mental Health Act 2009. As you would know, Mr Ben Sunstrom, Manager, Legislation and Policy presented on the Review Recommendations at a recent HCA Policy Forum. Following the presentation, participants discussed the issues raised and this (and previous) consumer engagement informs the following comments on the Review.

### **Incorporation of the Guardianship Board into the SA Civil and Administrative Tribunal**

Incorporation of responsibilities under the Guardianship and Administration Act, Mental Health Act, Advance Care Directives Act, Aged and Infirm Persons Property Act into the South Australian Civil and Administrative Tribunal (SACAT) is to be commended, should this result in more personalised, mediation focussed, consumer centred service from the Tribunal. HCA recommends that the Tribunal implement a broader mix of experience on Mental Health Panels to include legal, health and community experience and knowledge. A minimum of three people with different backgrounds should make up a Mental Health Panel.

Unfortunately the lack of consultation and communication about this decision has caused anxiety among consumers, carers and the community. In the absence of any information and communication, fear and suspicion are naturally raised among community members, particularly for those with the lived experience of mental illness. We recommend that the Attorney General's Department plan for a communication and consultation process with consumers, carers and the community about the new Tribunal, as a matter of urgency.

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## Collated Feedback and Submissions for the Review

The Office of the Chief Psychiatrist is to be congratulated for producing a Review Report which contain Recommendations that are straight forward, constructive and look to enhance the functioning of Mental Health Services subject to the Act. As identified by your Office there is broad support for the majority of the Recommendations and therefore HCA will not comment on specific Recommendations (apart from above). What we will comment upon is the pressing need for improvements in the way the Act is administered and how Mental Health Services are delivered in South Australia.

## Operational issues evident in Mental Health Services

Throughout this Review many examples of poor practice, poor care and poor service have been communicated to the Office of the Chief Psychiatrist. These examples are also supported by public reports and data on consumers being accommodated in Emergency Departments for extended periods; reports of the high use of restraints and seclusion; data of the low use of voluntary treatment orders; the low rate of consumers and carers (and practitioners) reporting the use of Treatment and Care Plans; and a lack of appropriate involvement of carers and families in care and discharge planning.

While the revised Act has many of the legislative tools in place to promote, respect and deliver human rights, freedom and dignity; consumer centeredness; cultural appropriateness; a recovery focus; and appropriateness of care – the practice falls far short. It is time for genuine change leadership in Mental Health Services to deliver on the promise of the investment in infrastructure and services and in the stepped system of care.

## Learning and Development

Appropriate administration of the Act and delivery of mental health services appear to be undermined by a lack of understanding and skill among some mental health service staff. Training and development for Mental Health Service; Ambulance; Police; and Corrections staff should focus on appropriate administration of the Act, its guiding principles, the rights and protections for individuals and consumer centred care. The Ernst and Young Review has previously noted that learning and development does not need to be developed from scratch and there may be savings to be achieved by utilising existing programs from other jurisdictions.

HCA recommends the Office of the Chief Psychiatrist, in partnership with the Local Health Networks, actively address the learning and development needs of existing and future staff, so that they are sufficiently skilled and capable of administering the Act and deliver safe, culturally appropriate, consumer centred and recovery focussed treatment and care.

## Culture, Communication and Accountability

Many of the issues in the administration of the Act and the delivery of mental health services in South Australia can be categorised as ones of culture, communication and accountability. The Ernst and Young Review identified a number of issues of culture, communication and

accountability in mental health services, many of which bear reflection on the provision of treatment and care under the Act.

HCA strongly encourages Office of the Chief Psychiatrist and the Local Health Networks to consider the importance of leading change and investing in the necessary processes to achieve the benefits for consumers, carers and the community that appropriate implementation of the Act and its provisions would deliver. HCA strongly recommends SA Health address the culture and work practices that undermine the appropriate implementation of the Act, guiding principles, consumer rights and protections, treatment and care plans, and treatment orders and review.

### Conclusion

The introduction of the new Mental Health Act in 2009 was an important step in the modernization of mental health services in South Australia. Our mental health care system is funded ultimately by consumers, and as taxpayers we want to know treatment and care is provided that is appropriate, safe, and of quality. It is clear that system reforms must engage consumers, carers and the community, as well as health service staff and provide an appreciative approach to change leadership. Mental health consumers should receive safe and quality treatment and care. Services should be appropriate, recovery focused and provided in ways that support and enhance consumer rights and protections.

HCA looks forward to working with the Office of the Chief Psychiatrist and the Local Health Networks in the development of a new Strategic Plan for Mental Health Service and expects this plan to include significant actions to address the many issues outlined in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Cousins'.

**Michael Cousins**  
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