



Basic Rights
Queensland Inc.

Submission to the Productivity Commission's Mental Health and Suicide Prevention Agreement Review

March 2025



You are amazing, and honestly I can't thank you enough for the help you're giving me. I've been flailing out here, trying my absolute best to make heads and tails out of everything and wondering my whole life, if I'm making the right decision and if I even properly understand...

The light you've shed on this overwhelming, massively stressful situation and the load you've taken off my shoulders... has been such an incredible blessing and the feeling of being able to breath out again is so lovely.

Also the information you've given me regarding both the DSP tables and the explanations of their terms, the clarity and understanding their language has given me a bit more confidence as well. For all of this... I'm incredibly grateful 🙏 thank you so so very much

- Feedback from Phil*
a Basic Rights Queensland client

Executive summary

People living with mental illness in Australia face significant and complex legal challenges, often exacerbated by economic disadvantage, stigma, and systemic barriers to justice. Their legal needs span multiple areas, including social security disputes, discrimination, employment issues, tenancy instability, criminal justice involvement, and guardianship matters. Despite legal protections, many individuals struggle to access their rights due to financial constraints, bureaucratic complexity, and a lack of mental health-informed legal services.

While targeted initiatives, such as the National Mental Health and Suicide Prevention Plan (the **Plan**) and its associated investment into the National Legal Assistance Partnership (**NLAP**), have increased funding for legal services, inefficiencies in funding distribution and a lack of specialist services continue to limit access to justice.

Basic Rights Queensland (**BRQ**) was provided NLAP funding under the Plan to deliver statewide specialist legal services to vulnerable individuals, providing a critical, trauma-informed service model that addresses these challenges, ensuring that people experiencing mental illness can access early legal intervention, assert their rights, and achieve improved social and legal outcomes. However, systemic reforms, sustained investment, and enhanced service integration are needed to fully meet the legal needs of this vulnerable population.

We recommend that the Productivity Commission should make findings including:

- Australians with mental illness are more likely to experience legal problems and that these problems tend to be more severe and complex.
- Australians with mental illness face multiple barriers in accessing legal assistance and asserting their rights
- Dedicated funding should be provided to sustain and grow specialist legal assistance services for people with mental health issues.
- A National Mental Health and Legal Assistance Strategy should be developed, to establish a cross-sector approach to ensure mental health, legal, housing, and employment services work together to support people holistically
- Any future Mental Health and Suicide Prevention Agreement should include funding for specialist legal support for people experiencing mental health problems.
- Recommended finding: Intergovernmental agreements, such as the MHSP Agreement and NLAP, should have clearer processes to administer special purpose funding during the term of the Agreement.
- Relationship-building in collaborative service delivery is critical, and dedicated funding should be provided to support proactive engagement, outreach, and partnership development between legal and mental health services, particularly in regional and remote areas.
- All new legal assistance programs targeting people with mental illness are developed and delivered using a co-design framework
- A Medicare item number should be introduced for medical practitioners to prepare reports supporting social security claims, including reviews and appeals.
- Brokerage funding should be expanded to help vulnerable applicants obtain the medical assessments needed for DSP and other social security claims, reviews and appeals
- The Program of Support (POS) requirement should be abolished, as it serves little practical benefit and creates unnecessary hardship for DSP applicants.
- Government resources should instead be directed toward timely DSP assessments and meaningful employment support programs for people with disabilities who are able to work.
- Governments should introduce proactive compliance measures to ensure that employers uphold their obligations under anti-discrimination laws.
- Employers should be legally required to implement reasonable adjustments for employees with mental health conditions, including flexible working arrangements, mental health leave, and access to support services

Mental health and legal problems

People living with mental illness in Australia face distinct and complex legal needs.¹ Increased vulnerability, heightened impact of legal problems, and systemic barriers to accessing justice contribute to significant social and economic disadvantage. Legal issues can arise in various contexts, including social security, discrimination, employment, tenancy, criminal justice, and guardianship matters. Despite existing legal protections and services, many individuals with mental illness struggle to access their rights due to stigma, systemic obstacles, and a lack of tailored support.

Individuals with ongoing legal problems experience poorer mental health, resulting in increased engagement with mental health services. Timely, accessible legal assistance helps to reduce the demand on mental health services.²

Increased vulnerability and legal problems

People with mental illness experience multiple vulnerabilities that increase their exposure to legal problems. Mental health conditions are frequently linked to social and economic disadvantage, homelessness,³ unemployment, and financial insecurity.⁴ According to the Australian Institute of Health and Welfare (**AIHW**), people with severe mental illness are more likely to experience poverty, social isolation, and inadequate housing,⁵ which in turn exacerbates their risk of legal issues.

The intersection between mental illness and legal problems is well-documented.⁶ The 2012 Legal Australia-Wide (**LAW**) Survey found individuals with a disability, including mental illness, were more likely to experience legal problems and these problems tend to be more severe and complex.⁷ The LAW Survey also reported people with mental illness experience multiple legal problems simultaneously, making it difficult to manage their affairs and seek timely assistance. This was reinforced in the more recent Public Understanding of Law Survey (**PULS**), which found Victorians experiencing higher mental distress had higher problem prevalence, were more likely to have multiple problems and their problems lasted longer.⁸ These findings mirror international research.⁹

Common legal problems

People with mental illness encounter a range of legal problems; common areas include:

- **Social security and Centrelink disputes:** Many individuals with mental illness rely on social security payments, such as the Disability Support Pension (**DSP**) or JobSeeker. However, stringent eligibility requirements and Centrelink's complex processes can result in claim denials, payment suspensions, and debt disputes.¹⁰ Many individuals struggle to provide the required medical evidence to support their claims due to financial and systemic barriers, making it difficult to access the income support they need.

- **Discrimination and employment issues:** People with mental illness frequently experience discrimination in employment, both in hiring practices and workplace accommodations. The Australian Human Rights Commission reports that mental illness remains one of the most common grounds for workplace discrimination complaints under the *Disability Discrimination Act 1992* (Cth).¹¹ Employees with mental illness may be unfairly dismissed, denied reasonable workplace adjustments, or subjected to workplace bullying and harassment.
- **Housing and tenancy issues:** Stable housing is critical for mental health recovery, yet people with mental illness are disproportionately represented among Australia's homeless population.¹² Many experience difficulties maintaining tenancies due to financial instability, stigma from landlords, or behavioural challenges associated with their condition.¹³ Evictions and housing insecurity lead to further deterioration of mental health, creating a vicious cycle of homelessness and legal issues.
- **Involvement with criminal justice systems:** People with mental illness are overrepresented in the criminal justice system, both as victims and offenders.¹⁴ Many individuals with mental illness come into contact with police due to behaviours related to their condition, often resulting in criminal charges instead of mental health interventions.¹⁵ Furthermore, those with severe mental illness are more likely to experience victimisation, particularly in institutional settings, yet often struggle to navigate the legal system to seek justice.
- **Guardianship and capacity issues:** Legal decision-making capacity is a significant issue for people with severe mental illness, particularly those who experience psychosis or cognitive impairment.¹⁶ Under guardianship laws, individuals may be placed under financial or personal guardianship if deemed unable to manage their affairs. While these protections can be beneficial, they also raise concerns about autonomy and self-determination, particularly when decisions are made without adequate legal representation or advocacy.¹⁷

Increased barriers to access

Despite the existence of legal protections, people with mental illness face multiple barriers in accessing legal assistance and asserting their rights, including:

- **Stigma and discrimination:** People with mental illness frequently experience stigma when engaging with legal professionals and service providers. Negative stereotypes about their reliability, credibility, or decision-making capacity can lead to dismissal of their concerns or reluctance to provide help. Many people fear that disclosing their mental illness may lead to unfavourable treatment;¹⁸ 27% of respondents to the 2022 *National Survey of Mental Health-Related Stigma and Discrimination* reported unfair treatment by the legal system.¹⁹

- **Legal complexities:** The legal system is often difficult to navigate, particularly for individuals experiencing cognitive impairments, anxiety, or trauma-related symptoms.²⁰ Legal processes can be lengthy and require sustained engagement, which can be challenging for individuals dealing with fluctuating mental health conditions. Many people with mental illness can find it overwhelming to gather necessary documents, attend multiple appointments, or advocate for themselves effectively in legal disputes.²¹
- **Financial barriers:** Accessing legal assistance can be costly, and many individuals with mental illness are on low incomes or rely on government support. The Productivity Commission has previously found that a significant proportion of Australians experiencing disadvantage, including those with mental illness, are unable to access legal help due to funding shortfalls in community legal services.²²
- **Lack of mental health-competent, trauma-informed legal services:** Many mainstream legal services are not equipped to provide trauma-informed or mental health-aware assistance. Individuals with mental illness may require additional time, flexibility, or support to engage effectively with legal services, yet few practitioners receive specialised training on working with this client group.²³ This can result in legal needs being overlooked or individuals disengaging from the legal system due to frustration or distress.
- **Geographical and service gaps:** People living in rural and remote areas face additional challenges in accessing legal help, as mental health and legal services are often limited outside major cities.²⁴ The shortage of specialist mental health legal services in regional areas means that individuals may need to travel long distances or rely on telephone-based advice, which can be difficult for those with severe anxiety or communication difficulties.

People with mental illness in Australia experience complex and intersecting legal issues that are often exacerbated by social disadvantage, stigma, and systemic barriers. While legal protections exist, many individuals struggle to access their rights due to the inaccessibility of legal systems, lack of mental health-informed services, and financial constraints. Addressing these challenges requires targeted reforms, greater investment in specialist legal services, and a commitment to embedding mental health awareness within the legal profession. Ensuring equitable access to justice for people with mental illness is a critical step towards upholding their rights and dignity.

Recommended finding: Australians with mental illness are more likely to experience legal problems and that these problems tend to be more severe and complex.

Recommended finding: Australians with mental illness face multiple barriers in accessing legal assistance and asserting their rights.

Our specialist mental health services

Our model of care is designed to support individuals with mental health conditions in navigating the legal system. The service integrates legal advocacy with trauma-informed support, ensuring accessibility for clients experiencing intersecting vulnerabilities such as financial distress, employment insecurity, and social discrimination.

Our service is structured to provide holistic, client-focused, and statewide legal assistance through multiple service access points:

- **Dedicated mental health advice line** – A specialist intake system staffed by trained workers who triage clients, provide immediate referrals, and connect eligible clients with legal advisers.
- **Legal advice and representation services** – Focused on social security (Centrelink), discrimination, sexual harassment, and employment-related legal issues, with pathways for referrals to other legal services (e.g., tenancy, family law).
- **Outreach clinics** – Delivered in collaboration with community mental health services, hospitals, health-adjacent support services and homelessness services to facilitate in-person consultations.
- **Sector training and capacity building** – Workshops and professional development for mental health practitioners and health-adjacent support services to strengthen legal literacy and advocacy skills.

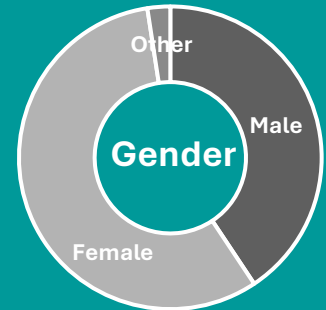
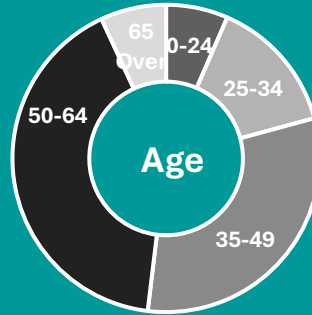
We provide these services across Queensland with statewide reach, with services available via phone, online consultations, and in-person outreach in urban, regional, and remote areas. Legal assistance is provided using a trauma-informed and intersectional approach, ensuring cultural safety for diverse communities, including Aboriginal and Torres Strait Islander peoples, people with disabilities, and those with lived experience of mental illness. We use flexible communication methods, to accommodate varying client preferences, and provide free access to language and accessibility support to ensure equity in legal assistance.

Our service is a critical, evolving initiative that provides tailored legal support to some of Queensland's most vulnerable individuals. Through a combination of direct legal assistance, cross-sector partnerships, and innovative service delivery, BRQ ensures that people with mental health conditions can access justice, assert their rights, and improve their legal and social outcomes.

The people we help

1,316

people
with mental health issues
helped



96%

experiencing
financial disadvantage



63

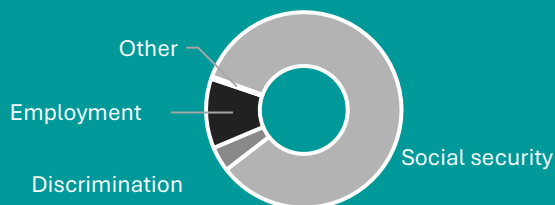
experiencing
homelessness



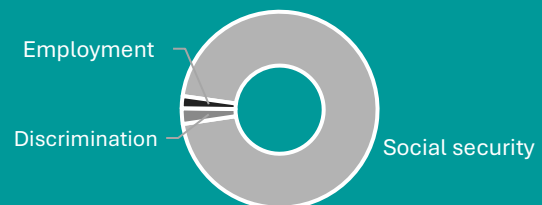
110

First Nations people

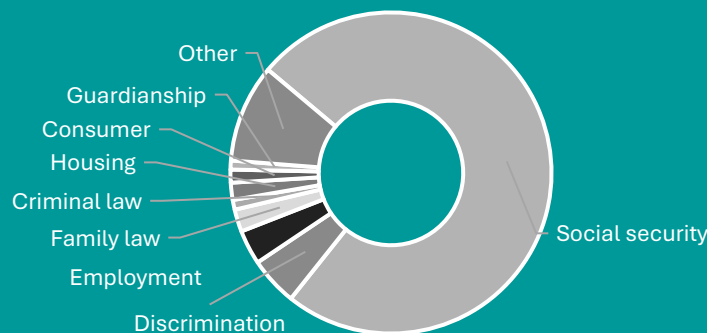
1,687 pieces of legal advice



854 other legal services



1,379 information and referral services



Data extracted from CLASS (report C.01 Clients by Priority Group and S.04 Services by high level problem type) at 31 December 2024.
Other legal services include Discrete Non-Legal Support, Legal Task and Duty Lawyer services, as they are defined in the National Legal Assistance Data Standards Manual and captured in CLASS.

...and what they say

“The fact that I find developing relationships with people so hard due to my mental health, and I immediately felt comfortable to share my problems with you, is a testament to your kind nature...”

“I finally got approved! I can’t thank you enough for your help and encouragement. I would not have gotten over the line without you and am so very grateful for your help...”

“Services Australia just rang me today and have approved the [new] claim. I'm actually a little shocked and lightheaded—Mum literally broke down in tears with relief, as have I...”

“When I first spoke to you over six months ago, I was relieved to have someone in my corner... What you do for people is lifesaving. Without you, I would have never been able to file these claims...”

“What BRQ did for me changed my life. I don’t think I would have been able to keep going without their support...”

Basic Rights Queensland's impact is evident in the life-changing outcomes achieved for clients navigating complex social security and employment systems. These case studies highlight the challenges individuals face in meeting eligibility requirements and accessing necessary support, particularly those with disabilities and mental health conditions. BRQ's advocacy has helped secure entitlements, resolve disputes, and improve financial stability for clients. By working closely with healthcare providers and guiding clients through appeal processes, we ensure that strong evidence is presented, and fair outcomes are achieved. Beyond legal support, BRQ provides crucial emotional assistance, helping clients engage with these systems with confidence and dignity.

Peter,* who struggled with multiple physical and mental health conditions, was growing increasingly frustrated with his situation. His conditions made it hard for him to meet the requirements of his Jobseeker payment, and as a result, his payments were cut off, leaving him unable to afford essential medications. His relationship with Services Australia and his disability employment service had deteriorated.

To help Peter, we appealed the decision to suspend his JobSeeker payment and requested its reinstatement. We worked with Peter's GP to secure a referral to a psychiatrist for further assessment and reconnected him with his psychologist, whom he had stopped seeing during COVID-19. We gathered evidence from his GP, psychologist, and psychiatrist to support his application for DSP and assisted him in filing a new DSP claim as a backup.

Knowing the assessment process was causing Peter significant anxiety, we prepared him for the required evaluations and requested that his new

DSP claim be prioritised. Peter was ultimately granted DSP, restoring his financial stability. We also represented Peter at the Administrative Appeals Tribunal (AAT) hearing for the appeal of his earlier rejected DSP claim, and he was granted DSP with arrears.

The strong evidence we collected also supported Peter's National Disability Insurance Scheme (NDIS) claim, and we referred him to Carer's Queensland for further assistance with this process.

Just a quick email to say Thank You for helping me with my Disability Pension Appeal.

Finally, after all this time a decision has been made. Centrelink have reversed their original decision. I've been accepted for Disability Support Payments.

It's a huge weight of my shoulders.

Once again, I am so appreciative for your knowledge & help to achieve this outcome.

Leticia* was an Aboriginal client with significant mental health and personal challenges who contacted us just outside of time to appeal her cancellation of her JobSeeker payment. BRQ successfully appealed to the Administrative Appeals Tribunal arguing that, based on her Centrelink records (which evidenced ongoing and numerous interactions with her employment service throughout the cancellation period and further, by using the postal rules in the Evidence Act) she should be paid full arrears for the 15 weeks she was off payment. The arrears were then withheld due to a debt which we successfully argued should be overturned due to her mental health impairments. The debt was waived in full, and she finally received the arrears which she needed to begin repaying a housing commission debt accrued whilst her payments were cancelled.

Fiona,* who had been unable to discuss her trauma-related condition for years, was finally ready to apply for the DSP. However, when she reached out to BRQ, she found it difficult to speak with her GP to gather the necessary evidence for her claim.

Over six months, we provided Fiona with regular support and guidance through the DSP application process. We helped Fiona identify and build trust with a new medical professional who could provide the needed evidence. Once a relationship was established, we worked with this professional to secure the documentation required for Fiona's DSP claim.

Throughout the process, BRQ maintained frequent contact with Fiona, offering emotional support and liaising with Services Australia via the Advocates Channel as needed. Thanks to this ongoing support and advocacy, sufficient evidence was submitted, and Fiona was awarded DSP with full backpay.

Jonah* experienced both mental and physical impairments but had received

Chau* had been trying to secure reasonable adjustments for their ADHD and autism in the workplace for nearly a year when they contacted BRQ. By this time, their employer had reduced their work hours without explanation, leaving Chau feeling discriminated against and unsupported due to their disability. Frustrated and unable to trust their employer, Chau wanted to leave.

BRQ quickly identified that miscommunication between lower-level managers and HR had led to the mishandling of Chau's requests. We contacted senior HR representatives to highlight the employer's errors, negotiated an exit for Chau, and secured an ex-gratia payment equivalent to 8 weeks of full-time wages. Additionally, we obtained a commitment from the employer to involve Chau in developing a policy for implementing reasonable adjustments for employees with disabilities, ensuring others wouldn't face the same challenges.

multiple rejections for DSP. Jonah had submitted a large volume of evidence to

Centrelink, but a minor detail of this evidence did not support Jonah's claim. Centrelink highlighted this detail which was detrimental to Jonah's claim at the expense of weighing other evidence. BRQ was able to provide Jonah with advice about appeal options. Although the client found the appeal process highly distressing, overwhelming, and difficult, the BRQ advocate was able to provide the ongoing support and advice that Jonah needed to engage with and persist through the appeal and tribunal process. The BRQ advocate requested and obtained further evidence from the client's psychologist and general practitioner, highlighting the reasons that the detrimental evidence should not be given disproportionate weight. BRQ worked with medical professionals to update the evidence and provide the support Jonah needed through the tribunal process to succeed in appeal of rejection of the DSP.

Konstantin* suffered from long term chronic mental health issues and a debilitating spinal condition. She received extensive ongoing advice and support from BRQ from her first contact in mid-2022 when she was in the process of appealing her DSP rejection. BRQ provided specific advice about what would be needed for her to succeed in her appeal and managed her expectations around the outcome given the existing evidence. BRQ continued to support and guide Konstantin as she collected further evidence for a new claim and ultimately the claim, she lodged in early 2023 was successful. Konstantin was grateful for the support and direction she received from BRQ across several months stating,

"I finally got approved!"

I can't thank you enough for your help and encouragement. I would not have gotten over the line without you and am so very grateful for your help."

Through expert legal assistance, collaboration with medical professionals, and compassionate guidance, we help individuals secure the support they are entitled to, improving their financial stability and overall wellbeing.

These case studies illustrate the profound impact of BRQ's work – and legal assistance generally – in ensuring fair and just outcomes for those facing significant challenges.

Recommended finding: Dedicated funding should be provided to sustain and grow specialist legal assistance services for people with mental health issues.

Recommended finding: a National Mental Health and Legal Assistance Strategy should be developed, to establish a cross-sector approach to ensure mental health, legal, housing, and employment services work together to support people holistically.

Collaborative services: barriers & enablers

While governments faced challenges administering payments for specialist legal service, our organisation was provided with funding to provide specialist legal services to people experiencing mental health problems by the Queensland Government in late 2022.

This section examines the barriers and opportunities in delivering collaborative legal and mental health services. It highlights key challenges in funding administration and the structural barriers that prevent people with mental ill-health from accessing the support they need. The key issues explored include:

- Strengthening collaborative service design and delivery – Recognising the importance of relationship building and co-design in ensuring services meet real-world client needs.
- Ensuring fair access to income support – Addressing obstacles such as inadequate funding for medical assessments and the ineffectiveness of the Program of Support (POS), which should be abolished.
- Removing employment barriers – Tackling stigma, discrimination, and the lack of legal protections for workers with mental health conditions.
- Improving funding frameworks – Advocating for clearer processes and more efficient administration of special-purpose funding to ensure timely service delivery.

Each of these challenges is explored in depth, along with recommendations to improve access to justice and economic security for people experiencing mental health challenges.

The impact of intergovernmental agreements

The Commonwealth Government's historic \$2.3 billion National Mental Health and Suicide Prevention Plan was developed to *“lead landmark reform in mental health support and treatment for Australians in need.”*²⁵

Based on the principles of Prevention, Compassion and Care, the Plan invested \$1.4 billion in high quality and person-centred treatment, with a number of initiatives pursued jointly through the National Mental Health and Suicide Prevention Agreement (**MHSP Agreement**).

The Plan included \$77.1 million for the National Legal Assistance Partnership (**NLAP**) to support early resolution of legal problems for people experiencing mental illness, and for mental health workers in specialist service providers.

As the Attorney-General's Department notes, these streams of “*quarantined funding for specific service models, client groups, and law types ... encourage service providers to take a holistic, wrap-around approach to service delivery.*”²⁶

While this is true (and we discuss this in more detail in other parts of this submission, based on our experience and expertise), the administration of special purpose NLAP funding has been problematic. According to Community Legal Centres Australia:

Community legal centres nationally have been most concerned by the way in which governments have allocated and distributed additional injections of 'special purpose' Commonwealth funding for legal assistance services during the current NLAP. These processes have resulted in unfair or unintended distributions and significant delays in delivering funding to services to support communities impacted by unforeseen events.

The distribution of additional Commonwealth government funding for mental health services ... announced in the May 2021 federal budget, exposed the serious flaws in the bilateral agreements between the Commonwealth and states/territories for the allocation and distribution of this funding.²⁷

Community Legal Centres Queensland has described the challenge:

*The allocation of the 2021 Federal Budget funding took seventeen months in Queensland CLCs. The May 2021 Federal Budget announced funding for legal assistance, including for workplace sexual harassment and supporting persons with mental health conditions. In October 2021 the Queensland Attorney-General signed the bi-lateral agreement under NLAP for this new funding. This agreement provided funding over four years for Queensland CLCs to the amounts of \$4.351 million for workplace sexual harassment support and \$4.2million for supporting people with mental health conditions. In May 2022 twelve months after the funding was announced, the Queensland Department of Justice and Attorney-General called for tenders from CLCs for these funds. The tenders closed one month later in June 2022. The Queensland Attorney-General announced the successful tenderers for the sexual harassment funding in September, and the successful mental health support tenderers in October 2022. However, once successful tenderers were announced there were further delays due to service agreement variations, staff recruitment, and program roll-out.*²⁸

Recommended finding: Any future Mental Health and Suicide Prevention Agreement should include funding for specialist legal support for people experiencing mental health problems.

Recommended finding: Intergovernmental agreements, such as the MHSP Agreement and NLAP, should have clearer processes for the administration of special purpose funding during the term of the Agreement.

The power of relationships in service delivery

Strong, trusted relationships between legal services, mental health providers, and community organisations are essential to delivering effective, client-centred support. Without these relationships, services risk operating in silos, leading to fragmented assistance that fails to meet the complex, intersecting needs of people experiencing mental health issues. Relationship-building is a cornerstone of collaborative service delivery, ensuring that vulnerable individuals can access timely, coordinated, and holistic support.

In regional Queensland, where service gaps are particularly pronounced, investing in direct engagement with frontline workers and community organisations is crucial. In 2024 we undertook a three-day outreach trip across Central Queensland, covering Rockhampton, Gladstone and Yeppoon, to strengthen relationships with local service providers. During this trip, BRQ delivered Community Legal Education sessions to three acute mental health services and six community organisations, including neighbourhood centres, a family and private charity, a housing service, and a public intoxication intervention service. Many of these organisations had not previously accessed BRQ's services or were unaware of the legal assistance available to their clients. However, through face-to-face engagement, trust was built, and new referral pathways were established.

A key lesson from this outreach was that proximity matters—travelling to regional communities, engaging in person, and demonstrating an ongoing presence is vital for fostering collaboration. Many organisations we met with reinforced that building awareness and trust through direct engagement was key to strengthening service integration. On the final day of our visit, BRQ attended the Central Queensland Homeless Connect event, engaging with over 100 individuals and services to further promote our work and broaden awareness of legal support options. These interactions laid the foundation for deeper, long-term partnerships that will improve access to justice for people experiencing mental health challenges.

Collaborative service delivery does not happen automatically; it requires intentional relationship-building efforts. By prioritising face-to-face engagement, actively listening to service providers and clients, and embedding services within trusted community networks, legal assistance services can ensure that support is both accessible and responsive to local needs.

Recommended finding: Relationship-building in collaborative service delivery is critical, and dedicated funding should be provided to support proactive engagement, outreach, and partnership development between legal and mental health services, particularly in regional and remote areas.

Co-design creates services that truly work

Effective mental health and legal support services must be designed in partnership with the people they aim to serve. Co-design is an approach that actively involves people with lived experience, frontline workers, and other key stakeholders in the development, implementation, and evaluation of programs. It ensures that services are responsive, culturally safe, and better aligned with the real-world challenges faced by individuals navigating complex systems.

We actively employed people with lived experience to assist in the implementation of our programs, and have consistently consulted with our clients and stakeholders to tailor the programs, including instigating a collaborative approach with all the services delivering NLAP legal services for mental health helping to promote evaluation and enhance impactful and reflective practise.

For people experiencing mental illness, accessing legal assistance can be daunting due to stigma, bureaucratic complexity, and systemic barriers. Without meaningful engagement with these communities, service models risk being ineffective, inaccessible, or even harmful. Co-design helps overcome these challenges by embedding the insights and expertise of those with lived experience into service planning and delivery. This collaborative approach leads to:

- More effective service models – Programs designed with input from people with lived experience are more likely to meet actual needs, reduce engagement barriers, and produce better legal and social outcomes.
- Increased trust and participation – Clients are more likely to engage with services they have helped shape, particularly when they feel their voices are heard and respected.
- Stronger cross-sector partnerships – Engaging with community organisations, mental health professionals, and legal practitioners in the co-design process fosters collaboration, reducing service silos and ensuring more integrated support.
- Continuous improvement – Co-design is an ongoing process that allows for continuous feedback and adaptation, ensuring services remain responsive to emerging needs and policy changes.

We initially planned to embed services specifically within a Health Justice Partnership model and hospital settings. However, through consultation with mental health consumers, community organisations, health and other service providers, we adapted our approach to better meet the needs of our clients. We directed our focus within health settings to relationship and referrals under their guidance, targeted the co-ordination and participation of public-facing events to expand our reach, and developed ongoing presence via outreach clinics in the locations of health adjacent support facilities (such as for homelessness) where people who experience mental health conditions in coincidence with a legal issue (for instance welfare and housing) present regularly. This

iterative and adaptive process reinforced the necessity of ongoing collaboration, rather than imposing a predefined structure without health facility preferences, or those with lived experience providing input.

Recommended finding: All new legal assistance programs targeting people with mental illness are developed and delivered using a co-design framework.

Ensuring fair access to medical assessments

Access to high-quality medical evidence is a critical factor in determining eligibility for the DSP, yet many applicants face significant barriers in obtaining the necessary documentation. Applicants who are unable to gather the documentation to substantiate their claims for DSP remain on Jobseeker Payment long-term, facing ongoing difficulty meeting the mutual obligation requirements due to their mental ill-health and trying to avoid payment suspensions and penalties, further entrenching poverty, homelessness and social isolation.

Before 1 January 2015, DSP applicants were required to submit a Treating Doctor's Report (TDR)—a mandatory medical form that guided doctors on the DSP criteria. Although the TDR did not specifically contain questions and examples referring to the legislative criteria for DSP, doctors were legally obligated to complete this form, ensuring that applicants received some medical support in their claims.

Since July 2015, this requirement has been removed, and DSP applicants must now provide their own medical evidence. This shift has led to widespread uncertainty among both applicants and medical practitioners regarding what constitutes sufficient evidence, resulting in many claims being rejected due to incomplete or inadequate documentation. Applicants routinely submit documentation, such as hospital discharge summaries or health records that do not address the DSP criteria. Additional difficulties relating to the inconsistencies between the language used by medical practitioners/allied health professionals and the language used by Centrelink, also contribute to delays in claims being processed and the rejection of valid claims.

Applicants with psychiatric impairments, in particular, face significant challenges in securing the necessary reports, as mental health conditions are often episodic and harder to substantiate under Centrelink's rigid assessment criteria.

Fiona's DSP Application

Fiona* had been unable to discuss her trauma-related condition for years, making it difficult to obtain medical evidence for her DSP application. When she reached out to BRQ, she lacked the necessary documentation and was struggling to engage with her GP. Over six months, BRQ provided ongoing support and guidance, helping Fiona identify a medical professional she could trust and working collaboratively to ensure her doctor provided the required evidence. As a result, Fiona's DSP application was

ultimately successful, and she was awarded backpay, securing financial stability and peace of mind.

People with severe mental health impairments can face insurmountable barriers in meeting Centrelink's administrative requirements, particularly when their condition prevents them from engaging with services, leaving their home, or accessing medical support. Even with advocacy, they are often caught in a cycle of cancelled payments and lost hope.

Jason's difficulty accessing DSP

Jason* is an Aboriginal man with a severe mental health impairment, which prevents him from leaving the house. As a result, he couldn't attend appointments with his employment services provider or provide the medical evidence Centrelink required to assess an exemption or eligibility for the DSP. In 2022, his JobSeeker Payment was cancelled due to not complying with his mutual obligations.

Over several years, BRQ advisers supported Jason to reapply for JobSeeker, seek exemptions, and connect with mental health supports. Each time, Jason's payments would be cancelled due to his ongoing impairments and attempts to engage with support services were unsuccessful because of his inability to leave home.

Despite BRQ's ongoing advocacy, Jason has spent years without adequate psychological support or income security. He has now given up hope of ever receiving the basic support needed to survive and thrive. He remains without access to social security or pathways to meaningful employment.

Challenges in accessing medical reports

Many applicants face significant financial and logistical barriers in obtaining medical evidence, including:

- Doctors refusing to provide reports due to time constraints and lack of Medicare funding for report preparation.
- High out-of-pocket costs, with some specialists charging hundreds of dollars for assessments that applicants on low incomes cannot afford.
- Limited knowledge of DSP eligibility criteria among treating practitioners, leading to reports that fail to meet Centrelink's strict evidentiary requirements.

In July 2021, our peak body Economic Justice Australia (EJA) released a report, ***Barriers to Disability Support Pension Access for People with Psychiatric Impairments and Their Experiences on JobSeeker Payment***, which recommended:

- Reinstating TDR as a mandatory part of DSP claims, with a pro forma template provided.

- Introducing a Medicare item number to allow medical practitioners to be reimbursed for preparing reports.
- Developing clear, standardised guidelines for treating professionals on the type of evidence required for DSP claims.
- Consulting the Australian Medical Association (AMA) and the Fellowship of the Royal Australian College of General Practitioners (FRACGP) to determine the most effective ways to communicate these guidelines.

We support EJA's recommendations, including the introduction of a new and improved TDR that has been designed in consultation with stakeholders, which is billable under a new Medicare item number.

The value of brokerage funding

One of the strengths of Basic Rights Queensland's program is the availability of brokerage funding, which provides us, in a limited capacity, management of direct financial assistance to clients with psychiatric impairments for medical assessments. This funding enables applicants to access specialist reports that would otherwise be out of reach, improving their chances of appealing a DSP rejection; in particular where the client would not have faced the initial rejection had they not have had significant cost barriers and implications in obtaining this evidence. However, this type of funding is not widely available across the legal assistance sector and is generally limited to funding for psychiatric assessments, leaving many vulnerable applicants without the means to obtain critical evidence.

Len's Multiple Unsuccessful DSP Appeals

Len* was diagnosed with severe mental health conditions in 2012 following a work injury. He had submitted 3 DSP claims, but they were all rejected because he did not have sufficient medical evidence, despite providing reports from his general practitioner and registered psychologist.

BRQ offered to pay for the cost of a psychiatry assessment and report. Len needed to find a new GP who would refer him to a psychiatrist as his usual GP practice was no longer offering bulk billed appointments. Finding a supportive GP and starting a new therapeutic relationship was very daunting for him. Len and his wife were living in severe financial hardship and were unable to afford the cost of appointments with a psychiatrist, let alone the cost of a report to support his DSP claim. BRQ liaised with his regular GP and psychologist to obtain background information and connected Len with a psychiatrist. Brokerage funding was used to pay for the report and two appointments with the psychiatrist. After a very long wait, Centrelink finally granted Len's DSP claim.

Len's wife wrote to BRQ: *"We would like to thank you and your team for all the great work and help you have done for us and the support you have given us. We truly appreciate it"*

and from the bottom of our hearts we thank you. We could not have been able to do this without you. Thanks for checking in on us to see how we were going. Your support has been amazing.”

Expanding brokerage funding would ensure more equitable access to DSP and other entitlements, preventing unnecessary financial distress and reducing delays caused by inadequate medical documentation.

Recommended finding: A Medicare item should be introduced for health practitioners to prepare reports supporting social security claims, including reviews and appeals.

Recommended finding: Brokerage should be expanded to help vulnerable applicants obtain medical assessments for social security claims, including reviews and appeals.

Why the Program of Support should go

The Program of Support (**POS**) requirement creates unnecessary barriers for people with significant disabilities who need access to the DSP. Even after being assessed as having substantial impairments, many applicants are forced to engage with an employment service provider for 18 months before they can qualify for DSP. This delays access to financial security, adds stress, and ultimately fails to achieve its intended purpose of improving employment outcomes. While employment assistance is critical for people with disabilities who want and are able to work, POS does not serve this function for most DSP applicants. Instead, participants are placed in programs that are poorly suited to their conditions, provide minimal to no meaningful support, and exacerbate their distress. For these individuals, POS is not a pathway to employment—it is simply an additional bureaucratic hurdle that prolongs financial hardship while they survive on the lower JobSeeker Payment. It can exacerbate mental health conditions, and essentially penalises a person who cannot participate with these programs due to their mental health conditions. This, coupled with barriers to accessing diagnostics and evidence can delay a person from being on the correct payment for years.

Elijah’s POS Experience

Elijah* had been assessed as having severe impairments that met the DSP criteria. However, due to the POS requirement, he was forced to engage with an employment service provider for over a year despite his ongoing health struggles and limited work capacity. The program provided no tailored support, and Elijah found the mandatory appointments overwhelming. His participation did not improve his employability—it simply delayed his DSP approval, adding unnecessary financial and emotional strain. When Elijah finally completed POS and reapplied for DSP, his claim was approved on the same medical evidence that had been available all along.

Elijah's experience reflects a systemic issue. Many applicants eventually qualify for DSP after completing POS, proving that their impairments were severe enough to meet the criteria from the outset.

There are also many individuals who are precluded from engaging in POS before claiming DSP, such as those individuals who have not been on JobSeeker Payments prior to their DSP claim. These include individuals who apply for DSP:

- at the end of a compensation preclusion period,
- after having been in receipt of Carer Payment,
- New Zealand citizens who have not been in receipt of a payment, or
- anyone who has had a serious injury who has not been on JobSeeker Payment and needs to claim income support due to the impact of their injuries.

Rather than serving as a meaningful employment pathway, POS functions as an arbitrary waiting period, forcing people into distressing and ineffective processes before they can access the support they need.

Beyond the personal toll on applicants, POS is a waste of public funds. It redirects resources into ineffective programs, rather than into genuine employment services for those who can work or faster DSP approvals for those who cannot. These funds could be far better spent ensuring timely access to appropriate income support and providing targeted employment assistance where it is genuinely needed.

Recommended finding: The Program of Support (POS) requirement should be abolished, as it serves little practical benefit and creates unnecessary hardship for DSP applicants. Government resources should instead be directed toward timely DSP assessments and meaningful employment support programs for people with disabilities who are able to work.

Tackling discrimination, stigma and inadequate protections

Employment is a critical factor in promoting economic security, social inclusion, and mental well-being. However, people experiencing mental ill-health face barriers to securing and maintaining meaningful work. Stigma, discriminatory workplace practices, and inadequate legal protections continue to disadvantage workers with mental health conditions, often leading to job loss, underemployment, and financial insecurity.

Rupert's experience with workplace discrimination

Rupert* experienced a severe mental health episode a few months after commencing a new job. When Rupert advised his supervisor that he was taking three days of personal leave on the advice of his GP, his supervisor expressed irritation at the short notice. Upon his return to work, Rupert was fired effective immediately, citing that Rupert "was not a good fit", despite nothing but positive performance appraisals since commencing

employment. After he had filed a General Protections application with the Fair Work Commission, BRQ supported and advised Rupert about how he could best advocate for himself in the conciliation, empowering Rupert to obtain an efficient and favourable financial settlement to remedy the financial stress he had been placed in by his former employer.

Rupert's experience highlights systemic challenges faced by workers with mental health conditions. Many employees fear disclosing their conditions due to stigma, while employers frequently fail to provide legally required accommodations. Without stronger legal protections, proactive compliance measures, and greater employer accountability, people with mental ill-health will continue to face unfair treatment and workplace exclusion. Leesy's story further displays this:

Leesy's negotiated exit

Leesy* had chronic pain condition and was trying to negotiate a work from home agreement with her employer. Her employer constantly deflected and rejected, and eventually Leesy submitted a flexible workplace agreement request, and the employer escalated it to an independent medical examination process - where they indicated her employment was at risk. Leesy reached a breaking point, and BRQ stepped in to negotiate their exit. There was extended support and ongoing involvement on our part to help this client to support her mental health and help her find closure.

Barriers to employment for people with mental ill-health

1. **Discrimination:** Despite existing legal protections under the *Disability Discrimination Act 1992 (Cth)*, people with mental health conditions frequently encounter bias during recruitment and career progression. Employers may perceive individuals with mental illness as unreliable or incapable of fulfilling job responsibilities, leading to fewer opportunities for hiring, promotions, and workplace participation.
2. **Lack of reasonable adjustments:** Many workplaces fail to provide reasonable adjustments that enable employees with mental health conditions to perform their roles effectively. These adjustments, such as flexible working arrangements, reduced workloads during acute episodes, or access to mental health support, are often denied or inconsistently applied. Fear of discrimination also deters employees from requesting these accommodations.
3. **Harassment and stigma:** Workplace cultures that lack awareness of mental health issues often foster environments where employees feel unsafe disclosing their conditions. Studies show that workers with mental illness are disproportionately subjected to workplace bullying, exclusion, and disciplinary

action.²⁹ In some cases, employees are unfairly dismissed under the guise of "performance management" rather than provided with appropriate support.

4. **Job insecurity and the casualisation of work:** The rise of insecure, short-term, and casual employment disproportionately affects workers with mental health conditions.³⁰ Many find themselves in precarious work arrangements that lack paid sick leave, stability, and support, increasing their risk of financial distress and exacerbating mental health issues.

To address these systemic challenges, stronger anti-discrimination protections and workplace reforms are necessary to create fairer, more inclusive employment opportunities for people with mental ill-health.

Recommended finding: governments should introduce proactive compliance measures to ensure employers uphold their obligations under anti-discrimination laws.

Recommended finding: Employers should be legally required to implement reasonable adjustments for employees with mental health conditions, including flexible working arrangements, mental health leave, and access to support services



Basic Rights Queensland Inc.

Basic Rights Queensland (**BRQ**) is a state-wide service providing free legal advice, advocacy, and support in the areas of social security, disability discrimination, and mental health. Our expertise helps individuals navigate the complex and ever-changing landscape of Centrelink, ensuring they understand their rights and can challenge incorrect decisions. We also assist clients facing disability discrimination, offering legal advice and advocacy to address their issues holistically. **Through our Mental Health Legal Hub, we provide tailored legal services for individuals with mental health conditions, addressing their unique challenges within the realms of social security, disability discrimination and employment law and linking them with help for other legal problems.**

Our Working Women's Queensland (**WWQ**) program supports women facing workplace issues such as discrimination, harassment, domestic violence, and unfair termination. WWQ offers free, confidential advice through our telephone-based service, helping women understand their rights and take action against unfair treatment at work. We are committed to empowering vulnerable women in Queensland by providing them with the tools and knowledge to navigate complex workplace situations and protect their rights.

In addition to direct client services, BRQ plays a vital role in advocacy and law reform. Our team actively collects client experiences to identify gaps in the system and collaborates with the government to improve laws and policies. BRQ also engages in community legal education and worker training, ensuring individuals and organisations have the information and skills needed to navigate the legal landscape and support those facing social security and workplace issues.



Our funders



Queensland
Government



Australian Government
Attorney-General's Department



Australian Government
Department of Employment
and Workplace Relations

Proud member



Community
Legal Centres
Queensland



WORKING
WOMEN'S
CENTRE
AUSTRALIA



ECONOMIC
JUSTICE
AUSTRALIA
For a fair social security system

For free legal help, call
1800 358 511



GPO Box 496
Brisbane QLD 4001
ABN 67 563 668 353
www.brq.org.au
brq@brq.org.au



References

- ¹ Nigel Balmer, Pascoe Pleasence, Hugh McDonald and Rebecca Sandefur, *The Public Understanding of Law Survey (PULS) Annotated Questionnaire*. (Victoria Law Foundation, 2022) 60.
- ² PwC, *The Benefits of Providing Access to Justice* (National Legal Aid, 2023) 14-15. See also Emily McCarron, Abigail Gray and Maria Karras, 'On the Edge of Justice: Accessing Justice for People With a Mental Illness in New South Wales' (2006) 31(4) *Alternative Law Journal* 193.
- ³ Australian Institute of Health and Welfare (AIHW), *Specialist Homelessness Services: feature analysis* (November 2024)
- ⁴ Australian Bureau of Statistics, *National Study of Mental Health and Wellbeing 2020-2022* (October 2023).
- ⁵ AIHW, *Mental Health Services* (December 2024)
- ⁶ See eg Laura Hayes, Myfanwy McDonald, Liz Hudson, and Fiona May, *Legally Minded: Understanding how legal intervention can improve the lives of people with mental ill-health, final research report* (Mind Australia, Melbourne, 2021); Maria Karras, Emily McCarron, Abigail Gray and Sam Ardasinski, *On the Edge of Justice: The legal needs of people with a mental illness in NSW* (Law and Justice Foundation of NSW, May 2006).
- ⁷ Christine Coumarelos, Deborah Macourt, Julie People, Hugh McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsey, *Legal Australia-Wide (LAW) Survey: Legal Need in Australia* (Law and Justice Foundation of NSW, Sydney, August 2012).
- ⁸ Hugh McDonald and Rochelle Jupp, *Mental distress and experience of legal problems: in brief* (Victoria Law Foundation, April 2024)
- ⁹ See eg Pascoe Pleasence and Nigel Balmer, 'Mental Health and the Experience of Social Problems Involving Rights: Findings from the United Kingdom and New Zealand' (2009) 16(1) *Psychiatry, Psychology and Law* 123; Pascoe Pleasence and Nigel Balmer, *How People Resolve 'Legal' Problems* (Legal Services Board, May 2014); Carol McEown, *Civil Legal Needs Research Report* (2nd Edition, Law Foundation of BC, March 2009).
- ¹⁰ Louise St Guillaume and Jasmine Robertson, *Barriers to Disability Support Pension Access for People with Psychiatric Impairments and their experiences on JobSeeker payment* (Economic Justice Australia, July 2021)
- ¹¹ Australian Human Rights Commission, *Annual Report 2023-24* (November 2024)
- ¹² AIHW, above n 3.
- ¹³ Nicola Brackertz Alex Wilkinson and Jim Davison, *Housing, homelessness and mental health: towards systems change* (Australian Housing and Urban Research Institute, Melbourne, 2018) 9-12.
- ¹⁴ Justice Health and Forensic Mental Health Survey, *Network Patient Health Survey – Aboriginal People's Health Report* (2015) 11; United Nations Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 14th sess, Agenda Item 3, UN Doc A/HRC/14/20/Add.4 (3 June 2010) 70.
- ¹⁵ Eileen Baldry, 'Disability at the margins: limits of the law' (2014) 23(3) *Griffith Law Review* 370; Margaret Hamilton, 'People With Complex Needs and the Criminal Justice System' (2010) 22 *Current Issues in Criminal Justice* 307.
- ¹⁶ Law Council of Australia, *The Justice Project Final Report – Part 1: People with Disability* (August 2018).
- ¹⁷ Law Council of Australia, *The Social and Economic Benefits of Improving Mental Health* (April 2019) 15-17.
- ¹⁸ Mental Health Council of Australia, *Consumer and carer experiences of stigma from mental health and other health professionals* (MHCA, 2011)
- ¹⁹ Behavioural Economics Team of the Australian Government, *National Survey of Mental Health-Related Stigma and Discrimination* (November 2022)
- ²⁰ Abigail Gray, Suzie Forell and Sophie Clarke, *Cognitive impairment, legal need and access to justice* (Justice Issues Paper 10, Law and Justice Foundation of NSW, March 2009)
- ²¹ Laura Hayes, Myfanwy McDonald, Liz Hudson, and Fiona May, *Legally Minded: Understanding how legal intervention can improve the lives of people with mental ill-health, final research report* (Mind Australia, Melbourne, 2021).
- ²² Productivity Commission, *Access to Justice Arrangements* (2014)
- ²³ Susie Forell and Abigail Gray, *Outreach Legal Services to People with Complex Needs* (2009); Hayes et al, above n 6.
- ²⁴ Law Council of Australia, *The Justice Project Final Report – Part 1: Rural, Regional and Remote (RRR) Australians* (August 2018); Productivity Commission, above n 22.
- ²⁵ Hon Greg Hunt MP, 'Historic \$2.3 billion National Mental Health and Suicide Prevention Plan' (Media Release, 11 May 2021).
- ²⁶ Attorney-General's Department, *Submission to the Review of the National Legal Assistance Partnership 2020–2025* (October 2023) 21.
- ²⁷ Community Legal Centres Australia, *Submission to the Independent Review of the National Legal Assistance Partnership 2020–2025* (27 October 2023) 32.
- ²⁸ Community Legal Centres Queensland, *Submission to the Independent Review of the National Legal Assistance Partnership 2020–2025* (27 October 2023) 15.
- ²⁹ See eg Duncan Lewis, Ria Deakin and Frances-Louise McGregor, 'Workplace Bullying, Disability and Chronic Ill Health' in P D'Cruz et al (eds), *Dignity and Inclusion at Work* (Springer, 2021) vol 3, *Handbooks of Workplace Bullying, Emotional Abuse and Harassment*; Cassandra Okechukwu, Kerry Souza, Kelly Davis and Butch De Castro, 'Discrimination, harassment, abuse, and bullying in the workplace: contribution of workplace injustice to occupational health disparities' (2014) 57(5) *American Journal of Industrial Medicine* 573-86; Owen Bradfield, Kym Jenkins, Matthew Spittal, and Marie Bismark, 'Australian and New Zealand doctors' experiences of disciplinary notifications, investigations, proceedings and interventions relating to alleged mental health impairment: a qualitative analysis of interviews.' (2023) 86 *International Journal of Law and Psychiatry* 101857.
- ³⁰ Senate Select Committee on Job Security, *The job insecurity report* (February 2022) chapter 3.