

23 January 2020

The Commissioners
The Australian Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

Dear Commissioners,

Re: Productivity Commission Draft Report – Mental Health

As the Public Advocate for Queensland, my primary role is to promote and protect the rights and interests of Queensland adults with impaired decision-making capacity.

More specifically, the Public Advocate has the following functions:

- promoting and protecting the rights of adults with impaired capacity (the adults) for a matter;
- promoting the protection of the adults from neglect, exploitation or abuse;
- encouraging the development of programs to help the adults reach the greatest practicable degree of autonomy;
- promoting the provision of services and facilities for the adults; and
- monitoring and reviewing the delivery of services and facilities to the adults.¹

Thank you for the opportunity to provide feedback to the Commission on the Mental Health Draft Report, released for public comment in October 2019.

The Draft Report demonstrates a thorough analysis and understanding of the issues and challenges for Australia's mental health system and recommends a way forward that facilitates generational change for a system that has not kept pace with community attitudes and expectations regarding mental health supports and wellbeing. I support the focus of the report and its approach and recommendations generally.

My feedback deals with two critical issues that, in my view, the draft report does not adequately address:

- the quality of inpatient services for people with acute mental illness, and whether they are delivering value for money in terms of the health outcomes the Australian community expects relative to their cost; and
- the need for the mental health system to be responsive to the needs of people with intellectual and other disabilities who experience mental illness.

Focusing on quality of services and treatment outcomes

As discussed at the meeting between Commissioners from the Productivity Commission and key Queensland agencies on 4 December 2019, in Brisbane, I suggest that the final report include a stronger focus on the need for evidence based treatment, accompanied by an analysis of the quality of mental health services being delivered, particularly for people with acute conditions receiving in-patient care.

Since commencing in my role, I have had concerns about the treatment of people who are acutely ill and receiving in-patient mental health services in our public health system. In particular, I am concerned about the extraordinary regimes of treatment that some patients are subjected

¹ *Guardianship and Administration Act 2000* (Qld) s 209.

to, the breaches of their fundamental human rights and liberties by being held in locked wards and subject to long periods of seclusion when they are voluntary patients, and the failure of treating teams to actively involve the patient in decisions about their care. When patients question their treatment, rather than engage with the person and explain their treatment options, treating teams interpret their input as non-compliant or that their symptoms are escalating. This approach to the treatment and care of people who are acutely mentally ill is not conducive to improving their mental health and well-being. Where patients have a history of trauma, this approach can cause significant distress and re-traumatisation, or an escalation in patient's symptoms because of the feelings of powerlessness they evoke.

In the context of these concerns, I suggest the review should be considering whether the National Standards for Mental Health Services are meaningful and effective in achieving high standards of mental health care. It is clear from a review of the *Map of the National Safety and Quality Health Service Standards (second edition) with the National Standards for Mental Health Services*,² that the National Standards for Mental Health Services (NSMHS) could be better aligned with the National Safety and Quality Health Service Standards (NSQHSS) in terms of demonstrating a greater commitment to the involvement of patients in decision making about their treatment and care. The NSMHS also contain no comparable commitments to monitoring the delivery of comprehensive care and outcomes and reporting on that care as contained in the NSQHSS. These are significant deficits in terms of the standards effectively driving quality and accountability and measuring the quality and outcomes achieved by public mental health services.

It is respectfully suggested that in addition to the points made above, the NSMHS be reviewed and updated to address issues including:

- A more detailed and extensive diagnosis regime that continues throughout treatment, including the use of second opinions and the re-opening of the original diagnosis should the patient not be responding to the administered treatment as opposed to continuing the treatment indefinitely.
- The use of therapies appropriate to and cognisant with the patient's lived experience, including any emotional distress and trauma resulting from their personal and family history. Anecdotal evidence suggests that, particularly in secure mental health and forensic settings, there can be an over-reliance on the use of drug and electroconvulsive therapies, rather than engagement with the person's lived experience and the use of cognitive and other behavioural therapies that may help patients address these issues.
- The correct diagnosis of other disabilities and conditions affecting patients (e.g. acquired brain injuries, autism spectrum disorder) and the subsequent use of psychiatric treatments and therapies that address the mental illness but do not exacerbate these underlying conditions.

Addressing the needs of people with an intellectual disability and a mental health condition

Australians with an intellectual disability experience mental ill health at a far greater rate than the general population. It is estimated that 1-2% of Australians have an intellectual disability and, of these, 57% have a mental health condition.³

A project team led by the University of New South Wales (UNSW) and funded by the National Health and Medical Research Council (NHMRC) recently investigated whether the specific needs of people with intellectual disability and a mental health condition were recognised in Australian mental health policy. A total of sixty-one Australian, State and Territory mental health and health and five key Commonwealth disability policy documents were examined by the researchers. The team found that the majority of these documents did not:

² Australian Commission on Safety and Quality in Health Care, November 2018.

³ Angela Dew et al, *Making Mental Health Policy Inclusive of People with Intellectual Disability*, Department of Developmental Disability Neuropsychiatry, School of Psychiatry, UNSW Medicine, UNSW Sydney. Accessed online December 2019 <https://3dn.unsw.edu.au/sites/default/files/MHID%20Policy%20Review%20Report_final_new%20template.pdf>.

- recognise and include people with intellectual disability as a group at high risk of experiencing mental ill-health;
- pay attention to the specific needs of people with intellectual disability for expertise, modifications and adaptations in order to be well supported in mental health services.

With this in mind, it is important for the final report of the Productivity Commission to recommend people with intellectual and other cognitive disability as well as a mental health condition as a key target group for mental health services (as it does for Aboriginal and Torres Strait Islander people, children and young people). This should be complemented by recommendations for a series of actions designed to specifically meet their needs, including addressing training and workforce issues and the appropriateness of the use of seclusion and other restrictive practices for this cohort. This may require further consultation with people with intellectual and cognitive disability who have a mental health condition and their families and supporters.

Again, thank you for the opportunity to comment on the Draft Report. The mental wellbeing of all Australians is fundamental to our future as a nation. We must aspire to an approach to mental health services that recognises the right of all Australians to high quality mental health services that are evidence-based and respect and promote consumers' human rights and dignity.

Yours sincerely

Mary Burgess
Public Advocate