SUBMISSION TO THE PRODUCTIVITY COMMISSION REVIEW OF THE DISABILITY DISCRIMINATION ACT 1992

OFFICE OF MENTAL HEALTH
DEPARTMENT OF HEALTH
WESTERN AUSTRALIA

MAY 2003

While this submission represents the views of the Office of Mental Health, advice from other key stakeholders (WAAMH, Health Consumers' Council, People with Disabilities, Office of the Chief Psychiatrist, The Mental Health Law Centre, Coalition of Disabilities) informed these views.

Introduction

In the context of the Office of Mental Health's commitment to minimising the impact of disability and disadvantage, the Disability Discrimination Act (DDA) is useful legislation. Social discrimination and stigma are major impediments to quality of life for people affected by a psychiatric disability. The DDA is recognised as essential legislation for providing a standardised national approach to redressing discrimination. The scope of the Act with respect to psychiatric disability is sufficiently broad and the exemptions appropriate. Nevertheless, the DDA relies on a complaint-driven process to achieve its objectives and is currently limited in its ability to further promote recognition and acceptance within the community of the rights of people with a psychiatric disability.

It is the view of the Department of Health that the DDA provides a flexible framework from which specialised strategies targeting psychiatric disability discrimination should evolve in order to maximise its effectiveness to "eliminate, as far as possible, discrimination on the ground of disability" (1992, p.1).

The burden of psychiatric disability

Close to one in five people in Australia are affected by a mental health problem within a 12-month period according to the National Survey of Mental Health and Wellbeing[1]. The burden of mental disorders has been significantly underestimated in terms of its personal, social and economic costs. In Australia, mental disorders accounted for nearly 30% of the non-fatal disease burden in 1996[2]. Importantly, by 2020, the disease burden of mental illness could increase to 15%[3].

The impact of a psychiatric disability, as a result of a mental illness, on an individual's quality of life may be severe and affect physical, emotional, social, material and spiritual domains of wellbeing. While there is broad diversity amongst people with mental illness, they are more likely to experience low socio-economic status, high stress levels, risk exposure in early life, social exclusion, Aboriginality and ethnicity, job insecurity, poor social support and addictive behaviours[4].

According to the World Health Organisation[5], the hidden burden of mental illness is associated with stigma and human rights violations. The stigma that emerges from misunderstanding and fear of psychiatric disability is perhaps the most disabling component of psychiatric disability. The Mental Health Statement of Rights and Responsibilities outlines the philosophical foundations of the National Mental Health

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[1] Australian Bureau of Statistics (1998). Mental Health and Wellbeing: Profile of Adults, Australia 1997, ABS Cat. No. 4326.0. Commonwealth of Australia, Canberra.
[2] Commonwealth Department of Health and Aged Care (2002). Promotion, Prevention and Early intervention for Mental Health - A Monograph. Mental Health and Special Programs Branch, Commonwealth Department of Health and Aged Care, Canberra.
[3] Thornicroft, G. & Maingay, S (2002). The global response to mental illness: An enormous health burden is increasingly being recognised. British Medical Journal, vol 325(7365): 608-609.
[4] Commonwealth Department of Health and Ageing (2002). National Mental Health Report 2002: Seventh Report. Changes in Australia's Mental Health Services under the First Two Years under the Second National Mental Health Plan 1998-2000. Commonwealth of Australia, Canberra.
[5] World Health Organisation (1997). The Jakarta Declaration on Leading Health Promotion into the 21st Century, WHO, Geneva.

Strategy in regard to civil and human rights. Currently, one of the mechanisms for upholding the rights of people with a psychiatric disability is a complaint process. In addition to the Mental Health Complaints Policy and Procedure, there are other avenues available to complainants including making a complaint to the Office of the Chief Psychiatrist (Council of Official Visitors), the Office of Health Review, Health Consumers' Council, the Ombudsman and the Human Rights and Equal Opportunity Commission.

Community education and capacity building

The DDA promotes a social model of disability where environmental and attitudinal barriers preventing people participating in society are targeted instead of assisting people with disability to adapt to 'normal' society. The modification of attitudes rather than the environment is the key towards facilitating the participation and well being of people with a psychiatric disability in the community. However, the DDA has had little impact on the public perception of psychiatric disability.

The DOH acknowledges that legislation alone does not lead to a significant shift in community attitudes and more importantly, behaviour. Therefore, the DOH would suggest that a capacity building approach be developed via general and targeted community education to compliment the legislation. A key component of capacity building relates to mental health literacy. Mental health literacy is a key strategy of the Second National Mental Health Plan and is designed to increase awareness of mental health issues and reduce stigmatising attitudes to people with mental illness[6].

In addition to general community awareness campaigns, education needs to be targeted at employers and the media. In keeping with the National Mental Health Plan and the Blueprint for Mental Health Services in New Zealand[7], the general community must be informed about how to support and assist people with mental illness and eliminate discriminatory behaviour. Under the Second National Mental Health Plan, considerable effort has been made to target the media, acknowledging their role in accurately informing the public about mental health and mental illness, through initiatives such as Mindframe, Mindmatters, StigmaWatch and ResponsAbility. Research by Sane Australia has indicated that there is also a need for consumer education about the DDA with very few callers to their Helpline being aware of any anti-discrimination legislation.

The DOH acknowledges that the complaint mechanism is an essential component of the DDA. However, it can be complicated and intimidating for people with a psychiatric disability. While the DDA makes reference to advocacy and representation with respect to the complaint process, guidelines need to be developed that provide an effective support mechanism for appellants. This mechanism needs to be sensitive to the capacity of people with a psychiatric disability to effectively deal with their grievance/s. An emphasis on preventative monitoring and evaluation of discrimination offers a complimentary mechanism for addressing discrimination, in addition to the complaint mechanism.

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[6] Commonwealth of Australia (2002). Evaluation of the Second National Mental Health Plan 1998-2003. Canberra, Australia.

[7] Blueprint for Mental Health Services in New Zealand, How Things Need To Be (1998).

A proactive community education and capacity building strategy is required to support the DDA in achieving its objectives. The DOH cautions about strategies that attempt to enforce deterrents as a priority to capacity building. In the employment domain, for example, stakeholder consultation should be extensive and regulations and standards slowly implemented in conjunction with assistance to overcome compliance obstacles.

Recommendations

- In keeping with the National Mental Health Plan and the Blueprint for Mental Health Services in New Zealand (1998), the general community must be informed about how to support and assist people with mental illness and eliminate discriminatory behaviour.
- A proactive community education and capacity building strategy is required to support the DDA in achieving its objectives.
- An emphasis on preventative monitoring and evaluation of discrimination offers a mechanism for addressing discrimination that is complimentary to the complaint process.