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Subject: Independent Review Ageing and Disability Commissioner Act 2019

Mental Health Coordinating Council (MHCC) is the peak body for community-managed mental health organisations (CMOs) in New South Wales. The purpose of the Council is to support a strong and sustainable community-managed mental health sector that provides effective health, psychosocial and wellbeing programs and services to the people of NSW.

MHCC provides policy leadership, promotes legislative reform and systemic change, and provides resources and training to assist community organisations to deliver quality and effective services. MHCC Learning and Development is a Registered Training Organisation providing accredited training and professional development to the sector. MHCC is also a founding member of Community Mental Health Australia (CMHA), the alliance of state and territory mental health peak bodies, which together represent more than 800 CMOs delivering mental health and related psychosocial services nationally.

MHCC thanks the Department of Communities and Justice for the opportunity to provide input into this inquiry which is of particular relevance to our members that provide psychosocial services to older persons living with mental health conditions.

In answer to the questions posed in the [Discussion Paper](#) and survey we provide feedback as follows:

Q.1: Are the objects outlined in section 4 of the Act still valid? What changes, if any, should be made?

- The Objects of the Act are valid as they stand. However, we recommend Object 3.1a) be amended to read – to protect the rights of adults with disability and older adults, including the right of access to services and supports, and
- Object 3.1b) be amended to read - to protect adults with disability and older adults from abuse, neglect, exploitation and discrimination.

Q.2: What do you think about the principles? Are they appropriate for older adults and adults with disability?

- The Principles of the Act are appropriate. However, we would recommend the addition of -

- 3.2f) adults with disability and older adults have the right to access supported decision-making supports in order to fully exercise choice and control in the development of planning and delivery of their supports and services, and
- 3.2g) adults with disability and older adults have the right to receive services in the way they wish to receive them, and
- 3.3a) - adults with disability and older adults have the right to respect for their worth and dignity as individuals and to live free from abuse, neglect, exploitation and discrimination.

Q.3: Are there any changes required to the appointment process or the status of the Commissioner?

No Comment

Q.4: Are the functions of the Commissioner suitable and appropriate to achieve the objectives of the Act?

- MHCC recommends that the Commissioner review the National Plan National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023 in addition to the National Disability Strategy.

Q.5: Should the Commissioner have discretion in deciding which reports to refer to the bodies in sections 13(8) and 13(9) of the Act?

- We agree that that the Commissioner should have discretion as to which reports be provided to the bodies identified in 13(8).
- The bodies identified in the Act is too narrow and should be expanded.

Q.6: In what circumstances should the Commissioner be able to investigate an allegation without the consent of the relevant adult?

- The Commissioner should be able to investigate an allegation without consent when in imminent risk is identified.
- Th Commissioner should have the power to investigate and allegation in the circumstances where a person is a vulnerable adult and might be prevented from doing so by e.g., family blocking access.
- The Commissioner should also be able to investigate and consider reporting to financial institutions where the evidence of financial abuse and exploitation is indicated.

Q.7: Should an exemption from the requirement to obtain consent, similar to the one in South Australian legislation, be included in the Act?

- The legislation should include a provision to allow “an investigation to commence or the Adult Safeguarding Unit to take action without first obtaining consent “if the Adult Safeguarding Unit has not, after reasonable inquiries, been able to contact the vulnerable adult”.
- Reasonable enquiries should be defined in the Act.

Q.8: Are the Commissioner’s information sharing powers appropriate and sufficient to achieve the objectives of the Act?

- The Act enables the Commissioner to exchange information with other government entities (including public hospitals and the NSW Civil and Administrative Tribunal) and private health facilities and enter into information sharing agreements. We recommend that the Commissioner also have the discretion to exchange information with other agencies as it sees fit.

Q.9: Should the Act enable the Commissioner to share information with the organisations and individuals listed in paragraph (3.28)? Are there any others?

- We recommend that exchange of information should be expanded to include other disability agencies and age care services, primary health care providers such as GPs and related allied services and NGO community-based services.
- This should include parties that are either engaged with or are able to provide supports to adults with disability or older people, who hold relevant information that could assist the ADC in handling reports.
- This should include providers of financial and legal services.

Q.10: Are the Commissioner's investigation and public inquiry powers appropriate and sufficient to achieve the Objectives of the Act?

- The Commission should act as a point of co-ordination and be at the centre of information exchange in order to safeguard the process when other agencies feel that they are unable to resolve the matter with the subject person and/or other agencies themselves.

Q.15: Are the matters the Commissioner is required to include in their annual reports appropriate?
Yes

Q.16: Should the Commissioner be required to continue reporting on the outcome of each referral to other agencies?
Yes

Q.17: Is the role and membership of the Ageing and Disability Board appropriate and sufficient to achieve the Objectives of the Act?

- The Board should include a director with knowledge and expertise about mental illness and psychosocial disability related to older people.

Q.18: Do you have any other comments about the Act that you would like to raise?

- The legislation should include a provision that relates to ensuring safety, health and wellbeing.

Thank you for your interest in the views expressed in this submission. MHCC is available to answer any questions in relation to this submission and should contact Corinne Henderson, Principal Policy Advisor at E: corinne@mhcc.org.au for further information.