

CoMHWA



Consumers of Mental Health WA (Inc)

**Feedback to
Reforming Western Australia's disability legislation Consultation paper**

10 June 2023

Consumers of Mental Health WA

Street Address: 12/275 Belmont Ave, Cloverdale 6105

P: (08) 9258 8911 W: www.comhwa.org.au E: admin@comhwa.org.au

1. Preliminaries

About the Respondents

Consumers of Mental Health WA (CoMHWA) is Western Australia's peak body for and by mental health consumers (people with a past or present lived experience of mental health issues, psychological or emotional distress). We are a not-for-profit, systemic advocacy group independent from mental health services that exists to listen to, understand and act upon the voices of consumers. We work collaboratively with other user-led organisations and a diversity of stakeholders to advance our rights, equality, recovery and wellbeing.

Request for Feedback

CoMHWA works to uphold the dignity and human rights of consumers, through providing advocacy in leading change with and for consumers. We appreciate notification of the outcomes of our submission to this consultation in order to understand and communicate the difference made through our work.

Please provide feedback via the contact details on this submission's cover page.

Language

CoMHWA uses the term mental health consumer throughout this submission. Mental health consumers to refer to people who identify as having a past or present lived experience of psychological or emotional distress, irrespective of whether they have received a diagnosis of mental illness or accessed services. Other ways people may choose to describe themselves include "peer", "survivor", "person with a lived experience" and "expert by experience".

This definition is based on consumers' call for respect, dignity and choice in how we choose to individually identify. As individuals, we choose different ways to name and describe our experiences that may confirm or challenge ideas about 'mental illness'. As explained in the Discussion section of this submission, mental health consumers' opinions and experiences of using the term 'disability' to describe their experiences are diverse and nuanced.

About the Consultation: 'Reforming WA Disability Legislation'

Reproduced from Consultation Paper:

The Western Australian Government recognises the importance of having legislation specific to people with disability, particularly regarding the principles applicable to, and the safeguarding of, people with disability, the promotion of access and inclusion, and the capability for the ongoing provision of disability services within the State. The Consultation Paper seeks the views of Western Australians on new WA disability legislation. The Disability Services Act 1993 (DS Act) is the primary legislation in WA pertaining to disability services. Among its key provisions, the DS Act:

- Promotes the rights and acceptance of people with disability in WA.
- Establishes the Disability Services Commission (the Commission) as a statutory authority with a Board as its governing body and a Chief Executive Officer to administer day to day operations.
- Establishes the Ministerial Advisory Council on Disability to advise the Minister on issues affecting people with disability.
- Enables the provision of grants and services that further the Principles and Objectives set out in the DS Act.
- Requires public authorities to develop Disability Access and Inclusion Plans.
- Provides for the Health and Disability Complaints Office to receive, investigate and act on complaints about the provision of disability services in WA.

Communities is seeking the views of Western Australians on issues and matters that should be reflected in WA's disability legislation. This consultation will inform the development of new legislation that is relevant and appropriate for the current and future disability sector environment in WA.

Close Date: 10 June 2023

Submissions to:

disabilitylegislationteam@communities.wa.gov.au

2. Introduction

CoMHWA welcomes the opportunity to make a submission to reform disability legislation in WA. While the disability and mental health sectors have some overlap in legislation, policy, services and governance, it is crucial to represent and acknowledge the specific needs of people who either identify as having psychosocial disability, who experience intersections of physical disability and mental health challenges, and people who do not identify with the language of having a disability but who experience significant barriers to living a meaningful and enjoyable life.

Importantly, feedback from our members indicates a wariness towards legislation as a primary mode of social change for people with mental health challenges and/or psychosocial disability. CoMHWA also notes that WA's *Mental Health Act 2014*, which is currently undergoing a statutory review, will have overlap and contradictions with other disability legislation.

We base our submission on:

- A survey sent out to all CoMHWA members between 26th of April to 12th May 2023. This survey replicated the questions being asked in the consultation paper.
- A co-facilitated forum with the Department of Communities allowing our members to give feedback directly to Communities at CoMHWA's offices on 16th May 2023.
- Ongoing consultation with consumers in Western Australia on joint priorities for an improved mental health system
- Consumer representation in relevant settings, including but not limited to: Primary Health networks (WAPHA), WA regional equivalents of the Local Health Networks (regional mental health services under the WA Health Board structure), the Mental Health Commission and the health complaints agency, Health and Disability Services Complaints Office (HaDSCO)

The demographics of the survey include:

- There were 27 respondents in total.
- The age range included: 3.7% are 18-24 years; 7.4% are 25-34 years; 18.5% are 35-44 years; 33.3% are 45-54 years; 29.6% are 55-64 years; 3.7% are 65-74 years; and 3.7% are 75+ years.
- The gender breakdown is: 77.8% identified as a woman; 14.8% identified as a man; 3.7% identified as non-binary; and 3.7% preferred not to disclose.
- We asked if respondents identified as transgender with no respondents saying yes; 96.3% saying no and 3.7% preferred not to disclose.

- 88.9% of respondents live in the Perth metro area; 3.7% live rurally; 7.4% lived regionally; and none living remotely.
- No respondents identified as Aboriginal or Torres Strait Islander.
- 11.1% of respondents identified as culturally or linguistically diverse.

3. Discussion

Definition of Disability

Nine responses for this question on the definition of disability were received. Three respondents stated that they believed that the definition is '*clear and precise*' and covers what is needed. The other responses argue that the definition does not go far enough in '*representing the diversity of challenges experienced in mental health*' and that generally does not cover mental health far enough and therefore needs to be broadened. Another important argument made by respondents is that the need to define disability as permanent is a barrier for many people to access the help they need, so a definition that accounts that psychosocial disability can be temporary can help consumers access the help they need at the time required. On the other hand, for some consumers a mental health challenge/diagnosis may be persistent but the effects on everyday life might be episodic. Another suggestion is to expand the definition of '*continuing support services*' to also include services, equipment or adaptations.

Principles of the DS Act

Five responses were submitted for this question regarding the Principles of the Disability Services Act. Other than one respondent who agreed with the Principles, the remainder of respondents had critical feedback to give. The respondents identified that the Principles do not represent those experiencing psychosocial challenges/disabilities and that a separate definition for mental health that is recovery based focussed should be included. Another respondent argued that the Principles are too confusing for people when they need to be making serious decisions about their health. Further a suggestion was made to change 'country' to 'regional' in line with NDIS legislation as 'country' can have different meanings for Indigenous Australians.

Disability Inclusion Charter

Five responses were submitted for this question regarding the Disability Inclusion Charter. One respondent stated that combining the Act and the Charter is a positive step as it will be

more simple and easier to understand. Another respondent argues that a Charter is only valuable if parties are willing to adhere to it. Their own experience of the Western Australian Mental Health Charter is that it is a token that is not adhered to by professionals and that therefore a Charter will not make an impact at the grass roots level. Another respondent echoed this point similarly by stating that *'it depends if a charter will help effect better equity in the system'*.

Safeguarding Mechanisms

Eight responses were submitted for this question about safeguarding mechanisms. The key recommendations made are: Eliminate or reduce the number of providers allowed to have full service of a participants plan especially when the organisation has booked support coordination with the client; mandatory worker screening checks for all staff working with people with disability not just those employed by organisations; a clearer NDIS system to work within and navigate; need for more advocacy and mental health services; the creation of a complaint system that allows anonymity because many fear the repercussions of making a complaint; expand services for those aged 65+; and provision of housing.

Complaint Mechanisms

Seven responses were received for this question regarding complaint mechanisms. The key recommendations included are: text message or telephone surveys; proxy complaint processes to be instated; increasing the availability of advocacy services; increase funding to essential services such as legal and financial aid; and educating workers that survey tools should be utilised to improve services.

Offence of Ill-Treatment

Nine responses were received for this question regarding ill-treatment of consumers. All but one respondent stated that no, not enough attention is being paid to people with disability receiving poor treatment from services or carers. One respondent stated *'complaints even when made are not actioned for a long time. Some people think the process is too hard.'*

Inclusion and Social Participation

Eight responses were received for this question on legal amendments to increase social inclusion. Some suggestions included: legislating more community inclusion through local councils; listen to those with a lived experience; and provide incentives such as grants for small businesses to contribute to efforts in the social inclusion and participation space. One

respondent stated that cultural change cannot be legislated, therefore perhaps education efforts are needed.

Ministerial Advisory Council

Only one out of nine respondents have heard of the Ministerial Advisory Council on Disability. This demonstrates that the Council needs to do extensive outreach to inform consumers of their work.

Avenues for community input to Government

Nine responses were received for this question on avenues for community input to government. Some suggestions from respondents included: increase inclusion in co-design processes; creation of a steering committee that is consulted for contributions and feedback; increase the number of focus groups for people with all forms of disabilities; employ people with disability in the government. One respondent stated that legislation won't have an impact as the government has little accountability.

Roles of WA Government in Disability Sector

Eight responses were received for this question on the role of the Government in the disability sector. The responses received included: employing more people with disability in these positions; a directory for consumers to access for services across different sectors; unbiased coordination of advocacy services; increased peer supports; and removing barriers and empowering communities to make spaces more accessible for people with disability.

Objectives of the DS Act

Six responses were received for this question on the objectives of the Disability Services Act. Responses were mixed, with one respondent stating that the current objectives are repetitive need to be developed further to protect the rights of people with disability. Another respondent stated that *'point 15 is good however there are often a lot of barriers that take time to navigate for some people to get support, and also, particular goal posts of services limit who can access a lot of services and supports, with it being challenging to navigate and find that service at times.'*