



## **Input to the National Justice Mental Health Initiative**

The National Mental Health Consumer & Carer Forum (NMHCCF) is the combined national voice for consumers and carers participating in the development of mental health policy and sector development in Australia.

The NMHCCF is pleased to provide input to this important initiative by the National Justice CEOs Group to develop best practice guidelines for diversion and support of people with mental illness who are in contact with the criminal justice system.

While it is clear that “providing an appropriate range of mental health and other services to address underlying issues is more likely to reduce re-offending than usual criminal justice sanctions<sup>1</sup>”, it is also the case that many people with mental illness in contact with the criminal justice system are in this situation because of a lack of appropriate support available to assist them with the life circumstances that they face due to their mental illness.

Principle 1 in the stakeholder brief notes that “it is preferable that the mental health and human services sectors provide effective treatment and support” and it is assumed that the criminal justice sector will seek to link people with appropriate existing supports in the mental health and human services sectors. For some people this will assist them, but for others it will just link them back to the same sector that is already failing them.

For this initiative to be most effective it will need to provide an opportunity for people with mental illness to step out of this. That is, there will need to be some work done in making sure that any strategies under this initiative do not just refer people back into the same circumstances in which their crime arose without appropriate support to ensure that they do not again fall between the cracks in two separate systems.

In seeking to achieve this, the NMHCCF believes that the initiative will be most effective when it builds in mechanisms that ensure that mental health consumers and carers are integral to identifying solutions. This means involving mental health consumers and carers beyond invitations to comment on consultation documents.

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<sup>1</sup> National Justice Mental Health Initiative Stakeholder Brief

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<b>Are you willing to be contacted as part of later consultations?</b>	Yes		

**A1: What principles should underpin a framework for ‘best practice’ diversion and support for people with mental illness?**

**Numbering**

Given that the stakeholder brief states that the principles are listed in “no particular order” it is important to either not number them, or number them in accordance with their importance to people living with mental illness. For example, early intervention (currently 4), long-term management including recognition of the episodic nature of mental illness (5), quality and safety (7) and consumer (and carer) participation (9) should be given much higher priority. Perhaps the first and strongest priority should be the need for recognition of human rights, which is currently at 14.

**Principles 1 and 2<sup>2</sup>**

It is not clear why the current principles 1 and 2 need to be stated as there would not seem to be any doubt that people with mental illness abide by the same rules as those without mental illness with respect to criminal behaviour including community protection. If there is doubt or confusion then this needs to be explored in the stakeholder brief.

It is therefore proposed that the following would replace principles 1 and 2.

**Principle 1**

*Mental health diversion programs seek to provide an alternative to criminal sanctions where the mental illness is causative of the offending behaviour. This is because providing an appropriate range of mental health and other services to address underlying issues is more likely to reduce reoffending than usual criminal justice sanctions. It is preferable that the mental health and human services sectors provide effective treatment and support.*

<sup>2</sup> 1. Maintaining accountability for criminal behaviour, 2. Ensuring that community protection is paramount.

If it is essential to describe that “*maintaining accountability for criminal behaviour*” is an important principle for the National Justice Mental Health Initiative then the original principles 1 and 2 could be replaced with the following:

***Principle 2: Maintaining accountability for criminal behaviour.*** *When people living with a mental illness engage in criminal behaviour that is unrelated to that illness, they remain accountable for their actions. The rights of victims should be acknowledged.*

This change is proposed to address the common misperception that people with mental illness are more likely to be dangerous to the community<sup>3</sup>.

While “*ensuring that community protection is paramount*” (original principle 2) is an important principle in the criminal justice system, it is problematic to link the need for community protection and mental illness as is done in this stakeholder brief, as it emphasises the perception that mental illness causes a potential danger to the community, whereas it is criminal **behaviour** which may pose the potential threat. Further it could be argued that the principle of protection of the community is already well covered in the principle of “*maintaining accountability for criminal behaviour*” so that it does not need to be mentioned twice.

### **Consumer and Carer Participation**

*Principle 9 Supporting consumer participation* should include a reference to carers: *Supporting consumer **and carer** participation*. In addition this principle should include carers when describing the importance of *meaningful participation by people with mental illness **and their carer or family** at all levels*.

The National Mental Health Policy (2009) referenced in the stakeholder brief acknowledges the importance of including both consumers and carers in participation. Mental health carers usually have a key role to play in the lives of mental health consumers and bring important perspective on what works and does not work in mental health care systemically, but also for the individual for whom they care.

The NMHCCF Consumer and Carer Participation Policy: a framework for the mental health sector<sup>4</sup> outlines principles around consumer and carer participation in more detail and will provide an important resource for agencies seeking to implement best practice approaches to diversion.

### **Recovery**

The principle of recovery is being increasingly used by mental health consumers, carers and policy makers to inform the development of initiatives in mental health that take a holistic approach to meeting the recovery needs of people with mental illness.

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<sup>3</sup> For example, see Mindframe *Common Myths about Mental Illness* at <http://www.mindframe-media.info/site/index.cfm?display=105554>.

<sup>4</sup> Available at <http://nmhccf.org.au/documents/ConsumerandCarerParticipationPolicy.pdf>

It will therefore be extremely important in determining outcomes and objectives for this project from a community, systemic and individual point of view (as suggested in the stakeholder brief).

Recovery describes the multifaceted journey that enables individuals to reach their maximum potential given the limitations living with a mental illness might impose. A commonly used definition is:

"a deeply personal, unique process of changing one's attitudes, values, feelings, goals, skills and/or roles. It is a way of living a satisfying, hopeful, and contributing life even with limitations caused by the illness. Recovery involves the development of new meaning and purpose in one's life as one grows beyond the catastrophic effects of mental illness."<sup>5</sup>

Recovery is based on principles of providing hope, access to the right medical treatment, facilitating empowerment, providing support, education and knowledge, facilitating self help and addressing diverse life areas such as spirituality and employment or meaningful activity<sup>6</sup>. Part of the power of the principle of recovery is that it challenges the notion of someone with a mental illness as being their 'illness' (clinicians commonly report this phenomena) or 'broken/unable to be fixed' rather than as a dynamic, valuable member of the community, possessing a diverse range of characteristics, skills and needs. This disempowering notion has characterised the provision of services for people with mental illness and has supported traditional medical model and inherently discriminatory approaches to initiatives for people with mental illness for too long.

The recovery approach uses a more holistic definition of mental health and has the potential to assist consumers and carers to work with mental health services to dramatically improve the structure and delivery of policy affecting people with mental illness in Australia.

While mental health consumers, carers and other stakeholders are still exploring the concept of recovery in mental health in Australia, it is currently planned that the new National Standards for Mental Health Services will include a standard on recovery in mental health. Recovery should be referenced as part of the principles for the National Justice Mental Health Initiative.

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<sup>5</sup> Anthony W 1993, *Recovery from Mental Illness: the guiding vision of the mental health service user system in the 1990s*, Psychosocial Rehabilitation Journal 16(4), 11-23.

<sup>6</sup> For example, see (Auseinet 2009 Recovery Online Toolkit Factsheets at [http://auseinet.fritsweb.net/toolkit/rec\\_fs](http://auseinet.fritsweb.net/toolkit/rec_fs))

## **A2: What should be the priority aims and objectives of best practice diversion and support programs?**

The priority objectives should include:

- identification of the circumstances and lack of effective engagement with and by the mental health system that leads people with mental illness to commit criminal behaviours;
- consumer-focussed mechanisms within diversion programs that ensure appropriate treatment of mental illness is paramount;
- identification of the sorts of interventions that are most likely to mitigate against criminal behaviours; and
- development of a range of mechanisms whereby these interventions can be optimised, both through and outside the criminal justice system.

Going through the above steps is likely to reveal the critical gaps in appropriate service provision for people with mental illness such as lack of access to appropriate health care, housing and financial support mechanisms. This is likely to be amplified for young people, Indigenous people and people from culturally and linguistically diverse backgrounds.

The most successful interventions in the mental health sector are not always easy to identify due to a history of little evaluation and a lack of accountability. Because of this promotion of continuous improvement through the innovation and evaluation approach that is as outlined in the stakeholder brief will be an important strategy for the National Justice Mental Health Initiative.

### **Effective consumer and carer participation**

The most successful interventions are those that are characterised by their acknowledgement of the importance of recovery and consumer and carer participation.

Therefore the initiative will need to include mechanisms to:

- include mental health consumers and carers as an integral part of the development process for defining the scope of this initiative;
- enable consumers and carers to provide input to ideas from other agencies that are contributing to this initiative where this may not usually occur; and
- provide a platform for consumers and carers to negotiate with these agencies about implementation of this initiative in their sector, where this does not usually occur.

These steps will greatly enhance the effectiveness and sustainability of the National Justice Mental Health Initiative. The NMHCCF would be happy to assist in developing these processes.

## **Peer support or user-led initiatives**

Peer support services, led by people with a lived experience of mental illness or caring for someone with a mental illness are particularly successful at being able to meet support needs of mental health consumers and carers. Peers have the skills and abilities (though usually not the resources) to be able to identify the most appropriate interventions and innovative ways of delivering these. Mental health services, for example, are increasingly using a peer support model to improve their service delivery methods and provide creative solutions to entrenched systemic problems.

Consumers and carers report that peer support positions also provide important employment opportunities for people seeking to move on with their recovery journey or rejoin the workforce. In employing peer support workers services also provide role models of recovery for people experiencing mental illness for the first time.

### **C1: What features of best practice guidelines would increase likelihood that they are relevant, useful and able to be implemented?**

The definition of best practice provided in the stakeholder brief<sup>7</sup> is a good way of outlining what using such guidelines may entail. Many agencies do not demonstrate a good working understanding of continuous quality improvement through innovation and evaluation, and this is particularly the case in the mental health sector. Best practice guidelines should hold agencies accountable for the quality of services they provide. As outlined above, ensuring appropriate consumer and carer participation in the development and implementation process will also be essential.

### **C2: What are the key barriers to implementing best practice diversion and support programs, and how might these be overcome?**

In addition to what is outlined above (lack of services, little shared understanding of recovery or inappropriate levels of consumer or carer participation), stigma or discrimination caused by ignorance and consequent fear of mental illness is a powerful barrier. Promotion of the concept of recovery and providing information and education mechanisms are keys to unlocking this.

One of the key difficulties in a diversionary system is the ability of police and judicial officers to recognise mental illness. NMHCCF carer representatives have identified situations where carers have been unable to get help for the person they care for, resulting in an offence being committed that could have been avoided. It often takes a crime being committed to highlight that there is a problem.

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<sup>7</sup> “Best practice approaches adapt the best available evidence to the context of implementation, achieve the best possible outcomes with a high degree of efficiency, and foster a culture of continuous improvement through innovation and evaluation.”

Early detection, prevention and intervention would reduce the burden on consumers, carers and the mental health system.

Models where people with lived experience of mental illness are involved such as those offered through mental illness education organisations in Australia<sup>8</sup>, have proven effective.

**C2: Any other comments or observations?**

The NMHCCF views this initiative as a great opportunity to develop a consistent national approach on diversion and support for people with mental illness.

A multi stage approach involving prevention, intervention, diversion and special mental health courts that recognise the value of diversionary methods, will be most effective to ensure that the needs of people with mental illness are appropriately met by both the mental health and justice systems.

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<sup>8</sup> For example, see Mental Illness Education ACT <http://www.mieact.org.au/cms/index.php>