

**Review of the *Mental Health Act 1996* &  
*Criminal Law (Mentally Impaired Defendants) Act 1996*  
Stakeholder Committee Meeting**

**Minutes of meeting**

16 October 2002 9.00 – 10.30am

7<sup>TH</sup> Floor, Dumas House, 2 Havelock Street, West Perth

**Attendance:**

Prof D'Arcy Holman, Hon Bob Kucera, Mr Jai Wilson, Ms Sylvia Meier, Mr Chris Mulhall, Ms Anne McFadyen, Dr Ralph Chapman, Ms Cushla Leech, Ms Elaine Smith, Mr Kevin Hogg, Dr Elizabeth Moore, Dr Aaron Groves, Ms Francine Holder, Dr Deborah Wilmoth, Ms Angela Woodacre, Ms Michelle Scott, Ms Jenny Au Yeong, Dr Adam Brett, Ms Ann White, Ms Janet Peacock, Ms Sue Lewis, Mr Geoff Williams, Mr Tim Rolfe, Ms Paula Parentich, Ms Jill Rapp (Minute Secretary).

**1.0 Apologies**

Mr Neville Barber, Mr David Bruce, Mr Lloyd Marsh, Dr Steve Pachett, Ms Irene Morgan, Dr Neil Morgan, Dr Rowan Davidson, Mr Alan Philp, Mr Brent Mansell, Superintendent Ross Tomasini.

Prof. Holman welcomed the new committee members and commented that there was still an absence of an indigenous representative on the committee, which was causing him some concern. Prof Holman requested that if members were aware of a suitable representative they should advise Sylvia Meier.

**2.0 Acceptance of previous minutes (110902)**

- Justice Hallwork to read as Justice Wallwork.
- Agenda item 3.00 to read as National Mental Health Working Group – AHMAC has developed proposed principles for Forensic Mental services. Furthermore, in these principles, the release of forensic patients should not be a decision made by a political appointee.
- Agenda item 3.00 - Outcome from Dr Morgan's presentation under heading of Major Issues to insert:
  - Major weaknesses in the Police Act were mentioned
  - While people under the CLMIDA come in contact with a number of agencies, there needed to be one agency to act as coordinator
  - Dr Neil Morgan had raised these difficulties with the Department of Justice on a number of occasions.

**3.0 Business Arising**

**3.1 Update on actions**

**3.1.1 Distribution of members contact details**

The Committee member's contact details were distributed.

### **3.1.2 Distribution of Mullhall/Holman correspondence**

The correspondence between Mr C Mulhall and Prof D'Arcy Holman was distributed to the committee

### **3.1.3 Legal Advice and support for consumers**

Prof. Holman has written to the Minister for Health requesting funding for a Legal research officer to assist with the drafting of submissions for consumer/carers.

### **3.1.4 Options for weighing submissions**

Prof. Holman indicated that he would not be weighting submissions on either of the following:

- Status
- Number of people the submission represents, or
- Flashy presentation

Submissions will be weighted on the principle of the argument and how well the argument is presented, whether it is realistic and achievable.

Some of the comments by the committee members regarding the weighting of submissions were as follows:

- It was suggested that due to a lack of resources the report should not be compromised by omitting information.
- Mental Health Action Group were concerned about the timeline and the delay in funding of a Legal research officer to assist them with drafting the submission
- The Minister for Health has extended the timeframe for submission until the 28 February 2003.

## **4.0 New Business**

### **4.1 Welcome to the Hon. Bob Kucera (Minister for Health)**

Prof Holman welcomed the Minister for Health the Hon. Bob Kucera and presented him with a list of the committee members. Prof Holman gave a brief outline as to the status of the Committee – he mentioned that these were early days and that the active discussion will commence once the working parties pick up momentum. The six working parties are in progress and there was a lot of optimism and determination shown by the members and he would not like to see their efforts fall by the wayside.

The Minister for Health, Bob Kucera was pleased to attend the Stakeholder Meeting and thanked the committee members for the time and commitment they are investing to improving Mental Health in Western Australia. He commented that there was an urgent need to have the Mental Health Act reviewed. He explained that he had no preconceptions about how the stakeholders should go about their business, but encouraged the committee to consider the Review not just in terms of legislation but also in terms of the whole system of care in which legislation operates. The issue of Mental Health would grow and become an issue for this Government. He explained that during his previous role he saw how mental health issues impacted on

families and carers and that the changes have not been totally successful. He suggested that we look at the structure of how we view mental health in this State and where we would like to go. He suggested that he did not want a model for Mental Health but a framework for legislation as there were issues outside the *Mental Health Act* that needed to be addressed e.g. prison services.

The Minister was happy to meet with the Committee members before the end of the Review, at Prof Holman's request, as it would assist him to present any recommended changes to Parliament.

Some of the comments made by the committee members to the Minister:

- 4.1.1 Anguish that carer/families feel when a patient is Involuntary, as there are very few agencies that are geared to assist or follow-up and we need to work towards resolving this issue.
- 4.1.2 The issue of confidentiality should be dealt with – weighing up the rights of a carer and the rights of a person while protecting the person's reputation – including confidentiality between interagencies.
- 4.1.3 Involuntary Patients from other states come to WA and get treated as Voluntary Patients. Inter border issues need to be considered.
- 4.1.4 As from the 1<sup>st</sup> November 2002 Private Psychiatrists will be allowed to claim telepsychiatry sessions according to the new Medicare Agreement. Dr Aaron Groves requested a meeting with Prof. Holman and Ms Sylvia Meier to discuss the impact of Private practitioners using public hospital facilities for the use of Telepsychiatry.
- 4.1.5 Dr Groves also noted that the Department of Health would be preparing a State Mental Health Plan, which needs to dovetail with this Review. He requested a meeting with Prof Holman and Ms Meier to discuss how this information could be shared with the Stakeholder Committee.

**ACTION: Dr Aaron Groves to meet with Prof D'Arcy Holman and Ms Sylvia Meier to discuss how Telepsychiatry reflects in the Act and to discuss the development of the State Mental Health Plan.**

#### **4.2 Presentation: Council of Official Visitors**

There was a presentation by Mr Kevin Hogg on the role of the Council of Official Visitors. The presentation outlined the purpose of the Council, which was established by the *Mental Health Act* to ensure that 'affected persons' rights are observed and to investigate complaints.

The role of the Official Visitors is to:

- To inspect authorised hospitals, licensed private psychiatric hostels and other places as directed by the Minister for Health.
- To visit 'affected persons' as soon as practicable following a request for a visit.

- Through inquiry to ensure 'affected persons' have been informed of their rights and that those rights are observed.
- To be accessible to hear complaints concerning 'affected persons'
- To inquire into and resolve complaints concerning 'affected persons'
- To refer matters to other bodies for inquiry and action as appropriate
- To assist 'affected persons' with making and presentation of applications or appeals under the MHA including to the Mental Health Review Board.

Mr Hogg indicated that the COV has a number of concerns, which are summarised as follows:

- Limitations of the role of the COV in regards to patients who are not 'affected persons'.
- Access to medical records.
- Name of the Council.
- Detention of voluntary patients eg. Psychogeriatric patients in Lodges.
- Non-compliance with the MHA regarding mechanical bodily restraints.
- Improvements in the definition of 'medical treatment'.
- Perceived lack of independence regarding second opinions.
- Lack of support services and standards for Hostels.

Copies of Mr Hogg's overheads and paper were tabled.

After the presentation, comments were sought from the committee members, which are outlined below:

- 4.2.1 The question was asked whether there had ever been a case to the Supreme Court? In the past 5 years, one case (EO) has appeared before the Supreme Court.
- 4.2.2 Reports were not being delivered in a timely manner – part of the difficulty was a very short time frame hence the delay – these were not including medical reports.
- 4.2.3 Does the Council call on Interpreters to assist advising consumers of their Rights for non-English speaking people? And was there a budget allocated?
- 4.2.4 When a status is changed from Involuntary to Voluntary is the next of kin notified?
- 4.2.5 There was a lot of work in progress that will be captured in the review of the Hostels, which the Office of the Chief Psychiatrist can provide more information on at a later date, if requested.

Mr Hogg indicated that the COV Annual Report highlights many of the issues and concerns the Council has and recommended them to those interested.

**ACTION: Mr Hogg to provide copies of the Annual Report to Ms Meier for circulation.**

### 4.3 Working Party Update

All six of the working parties are in progress.

- The Mentally Impaired Defendants Review Board working party had their first meeting on Thursday 31 October 2002 – Convenor is Dr Steve Patchett
- Mental Health Review Board will have their meeting on Monday 21 October 2002 – Convenor is Dr Deborah Wilmoth
- Treatment of Patients (Part 4) will have their first meeting on 23 October 2002-10-16 – Convenor is Dr Elizabeth Moore
- Involuntary Status & Community Treatment Order will have its meeting on 14<sup>th</sup> November 2002 – Convenor is Dr Ralph Chapman
- Council of Official Visitors will have their first meeting on Tuesday 29 October 2002 – Convenor is Ms Francine Holder

There was some discussion regarding the circulation of working party minutes to members. It was suggested that instead of circulating the minutes of each working party to team members - a website would be a better alternative, which people could access as needed.

**ACTION: Ms Meier to explore the possibilities of creating a Review website.**

### 4.4 Feedback from Executive/Drafting Committee Meeting

Prof. Holman gave a brief outline on the Executive/Drafting committee, which was convened on 15<sup>th</sup> October 2002. He explained that the meeting was to talk about role of this Committee. He commented that the Stakeholder Committee was still the major committee and that the Drafting committee was like a ‘Think Tank’ for him to exchange ideas and use the expertise of the members who would act as independently as possible, as they would not be representing specific constituents.

He went on to add that reports will be transparent and all minutes of the Executive/Drafting Committee will be made available. Prof Holman also stressed that the Stakeholder Committee does not report to the Executive/Drafting Committee in any way and that there is no hierarchical relationship between the two.

### 4.5 Other Business

#### 4.5.1 Committee Membership

It was noted that Geoff Williams – representative from the Australian Association of Social Workers has joined the Stakeholder’s Committee.

#### 4.5.2 Stakeholder Committee Workshop

After the 3<sup>rd</sup> presentation from the Mental Health Review Board in November, Prof. Holman suggested a workshop be held in early December, separate from the standard 18<sup>th</sup> December meeting. The theme of the meeting would be **“Striking a Balance – Human Rights and Interaction of the Act”**. Prof

Holman proposed that members would be invited to give short presentations on what they think are the main issues. The aim of the workshop is to share perspectives. All members agreed that this would be a useful exercise.

#### **4.5.3 Respects for Dr Margaret Tobin**

Dr Aaron Groves reported that Dr Margaret Tobin, head of Mental Health Services in South Australia, had been fatally shot in her office earlier this week. Dr Tobin was well known to many in WA and Dr Groves had extended sympathies to her husband and family. Dr Tobin was noted for her strong support for and advocacy for consumer and carers.

#### **4.5.4 Additional Ethnic Community Representation**

Ms Au Yeong expressed her concern regarding her ability to represent all culturally and linguistically diverse populations and requested an additional representative. This issue was discussed and it was agreed that Prof Holman would seek further CALD membership.

**ACTION:** Prof. D'Arcy Holman to write to the Ethnic Communities Council requesting representation.

#### **5.0 Closure**

Meeting concluded at 10.45