

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

Stakeholder Committee Meeting

Minutes of meeting

7th August 2002 9.00 – 10.30am

11th Floor, Dumas House, 2 Havelock Street, West Perth

Attendance:

Prof D'Arcy Holman	Chairperson
Mr Mike Daube	Ministers for Health's representative
Ms Sylvia Meier	Executive Officer
Mr Christopher Mulhall	Consumer Representative
Ms Anne McFadyen	Consumer Representative
Dr Ralf Chapman	GP Division of WA Representative
Ms Cushla Leech	Carer Representative
Ms Elaine Smith	Carer Representative
Mr Kevin Hogg	Council of Official Visitors Representative
Mr Neville Barber	Mental Health Review Board Representative
Mr Lloyd Marsh	Health Consumers' Council Representative
Ms Ann White	WA Association for Mental Health (WAAMH) Representative
Dr Adam Brett (<i>proxy</i>)	Royal Australian and New Zealand College of Psychiatrists (RANZCP) Representative
Dr Elizabeth Moore	RANZCP Representative
Ms Robyn Ayres	Mental Health Law Centre
Ms Irene Morgan	Mentally Impaired Defendants Review Board Representative
Dr Neil Morgan &	Mentally Impaired Defendants Review Board Representative
Inspector Chris Mabbot (<i>proxy</i>)	Police Legal Services Unit, Police Service Representative
Mrs Janet Peacock (<i>proxy</i>)	Office of the Chief Psychiatrist
Dr Aaron Groves	Director General's Representative, Dept of Health
Ms Catherine Crawford	Law Society of WA

1.0 Apologies:

Superintendent Ross Tomasini	Police Legal Services Unit, Police Service Representative
Dr Rowan Davidson	Office of the Chief Psychiatrist
Ms Julie Roberts	Office of the Public Advocate Representative
Mr David Bruce	Authorised Mental Health Practitioners (AMHP) Representative
Mr Alan Philps	Commonwealth Department of Health

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

2.0 **Welcome by Mr Mike Daube, on behalf of Bob Kucera, Minister for Health**

Mr Daube welcomed the committee on behalf of Bob Kucera who was currently unavailable to attend the meeting. It was noted that Mr Kucera would be attending the October meeting.

Mr Daube informed the committee that Mr Kucera was eager to meet the government's election commitment of reviewing the Mental Health Act 1996. The Minister and the Attorney General agreed that due to the similar review processes required, the Criminal Law (Mentally Impaired Defendants) Act 1996 would be reviewed as part of the Mental Health Act 1996 review process. It was noted that the process of the review was independent, with the delegation of the review being given to Professor D'Arcy Holmand.

The Office of the Review of the Mental Health Act had been established at Dumas House with meetings taking place at that venue.

The committee was informed that Professor Holman was required to make his recommendations to the Minister by July 2003 and that this committee would play a pivotal role as a forum for discussion and providing extensive input into the process. It was acknowledged that the review would be unable to resolve all difficulties associated with both Acts, however significant improvements could be achieved. Mr Daube stated that the Minister would be closely following the review and requested regular progress updates.

Mr Daube thanked the committee for their attendance and left the meeting.

3.0 **Introductions and Statement of Interest by all Stakeholders**

Professor Holman informed the committee that to enable a disciplined meeting all discussion should take place through the Chair. This would ensure that all members had an opportunity to speak and were heard.

He welcomed the committee to the meeting and requested that members introduce themselves and state their interest in the review.

Prof D'Arcy Holman	Professor of Public Health, Leading the Review & Chairperson
Ms Sylvia Meier	Executive Officer, Coordinating the process of the Review
Dr Aaron Groves	A/Director Office of Mental Health, Consultant Psychiatrist & past Chief Psychiatrist
Ms Robyn Ayres	Mental Health Law Centre, Lawyer with client contact
Mrs Janet Peacock (<i>proxy</i>)	Manager, Office of the Chief Psychiatrist, representing the Chief Psychiatrist
Mr Kevin Hogg	Council of Official Visitors, an Official Visitor dealing with clients affected by the Act. A lawyer by profession.
Dr Ralf Chapman	Chairperson - GP Division of WA representing General Practitioners, with extensive rural experience. Currently Director of Health Services, Department of Justice.
Mr Neville Barber	Mental Health Review Board President

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

Mr Christopher Mulhall	Mental Health Consumer Advocacy Project, representing consumers
Ms Elaine Smith	A carer and member of ARAFMI & the Mental Health Act Action Group.
Ms Cushla Leech	A carer and member of ARAFMI, undertaking duties as an Official Visitor, a member of the Mental Health Act Action Group and the Forensic Advisory Council
Dr Adam Brett	Forensic Consultant Psychiatrist proxy for Dr Steve Patchett
Dr Elizabeth Moore	Consultant Psychiatrist working with at an integrated mental health service, having worked in three States with different Acts
Ms Anne McFadyen	Project Officer, Mental Health Consumer Advisory Program representing consumers
Mr Lloyd Marsh	Representing the Health Consumers' Council
Ms Catherine Crawford	Legal Practitioner nominated by the Law Society of WA and member of the Review's Executive Committee. Observer of today's proceedings.
Ms Ann White	Previously with the Schizophrenia Fellowship of WA and was involved as a member of the Mental Health Act Action Group. Is now Executive Officer of WAAMH and offers executive support to the Mental Health Act Action Group and the Human Rights and Social Justice Committee, two of WAAMHs standing committees.
Dr Neil Morgan	Lawyer and member of the Mentally Impaired Defendants Review Board and Parole Board.
Ms Irene Morgan	Lawyer and Research Officer for the Mentally Impaired Defendants Review Board and Parole Board
Inspector Chris Mabbot	Police Legal Services Unit, Police Service and proxy for Superintendent Ross Tomasini
Mrs Pauline Robertson	Assistant to the Executive Officer and minutes secretary

Professor Holman invited members to note any deficiencies in the membership of this committee and where further representation should be sought. It was suggested that the following areas could be required:

- Indigenous representation
- Culturally and Linguistically Diverse (CALD) representation
- Disability Services Commission representation
- Court Liaison representation
- Community Mental Health Nurse representation
- Mental Health Act Action Group representation
- Rural and Remote representation
- Judicial representation
- Child and Adolescent Psychiatry representation

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

It was noted that an Authorised Mental Health Practitioner from a rural setting could address the lack of nursing and rural and remote representation.

Professor Holman would consider the suggestions and gain additional representation where required. He further noted that as working parties would be formed to address specific issues, there would be an opportunity to obtain further input at this level, which would provide feedback into this forum.

ACTION: Determine and expand membership as necessary – Prof Holman and S Meier

4.0 Context / History of the *Mental Health Act 1996*

Mrs Peacock, Office of the Chief Psychiatrist (OCP) informed the committee that the 1996 Act was a review of the Mental Health Act 1962, which had undergone a lengthy process commencing in 1981. It was noted that working parties had been established with several Mental Health draft bills being presented to Parliament.

A taskforce was established in 1995 and on 13th November 1996 the Act was assented in Parliament. The Act was implemented 12 months later in November 1997. There was an understanding that the Act was not perfect and a process was established for review and amendments to be made. Four working parties were formed to establish the Council of Official Visitors, Mental Health Review Board, the Police Liaison Group and the development of various educational materials.

In 1998/99 there was an undertaking to make amendments to the Act as stakeholders were unhappy with the difficulties being experienced with the Act. Submissions were called for and received. While many submissions did not relate to legislation and concerns were raised that agreement could not be achieved, the review was abandoned at the time. It was also felt that the Act needed to be in operation for a longer period before changes were made.

5.0 Context / History of the *Criminal Law (Mentally Impaired Defendants) Act 1996*

Dr Neil Morgan informed the committee that the CLMIDA had been implemented at the same time as the MHA in November 1997. He noted that the issues involved with this act were separate from those of the MHA, but that they were also closely related.

The Act is used for a small, but diverse, group of people covering the elderly suffering from Alzheimer's, to the younger group affected by substance abuse and covers the metropolitan area, and rural and remote communities.

The Act is primarily concerned with individuals found unfit to stand trial or those entering a plea of not guilty by reason of unsound mind.

The Mentally Impaired Defendants Review Board considers those under Custodial Orders and has an advisory role on release and placement, but is not a decision making body. Board members do not interview patients but conduct the review from patient files.

Review of the Mental Health Act 1996 & Criminal Law (Mentally Impaired Defendants) Act 1996

Dr Morgan noted that there were a number of concerns regarding the operations of the Act, including Review Board and the need for multi-agency participation, which was often ineffective.

It was noted that there had been several failed attempts at reform in the past.

Dr Morgan suggested to the committee that he would be happy to conduct a more indepth 30-minute presentation at the next meeting.

ACTION: Presentation at the next meeting – Dr N Morgan & Mrs I Morgan

6.0 Review Business Plan

It was noted that the Minister for Health had signed off on the Terms of Reference and this document was tabled.

A process had been developed and this plan would be provided to the Minister for sign off in the near future. A draft copy of the process was also tabled for information.

Submissions would be called for during August with a closing date of 1 November. Interested parties will receive a document itemising the various areas of the two Acts and would be requested to fill in the blanks with their concerns and comments. These documents would be distributed to as many stakeholders as possible and would also be made available electronically.

The Executive Officer requested that if the committee felt any individuals/agencies should be targeted, they should forward contact details to the Office of the Review as soon as possible. These would be added to the already extensive mailing database.

The committee was also requested to consider what issues needed to be addressed requiring the formation of working parties. All suggestions should be forwarded to the Office of Review, including suggestions for possible Chairpersons and membership. The Executive Officer stressed that all working parties would need to be formed quickly, with a closing date of November 1 for final reports.

After the closure of the submission date and completion of the working parties, a draft paper would be prepared for consultation. It was anticipated that feedback would be required by the end of April 2003. Significant regional consultation would also take place between February – April 2003.

The final report will be presented to the Minister by 1 July 2003.

It was noted that during the review, regular newsletters regarding progress would be circulated to all interested parties. Members were asked to disseminate information to all sectors advising people that submissions will be sought.

Professor Holman sought feedback regarding the process and some concerns were raised regarding the timelines for submission as Mental Health Week and Carers Week would take significant time and energies from various organisations, giving them less time to devote to the Review. It was agreed

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

that the November and December meetings would be moved to provide additional time for feedback.

Some concern was raised regarding possible constraints in the Terms of Reference. Professor Holman informed the committee that he felt they did not in any way prevent the group from considering all areas of the Act as required. It was further noted that if there were any significant deficits in the Terms of Reference the committee should alert the Executive Officer, and if necessary Professor Holman would raise these with the Minister.

There was a call for caution in a too large a deviation from the current Act. It was noted that changes should be meaningful and able to be implemented. Professor Holman encouraged the committee to take the broad interpretation of the Terms of Reference, noting that changes would be to the legislation, although some broad operational issues may be addressed during the process.

It was noted that there was a need for access to resource materials and assistance in some areas. The Minister and Attorney General have given their commitment to this review and have ensured that the necessary resources and assistance are available. Those members who require some resources should contact the Executive Officer to discuss their needs.

Access to all submissions was requested, with the suggestion that submissions be placed on a public website. It was agreed that permission should be sought from all individuals/agencies who submit a submission, as to whether their submission was to be kept confidential or to be made available as public information. This could be achieved as an addition to the submission document.

**ACTION: Changes to be made to Nov/Dec meetings – S Meier
Confidentiality addition to submission document – S Meier**

7.0 Role of the Stakeholder Committee

Prof Holman informed the committee that this was a forum for information collating, identification of issues to be addressed and would be responsible for making recommendations regarding changes to the Act. An Executive Committee had been formed of individuals with specific technical expertise. This committee would be a drafting and editing committee to assist Professor Holman with the drafting of the report. The activities of the Executive Committee would be transparent, giving the Stakeholder Committee opportunity to object or support, with the Chairperson having the final decision making responsibility.

The Working Parties would be required to debate major issues, with stakeholders feeding this information back to the Stakeholder Committee. Professor Holman will require at least two members of the Stakeholder Committee to be on each of the Working Parties, with one acting as Convenor and the other in attendance.

Prof Holman noted that the Stakeholder Committee should attempt to reach a consensus view on issues, which would provide a powerful message. If this

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

is not achievable, issues of dispute will be outlined transparently in the final report for the Minister's decision, along with independent comment by Prof Holman.

The committee was informed that Prof Holman had been empowered to request members to undertake investigations and authorised to make payments for work undertaken. A policy for payment had been developed and this document was tabled for information. Payments are however not available to members who are public servants.

Prof Holman informed the committee that members entitled to payments had an opportunity to donate their payments to a Trust Fund. This Trust Fund would support a trial intervention project to assist people with mental illness. Prof Holman advised that this would occur strictly on a voluntary and confidential basis. All requirements for and any donations of payments should be discussed with the Executive Officer.

It was noted that the Victorian Mental Health Review Board conference is to be held in October. Details could be accessed via the website <http://www.mhrb.vic.gov.au/>.

8.0 Future Meeting Dates and Location

It was agreed that the November and December meeting dates would be rescheduled. The next meeting would take place on 11 September 2002.

Members agreed to continue to meet in the Hon Kim Chance's Conference Room on 11th Floor of Dumas House, if this was acceptable with him. Working party meetings would be accommodated in the smaller boardroom located in the Office of the Review of the MHA & CLMIDA. It was noted that one member of this group member should convene all working parties with another in attendance.

9.0 New Business

Nil

10.0 Closure

The meeting closed at 10.30am

Signed:

Chairman:

Stakeholders Committee

Prof D'Arcy Holman

Dated: