

19 September 2018



## **Submission - Department of Justice: Disability Inclusion Action Plan**

The Mental Health Coordinating Council (MHCC) is the peak body representing mental health community managed organisations (CMOs) in NSW. The MHCC is also a founding member of Community Mental Health Australia (CMHA) the alliance of eight state and territory community sector mental health peak bodies. Together we represent more than 800 CMOs delivering mental health and related services nationally. Our members deliver a range of psychosocial disability support programs and services including housing, employment and social inclusion activities, in addition to clinical and peer support services with a focus on trauma-informed recovery-oriented practice. MHCC members also include organisations that provide advocacy, education, training and professional development and information services.

MHCC work in partnership with both State and Commonwealth governments, and the public, community and private sectors in order to effect systemic change. We also manage and conduct collaborative research and sector development projects on behalf of the sector, and the MHCC Learning and Development arm is a widely respected registered training organisation delivering nationally accredited mental health training and professional development courses to the sector.

MHCC thanks the Department of Justice for the opportunity to provide input into the review process of Section 12 of *the Disability Inclusion Act 2014* (NSW) which requires each public authority to develop a Disability Inclusion Action Plan (DIAP). The DIAP was developed to outline the steps the Department will take to ensure people with disability are able to access the Department's services and fully participate in the community.

MHCC applauds the DIAP's support of the general principles of disability inclusion, and the recognition of the important rights that people with disability have, including the right to participate in society, access information, be able to live free from violence and have their diverse needs respected.

The Disability Inclusion Action Plan focuses on four key areas to create a service and a workplace that is inclusive of people with disability.

Mental Health Coordinating Council  
Disability Inclusion Action Plan: Submission

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The four areas are:

- Developing positive community attitudes and behaviours
- Creating liveable communities
- Supporting access to meaningful employment
- Improving access to mainstream services through better systems and processes.

MHCC provide feedback under the four headings provided.

1. Developing positive community attitudes and behaviours

**Issues or suggestions on creating a positive and inclusive attitude and environment for people with disability interacting with the Department of Justice.**

- MHCC support the Department of Justice's (DoJ) plans to utilise a social model of disability approach in the training offered to new and existing staff. In order to create an environment which challenges the physical, attitudinal and social barriers faced by people living with disabilities, educating and training staff to conduct their work informed by a 'trauma-informed recovery-oriented' framework will support staff to more effectively communicate and collaborate with their clients.

To successfully achieve action point 1.6 (p.11) "to promote a culture of disability inclusion within the Department," MHCC recommend the use of recovery-oriented language especially when working directly with people living with mental health conditions. Likewise information, education and professional development should be communicated in ways utilising recovery-oriented language. We alert the DoJ to MHCC's freely available resource [The Recovery Oriented Language Guide](#)

Further, training should include an understanding of trauma and its prevalence among people living with mental health conditions, including those interacting with the justice system. A trauma-informed practice approach emphasises the physical, psychological, and emotional safety for both clients and service providers and fosters opportunities for clients to establish a greater sense of empowerment and the capacity to better participate in processes to maximise their autonomy to make decisions.

- Often people living with mental health conditions experience difficulties with cognition, either as a consequence of their continuing condition, or due to the treatment prescribed. In addressing action point 1.8 (p.11) which focuses on the development of training modules including "cognitive and/or mental health impairment," DoJ staff should be aware that co-existing conditions may impact functioning, which can fluctuate with the episodic nature of the condition. This highlights the necessity to be flexible in interactions with clients to accommodate the episodic nature of some mental health conditions.
- To enhance service provision to people living with disabilities, it is important that DoJ staff are mindful of, and employ the principles set out in the United Nations Convention of the Rights of Persons with Disabilities (UNCRPD). The UNCRPD principles: respect for the inherent dignity and individual autonomy of persons, non-discrimination and the full and

effective participation and inclusion of people with disabilities in society are likewise reflected in the *Mental Health Act 2007* (NSW) in the “principles of care and treatment of people with mental illness”(s.68). MHCC recommend that the DoJ's Disability Inclusion Action Plan (DIAP) reflects both Article 3 of the UNCRPD and Objects of the *Mental Health Act 2007* (NSW)(s.3).

- In addition to the DoJ's stated objective to promote a culture of disability inclusion and make available new training modules, we recommend specific actions targeting the reduction of stigma and discrimination of persons living with disability including mental health consumers, as well outlining the process of addressing instances of discrimination within the Department.
- Furthermore, regarding the brief reference to diversity in section 8.1 (p.30), the DIAP should additionally convey a commitment to equality, and include strategies which encourage consideration and inclusion of diverse social groups including respect to: age, gender, sexual orientation, culture, and religious beliefs.

## 2. Creating liveable communities

### **Issues or suggestions on how we can create an inclusive and accessible environment for the NSW community accessing our services and programs.**

- The DIAP's Outcome 2 (p.13) only recognises the physical accessibility needs of the community, demonstrating a lack of consideration for the resources that may be required to accommodate the needs of people living with mental health and psychosocial disability to equitably access services.

If, as recommended, the DoJ operate informed by a trauma-informed recovery oriented framework, they will consider matters of safety from the perspective of both staff and the individual. This can be managed through privacy and confidentiality policies and practice guidelines, as well as through direct strategies. These might include, for example: clearly identifying entry and exit points of buildings, having staff state the focus and content of interactions with clients, and alerting people to potentially traumatic and triggering content. To further ensure that personal safety is considered, the DIAP needs to address a client's right to be accompanied by a carer or support person, particularly in instances where decision-making may be necessary.

- Aligning with the principles of the UNCRPD, 'supported decision-making' is an important approach and skill for staff to understand and develop in order to more effectively collaborate with clients. In doing so, their will, preferences and rights can be justly applied in the decision-making process<sup>1</sup>. Decisions should be directed, contemplated, and determined by the person with disability, with the support of an individual or network of people trusted by the decision-maker who may assist in objectively evaluating the

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<sup>1</sup> Mental Health Coordinating Council 2016, 'Review Guardianship Act 1987 (NSW): Submission Question Paper 2: Decision Making Models', Sydney, Australia, Available from: <https://www.mhcc.org.au/wp-content/uploads/2018/05/nsw-law-reform-guardianship-act-1987-decision-making-models.pdf>

options and help interpret the information<sup>2</sup>. With support, the person living with disability is therefore presented the opportunity to exercise 'choice and control' and make decisions autonomously. MHCC therefore recommend that DoJ staff are trained to employ supported decision-making practices when working with clients who access their services. Similarly, the DoJ needs to convey their intention for individuals under guardianship and/or financial management orders, to have their involvement maximised and rights as equitably exercised in decision-making processes as possible.

- In developing an inclusive and accessible environment, the DIAP has overlooked the need to communicate strategies that meet the needs of persons from marginalised and diverse backgrounds. For example, when working with persons of diverse age, culture, and gender, it is recommended that clients are afforded a choice of worker based on the principles of safety, inclusion, and effective communication. Furthermore, cultural diversity considerations should be evident in the DIAP by way of presenting options for language interpretation and environmental accommodation or supports. Staff need to be trained to be aware of different cultural perceptions of mental health, illness and disability and how distress may be expressed or present uniquely according to culture.
- An additional component to consider in promoting accessibility and inclusion is addressing how time is managed to effectively engage with clients. MHCC recommends that the DoJ develop resources to assist both staff and clients to efficiently participate in working together. Examples include designing checklists consisting of pre-planning activities for future interactions with the DoJ, and the development of an easily accessible 'frequently asked questions' paper available on the DoJ website and in print form etc., which are targeted to address the needs of individuals living with physical, intellectual, psychosocial, and sensory impairments. Furthermore, in producing resources to accompany the services and programs offered by DoJ, producing these documents in Easy English formats will offer greater accessibility to a wider range of clients, as well as save time for staff in answering questions. The development of Easy Read resources will particularly benefit people living with mental health conditions who experience cognitive difficulties.

### 3. Supporting access to meaningful employment

#### **Issues or suggestions on how to embed inclusion and meaningful employment for people with disability in the Department of Justice.**

- To further improve the strategy of becoming an 'employer of choice', actively encouraging the participation of people living with disabilities to work for the DoJ would benefit from use of the Recovery-Oriented Language Guide (MHCC). The Guide can be used to foster an inclusive and welcoming workplace environment when writing job advertisements.

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<sup>2</sup> Mental Health Coordinating Council 2015, 'NSW Mental Health Rights Manual: An online guide to the legal and human rights of people navigating the mental health and human service systems in NSW (4th Edition) 2015', Sydney, Australia, Available from: <http://mhrm.mhcc.org.au/chapter-12/12a.aspx>

- In order to expand on Outcome 3.4 (p.18), new, innovative employment pathways and programs targeted toward individuals living with mental health conditions and psychosocial disabilities should be developed. Through this, a greater capacity for choice and control could be built, fostering meaningful employment and inclusion in the workplace. Active inclusion will additionally allow the DoJ to expand its diverse workplace acceptance and integration outcomes, and furthermore reduce stigma and discrimination in the workplace environment.
  - Fostering an inclusive and meaningful workplace may require the DIAP to express a commitment to collaborate with other relevant sectors in order to share knowledge and experience in a community of practice. Liaising in particular with NSW Family and Community Services and the NSW Ministry of Health will facilitate improved understanding of shared cross-sectoral issues regarding diverse groups and populations presenting with higher rates of mental health and psychosocial difficulties who may come into contact with the DoJ as potential employees as well as clients.
4. Improving access to mainstream services through better systems and processes.

**Issues or suggestions on how the Department of Justice can improve access to inclusive technology, services and information in the mainstream environment for people with disability.**

- MHCC propose that other organisations are more qualified to address this point. Nevertheless, we comment that acknowledgement should be made of the fact that many people living with disabilities, are not actively engaging with technology due to their socioeconomic status, social isolation and limited engagement with education, and their capacity to do so due to the impact of their condition.
5. Any other comments or feedback you would like to share with us?
- MHCC stress the importance of the assumption of capacity, unless proven otherwise, and for the rights of individuals to be supported to make their own decisions. Mental or physical vulnerability frequently increases the likelihood of things being 'decided for the person' without due consideration of what they might be able to do themselves, if appropriately supported. DoJ staff must also acknowledge the context of capacity determined, in that a person can be functional in one facet of life and less so in another.
  - The DIAP needs to update its set of principles (8.1, p. 30) to include the previous point, as the assumption to inform actions across all areas identified, in a more contemporaneous way reflective of 'recovery' and 'person-directed' principles. A culture of recovery is determined by the inherent strength and capacity of all people and represents an inclusive and positive force for engagement.
  - A Glossary section at the beginning of the DIAP defining key terms in the DIAP that align with the UNCRPD and recovery-oriented principles would greatly improve the development of positive community attitudes and behaviours and foster greater inclusiveness of individuals living with disabilities.

- The Glossary will serve to support actions and strategies, and mirror the culture being promoted in the DIAP. It will also serve to support staff in the DoJ to be mindful of the language they use in practice. Language can serve to minimise the potential that people feel patronised, stigmatised and discriminated against. The DIAP ideally will include provisions that staff are able to provide practical assistance to support a person make decisions, if they agree to that, as well as maximise inclusive engagement when it has been clearly determined that a person is unable to do so on their own behalf.

MHCC thanks the DoJ for the opportunity to participate in this review, and expresses its willingness to be involved in any future consultative processes.

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