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Policy & Delivery
NSW Fair Trading and Regulatory Services
Department of Customer Service
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Community Services Sector (Portable Long Service Leave) Regulation 2024

Mental Health Coordinating Council (MHCC) is the peak body for community-managed mental health organisations (CMOs) in New South Wales (NSW). We represent community-based, not-for-profit/non-government organisations who support people living with mental health challenges. MHCC provides policy leadership, promotes legislative reform and systemic change, and develops resources to assist community-based organisations build their capacity to deliver quality services informed by a human rights-based, trauma-informed, recovery-oriented practice approach.

We have completed the online feedback survey provided by the Department of Customer Services. Additionally, following the consultation held on 2 December 2024 when we were asked to put in writing our responses to the questions asked, we do this as well as make additional comments and questions in relation to the draft Regulations which we are keen to have more clarity on.

Elements of draft Regulation

1. Scope

Schedule 2 of the Regulation enables flexibility to add or amend services that should be covered by the new scheme or further clarified.

- *We are proposing to add services provided by community service sector peak bodies to the list of covered community services. Do you support this change?*
- *Are there any other services that you think should be added or amended by the Regulation?*
- We agree with the proposal to include community service sector peak bodies as part of the scheme. We also advocate that the funding provided to the peaks increases in line with the levied amounts.
- MHCC are concerned that Aged Care has not been included in the list of community services. Whilst we agree that residential facilities should not be included, there are many services that equate to those that are listed and provide similar services to those provided in a mental health/psychosocial disability context, such as services that provide home visiting and personal care, cleaning, social inclusion, and transport to appointments etc.

- Services providing information and resources to people such as WayAhead should be included in the list. The WayAhead Directory, operated by WayAhead, Mental Health Association of NSW, is an important online resource for people seeking mental health services and information. This comprehensive online database contains up-to-date information on over 5,600 mental health and community services, primarily in New South Wales.

The Directory is free to access for people living with a mental health condition, carers, service providers, health care professionals and the general public, promoting strong accessibility for anyone in need of supports. The Directory has been created from the response and needs of the people who use it and is continually updated to ensure all content listed is up to date and relevant. This initiative is an important community-based approach that empowers people to navigate the complex mental health service landscape in a user-friendly way. Streamlining access to resources and support cultivates an inclusive environment for those seeking help. WayAhead also run free information services such as the Mental Health Information Line to help connect individuals to appropriate resources, provide support and disseminate valuable information about mental health.

We recommend that this organisation be considered under the category Community Mental Health Support Services or Disability supports and services.

- Likewise, would a partially voluntary organisation GROW be covered by the list? It is a supportive community-based organisation that has developed a unique program for improving and maintaining mental wellbeing. They offer free weekly support groups held in various locations across Sydney, regional NSW, and the ACT. Grow Groups are mental health peer led support groups based on the Grow program and philosophy. There is also a residential rehabilitation community that offers a space where people can recover their mental and physical health, their belief in their own personal value, undergo drug referral, learn to live in community with others and establish habits that will support their transition to a full and purposeful life. There is also a residential accommodation that supports up to five residents as they prepare for independent living. This program should be rolled out broadly and expanded to meet the needs of priority groups, including First Nations people, CALD communities, and LGBTIQ+ SB communities.

We recommend that this organisation be considered under the category Community Mental Health Support Services or Disability supports and services.

2. Non-service days

Clause 5 of the draft Regulation would prescribe non-service days that protect a workers' registration and service credits from cancellation due to circumstances outside of their control.

- *Do you support the proposed non-service days in Option A? Or do you support the expansion of this list per Option B or C?*
- *Are there any other circumstances which should be considered as a non-service day?*
- MHCC is supportive of Option A and for B to be added but are not supportive of C.
- We would support volunteer disaster work during a natural disaster, and jury service.

3. Pro-rata payments

The draft Regulation would maintain limits on when a worker can access a pro-rata payment but it could be amended to provide for workers to receive an early cash pay-out.

1. *Do you think early pro-rata payments should be available if a worker has 5 years of service and is experiencing financial hardship or for compassionate reasons, under Option B above? Are there any other circumstances that we should consider?*
 - *If a worker has less than 5 years of service and faces medical retirement, should they be able to receive a pro-rata cash payout under Option C above? Are there any other circumstances?*
 - MHCC does not support an early cash pay-out.
 - We support the option in regulation not to be amended.

4. Returns

We are proposing that the Regulation maintains the quarterly reporting requirement for employers and contractors.

- *Do you think quarterly returns is an appropriate frequency? If not, what would be an appropriate frequency and why (including examples of costs that should be considered)?*
- MHCC supports Option B to implement a tiered reporting structure.
- We would suggest that an option of 6 monthly reporting rather than quarterly would be more manageable from an administrative perspective for most organisations.

5. Interest Rates

Clause 12 of the draft Regulation would set a moveable interest rate on overdue levies, with capacity for the Long Service Corporation to waive or reduce interest in special circumstances.

- *Do you think the proposed interest rate is appropriate? Why or why not?*
- MHCC is opposed to the use of interest to be paid on overdue levies. Since a penalty is already to be collected this seems excessively punitive.
- Option B suggesting a cost recovery model, simply to recoup the cost of processing unpaid levies and the interest foregone would be our preference as long as the cost is less than Option B.

6. Committee appeals

Clause 7-9 of the draft Regulation sets out how to make an appeal against an administrative decision of the Long Service Corporation, which will go to a dedicated sector committee. It also details how the committee must hear and determine any appeals.

- *Do you think 42 days with ability to extend to 6 months in exceptional circumstances will provide sufficient time? If not, what should apply instead and why?*
- MHCC agree that 42 days to extend to 6 months in exceptional circumstances is appropriate.

7. Miscellaneous elements

- MHCC understands that 'ordinary remuneration' does not include superannuation.

8. Question regarding other Regulations

- Further information is required to help organisations understand the administration of the old and the new long service leave regulations. That is, for organisations that have LSL accrued for employees, how is that managed when it comes to employees applying for LSL?
For example, an employee has 8 years' service as at 30/6/25. They go onto the new LSL arrangement from 1/7/25 and work an additional 3 years and then request to take LSL.
How is the payment processed and who pays what?

MHCC thanks the Department of Customer Services for the opportunity to participate in consultations and provide a submission outlining our concerns and perspectives. We express our willingness to participate in future discussions and look forward to working closely with the Department to discuss resources to support the sector in terms of communications and commencement of the scheme.

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Kind regards



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