16 September 2020

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Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
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Dear Commissioners,

Mental Health Victoria (MHV) welcomes this opportunity to provide feedback on the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Commission) issues paper on restrictive practices.

MHV is the peak body for the mental health sector in Victoria. Our members include consumer and carer groups, community health and mental health services, hospitals, medical associations and colleges, police and emergency services associations, unions, local governments, and other bodies across the health and related sectors.

Given the very serious mental health implications of restrictive practices, including seclusion and the various forms of restraint, we thank the Commission for identifying this issue for specific consultation.

In responding to the issues paper, MHV has focussed this submission on why restrictive practices are used – the structural and systemic drivers of restrictive practices – and how the use of restrictive practices can be prevented and avoided.

Restrictive practices are rarely used as a first or preferred option by clinical and mental health staff if an appropriate alternative support is available. Rather, restraint is often the decision made as a result of a raft of shortcomings in an over-stretched and under-resourced mental health system. As such, it is these underlying factors which must be addressed to affect meaningful change.

People with psychosocial disability, and people with concurrent disability and mental health issues, have particular vulnerabilities in relation to restrictive practices. Seclusion and restraint are often experienced as emotionally unsafe, disempowering and (re)traumatising. They may trigger suicidal ideation and feelings of anxiety, depression, rage, shame, betrayal, fear, and loneliness, thereby exacerbating risks for mental ill-health.

Beyond the direct effect of restrictive practices on mental health, restrictive practices also impact the integrity of the mental health system. Their use compromises the effectiveness of mental health treatments by amplifying power imbalances in therapeutic relationships which must be based on mutual trust and safety to function effectively. Restrictive practices have also been shown to impact the psychological wellbeing of staff who apply them.[1]

[1] Bonner G, Lowe T, Rawcliffe D, Wellman N (2002) 'Trauma for All: A Pilot Study of the Subjective Experience of Physical Restraint for Mental Health Inpatients and Staff in the UK', *Journal of*

From 2021 major reforms are expected following numerous state and federal Royal Commissions and other reform initiatives. MHV has made a number of submissions around the much needed reform of mental health services in Victoria, all with recommendations aimed at developing an appropriately funded, well-designed and effective mental health system. The recommendations made in our joint submission to the Royal Commission provide a foundational blueprint for reforming the mental health system.

Various reforms and initiatives, including the Commission's own work, provide a once-in-a-generation opportunity to take a strategic, whole-of-government approach to addressing the use of restrictive practices for people experiencing mental health issues. MHV therefore encourages the Commission to give particular consideration to how its recommendations on restrictive practices can cohere with and complement ongoing reforms in the mental health system.

Structural and systemic drivers of restrictive practices

Often, the use of restrictive practices in mental health settings is justified by invoking safety and risk management imperatives. However, it is important to recognise how systemic failures can create environments which are conducive to safety risks in the first place.

The mental health system is struggling from decades of underinvestment and a lack of long-term planning. As a result, the safe delivery of mental health services can be compromised by a range of factors including:

- untreated mental health and behavioural issues which lead to their exacerbation and, all too often, crisis
- inadequate access to community- and home-based approaches to care, including supports for carers, leading to unnecessary hospitalisations and involuntary treatment
- low availability of trauma-informed, recovery-oriented and person-centred models of care
- thin markets for specialist behaviour supports that focus on identifying and implementing holistic solutions to address behaviours of concern
- poor integration of mental health and related supports, leading to siloed approaches which cannot provide for whole-of-person needs
- exclusion or non-involvement of people with lived experience (both consumers and carers) in the design and evaluation of service delivery models, including safety and risk management protocols, leading to systems and decision-making processes which do not reflect the values and rights of the people they are designed for
- over-reliance on carers and families to support care recipients without adequate supports provided to help them discharge their roles
- low availability of adequately trained staff in mental health facilities to support people in crisis through least-restrictive approaches to care
- poor implementation of supported decision-making practices, including low uptake of advance statements, creating significant barriers to implementing crisis care in line with the wills and preferences of the individual
- ageing mental health infrastructure which is not built-for-purpose and can therefore exacerbate feelings of unsafety.

Psychiatric and Mental Health Nursing 9(4): 465–73; Fisher WA (1994) Restraint and seclusion: a review of the literature. *American Journal of Psychiatry* 15: 1584–91.

People experiencing mental health issues may also be subject to restrictive practices beyond the mental health system, including in facilities associated with other service systems such as disability care and aged care, and in home settings.

In particular, many people with mental health issues are subject to restrictive practices in criminal justice settings. People with mental health issues are overrepresented in the prison population with almost half of prison entrants (49%) having been told by a health professional that they have a mental health condition.[2] A lack of access to mental health supports is often a contributing factor to engagement with the criminal justice system, with the worst outcomes including indefinite detention in the absence of access to suitable forensic mental health services.

Facilitating access to appropriate mental health and behaviour supports is therefore essential for people with disability in all areas of life to prevent the exacerbation of mental health and behavioural issues and promote recovery.

In some cases, regulatory practices are insufficient to support the implementation of safe practices. In particular, inconsistent legislation pertaining to restrictive practices lead to variations in a person's rights according to their treatment setting, and confusion/lack of clarity for service providers and workers, contributing to inappropriate practices.

Recommendations

At this historic time, we can capitalise on the potential of the reform processes currently underway to address the structural and systemic drivers of restrictive practices. By ensuring that the mental health system is able to provide safe, effective and holistic care to people with mental health issues, we can avert the use of restrictive practices through systemic and long-term change. This must be accompanied by regulatory improvements to address current and ongoing practices.

To that end, MHV recommends that the Commission work closely with relevant mental health stakeholders and inquiries, particularly the Victorian Royal Commission, the Productivity Commission, the Australian Department of Health, and Primary Health Networks (PHNs) to ensure that its recommendations on restrictive practices cohere with ongoing mental health reforms.

In particular, Mental Health Victoria recommends consideration of:

- adequate resourcing for mental health services (including an appropriately sized and skilled workforce) to equip services to provide alternatives to restrictive practices
- reorientation of mental health service delivery to community- and home-based mental healthcare wherever possible
- better supports for carers to support care recipients in home environments
- active engagement of services with carers and family members including with regard to behaviour management planning and implementation of strategies
- development and expansion of trauma-informed, recovery-oriented and consumer-focussed models of care
- access to holistic, person-centred, wrap-around approaches that integrate and coordinate care across service systems
- market stewardship to increase the availability of positive behaviour supports

[2] Australian Institute of Health and Welfare (2015) *The health of Australia's prisoners 2015*. Canberra: AIHW.

- embedding of co-design approaches in government policy and service design and delivery, including for people with lived experience and from diverse backgrounds
- improved training for mental health practitioners, as well as carers and family members, on trauma-informed, recovery-oriented and consumer-focussed care, as well as de-escalation and debriefing techniques
- efforts to support culture change and leadership buy-in to facilitate top-down, whole-of-organisation commitments
- expansion in supported decision-making supports, including capacity-building supports for consumers to develop advance statements, and supports for practitioners to implement them
- trauma-informed and culturally safe designs of new mental health facilities to ensure they are purpose-built to provide safe and therapeutic environments for all
- access to safe and therapeutic mental healthcare for people in residential facilities, including group homes, residential aged care facilities and criminal justice settings
- reviews of legislation which regulate restrictive practices with a view to improving uniformity and ensuring close regulatory scrutiny of restrictive practices.

MHV again thanks the Commission for the opportunity to contribute to this vital piece of work, and welcomes any further opportunity to provide more detailed advice.

For further information on this submission, please contact Larissa Taylor, Director of Policy, on (03) 9519 7000 or l.taylor@mhvic.org.au.

Sincerely,

Larissa Taylor

Director of Policy

Mental Health Victoria