

28<sup>th</sup> November, 2003

The Director  
Standing Committee on Social Issues  
Parliament House  
Macquarie Street  
Sydney 2000

Dear Sir or Madam,

Thank you for providing the Mental Health Co-ordinating Council (MHCC) with the opportunity to contribute to the inquiry into the Inebriates Act 1912. MHCC is the state peak body for non-government organisations (NGOs) working for mental health throughout NSW. MHCC represents the views and interests of over 100 NGOs in the formation of policy and acts as a liaison between the government and non-government sectors. MHCC member organisations provide services and support for people who have a disability due to mental illness. In addition a number of our member organisations specialise in the provision of services to people who have a mental illness and alcohol and/or drug dependence.

MHCC strongly supports the benefits and value of reviewing the effectiveness of the Inebriates Act 1912 and welcomes the opportunity to contribute to the development of comprehensive and effective legislation and guidelines in this important area.

### Comments

- MHCC supports the view that alcoholism and drug addiction are health problems rather than criminal offences and which, consequently, need to be managed by a continuum of care and treatment in the health system rather than being dealt with by the criminal justice system.
- There is a wide range in the degree of severity of alcohol and drug abuse problems. It is unrealistic to expect that one type of treatment program or setting will be appropriate for everyone who needs treatment and support. MHCC supports the development of a comprehensive and integrated network of services, which could provide detoxification, treatment and rehabilitation programs, which are responsive to individual needs. It is essential that non-government organisations providing community based services and support are included in the network of services.



*Working For  
Mental Health*

Mental Health  
Co-ordinating Council

PO Box 668  
Rozelle, NSW 2039

Phone: (02) 9555 8388  
Fax: (02) 9810 8145  
Email: [info@mhcc.org.au](mailto:info@mhcc.org.au)  
Website: [www.mhcc.org.au](http://www.mhcc.org.au)

- MHCC supports the inclusion of compulsory treatment for people with severe alcohol and drug abuse problems who are a serious risk to themselves or others. However, it is crucial that compulsory treatment, when necessary, is utilised as part of the comprehensive and integrated service network. (as above) It is strongly recommended that compulsory treatment is used as a last resort and that the therapeutic and protective rationale for its use is made clear. As stated above, alcoholism and drug addiction are health problems. Compulsory detention should not be viewed as being similar to imprisonment under the criminal justice system
- MHCC recommends the repeal of the Inebriates Act 1912 as its provisions and usage do not provide the degree of care and management that is needed by people who are chronically substance dependent. Further, there are currently no appropriate facilities, which can provide a secure environment as stipulated in the Act.
- If the Inebriates Act were to be replaced with the Intoxicated Person's Act, the latter would need to be amended. Currently under the Intoxicated Persons Act the Police can either release the person into the care of a responsible person or can hold the person in an authorised place of detention. An authorised place of detention is identified within the Intoxicated Persons Act as a police station or a detention centre within the meaning of the Children (Detention Centres) Act 1987. Previously it also included Proclaimed Places, however these services can no longer detain an intoxicated person. Police cells and detention centres are not appropriate places in which to detain someone who is intoxicated. The person needs to be in a health care facility, which is staffed by health care workers who are trained to safely care for someone who is intoxicated, going through detoxification or who may also have a mental or other illness. The Intoxicated Persons Act, therefore needs to be amended to allow for detention and compulsory treatment in a health care facility. If this were to happen, MHCC would support section 8.60 of the Communique from the NSW Parliament Alcohol Summit 2003, which advocates the urgent establishment of state-wide intoxicated persons services as a means of providing appropriate health care facilities in which intoxicated persons can be safely detained and treated.
- There is, however, a philosophical argument regarding whether drug and alcohol problems are actually mental health problems, and, as such, should be treated under the Mental Health Act (as, for example, is the case in the United States of America.) Further discussion and consultation aimed at reaching agreement regarding this issue needs to be carried out prior to a decision being made to replace the Inebriates Act with an amended version of the Intoxicated Persons Act or an amended version of the Mental Health Act. There is currently a review being carried out of the Mental Health Act 1990. This would, therefore, be an ideal time to consider the relative merits of combining these two areas under the Mental Health Act. It could be argued that, as the people who would be covered by this legislation are people who are at risk of causing serious harm to themselves or others, the Mental Health Act would be appropriate. If an amended version of the Intoxicated Persons Act were to be used, it would be essential that the intoxicated persons services have close links with clinical mental health services and non-government community based mental health services so that people identified as having mental

health problems could receive the mental health treatment and rehabilitation they need. In either case it will be essential that adequate resources and staffing are allocated for the comprehensive network of services that will be necessary, and that staff receive the training and support needed to enable them to provide skilled assessment, detoxification, treatment, support and rehabilitation for the full range of clients who will need their services.

- Further detailed consultations need to be held with a wide range of stakeholders to consider issues such as: appropriate criteria for the identification of people who require compulsory treatment; a workable definition of intoxication; appropriate methods of assessment of intoxicated persons; guidelines relating to the length of time that a person should be detained for detoxification and treatment; training and support for staff in all areas of the assessment, detoxification, treatment and rehabilitation network; special needs of people in rural and remote areas; and special needs of Aboriginal communities and other cultural groups.
- There also needs to be further detailed consultations with a wide range of stakeholders to develop a whole of government approach to the issues of ongoing treatment and support, supported accommodation and partnerships with non-government organisations.
- MHCC is particularly concerned about the treatment of people who have a dual diagnosis of mental illness and drug and/or alcohol dependence. These clients do not usually receive the holistic treatment and care that they need. Mental Health services do not adequately treat the person's drug and alcohol problems, while Drug and Alcohol services do not adequately treat the person's mental illness. In some cases the situation is worse in that the client finds it impossible to access treatment at all. The reason for this is that staff in mental health services contend that their service is not appropriate for the client, as the drug and alcohol problem needs to be treated before they can treat the person's mental illness. At the same time staff in drug and alcohol services contend that they cannot provide treatment for the drug and alcohol problems until the client has received treatment for the coexisting mental illness. Thus the client "falls through the cracks" in service provision and does not receive the treatment and care that is urgently needed. The inadequacy of appropriate, holistic services for people with dual diagnosis causes much distress for clients, their families and the community at large. Substance abuse is a major contributing factor in people with mental illness becoming violent and engaging in criminal behaviour. Extensive evidence relating to this issue was presented during the Legislative Council Select Committee Mental Health Inquiry into Mental Health Services in NSW 2002. The submission to the Inquiry by the Victorian Institute of Forensic Mental Health highlighted the correlation of mental illness and substance abuse with violent offences. The Institute found that the level of violent offences committed by persons with mental illness increased significantly when the person also had a substance abuse problem. For example, people with schizophrenia who also had problems with substance abuse, were over 18 times more likely to have had a conviction for violent offences, and over 28 times more likely to be convicted of homicide, than people with schizophrenia who did not also have a problem with substance abuse. A similar pattern occurs for people with affective disorders. Unfortunately the incidence of people affected by both mental illness and substance abuse is high. In 2002 the Australian National Council on

Drugs estimated that as many as three quarters of all clients with drug and alcohol problems have a coexisting mental illness. The Council also estimated that a similar percentage of people with mental illness misuse alcohol and drugs. These figures are supported by the results of a 2002 Queensland study of young patients admitted to hospital with psychosis. It was found that 70% also had a current substance use disorder. It must be noted that the Burdekin Report identified a similarly high incidence of comorbid mental illness and substance abuse, together with a similar correlation with convictions for violent crime in 1993. This evidence is contained in the Final Report of the Legislative Council's Select Committee on Mental Health Inquiry into Mental Health services in NSW 2002. (pp167-186.)

- As can be seen from the above information, the issue of inadequate service provision for people with dual diagnosis has been a major problem with many serious ramifications for a considerable time. MHCC strongly supports the allocation of increased funding and resources to facilitate the expansion and improvement of a range of services for people with substance abuse problems, including people who also have a mental illness. The benefits of improvements in services to individuals, their families and the community would be substantial. It would also be cost effective, as funding appropriate early treatment of alcohol and drug problems leads to later savings in the health care and criminal justice systems.

If you would like to clarify any points raised in this submission, please do not hesitate to contact Ann MacLochlainn on (02) 9555 8388.

Thank you for considering this feedback.

Yours sincerely

Jenna Bateman  
Executive Officer  
Mental Health Co-ordinating Council