

11 November 2015

Our ref H&D – 2

The Honourable Ms Leanne Linard MP
Chair, Health and Ambulance Services Committee
Parliament House
George Street
BRISBANE QLD 4000

By email to: [REDACTED]

Dear Chair

Submissions - Mental Health Bill 2015

Thank you for the opportunity to present at the Health and Ambulance Services Committee's Public Hearing on the *Mental Health (Recovery Model) Bill 2014* and the *Mental Health Bill 2015* ("the Bill").

At the Public Hearing on 28 October 2015 the Honourable Dr Rowan MP stated at page 4¹:

"Just as a follow-up question, under the current legislation, the Mental Health Act 2000, in your submission you talk about that having a more humane consideration."

The Honourable Dr Rowan MP then invited the Society to answer the following three questions on notice:

1. *Is there anything which can be potentially rolled over from the Mental Health Act 2000 into the new Bill which would address this?*
2. *Is the Mental Health Act 2000 working well?*
3. *Are there any further enhancements that need to be brought into the new legislation to address that?*

¹ Transcript accessible at <http://www.parliament.qld.gov.au/documents/committees/HASC/2015/B1-MH-RM-B2015/02-tp-proof-28Oct2015.pdf> on 11 November 2015.

Our feedback is as follows:

1. *Is there anything which can be potentially rolled over from the Mental Health Act 2000 into the new Bill which would address this?*

It is our view that the forensic order provisions in the *Mental Health Act 2000* (“MHA”) should be retained as the provisions provide a humane way of protecting the community and the patient from mental illness.

The current MHA recognises that a patient is a person. Thus the MHA forensic order provisions allow the patient the same protection from their illness as everyone else, by providing for an order informed by the patient’s needs.

The proposed legislation unfortunately moves away from the humane consideration. This leads to an unintended consequence that discriminates against the patient. As the proposed legislation is based on different principles to the current MHA, the Society considers that inserting the “humane consideration” into the proposed legislation will not do enough to address this concern. Rather the Society is of the view that the forensic order provisions in the current MHA be retained so that the humane consideration continues to apply.

The Society also considers that the current MHA provisions which make it mandatory for psychiatric reports to be prepared for people subject to involuntary orders and charged with criminal offences continue to apply in the new Bill.

2. *Is the Mental Health Act 2000 working well?*

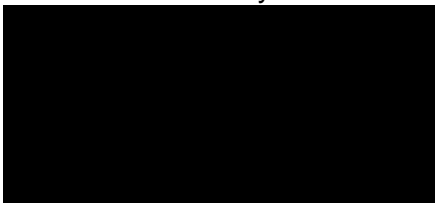
In broad terms, the experience of our members is that the MHA provisions, particularly the current MHA forensic order provisions recognising the humane consideration, are working well. The orders are designed to protect the community, including the patient, from illness and provide the patient an opportunity for recovery.

3. *Are there any further enhancements that need to be brought into the new legislation to address that?*

Please refer to our comments at item 1 above.

Should you have any queries in this matter, please do not hesitate to contact the Society’s Policy Solicitor, Ms Louise Pennisi on [REDACTED]

Yours faithfully



Michael Fitzgerald
President