



NSW Consumer Advisory Group – Mental Health Inc.
ABN 82 549 537 349

24th November 2010

Mr David McGrath
Director, Mental Health Drug and Alcohol Office (MHDAO)
NSW Department of Health
73 Miller Street
North Sydney NSW 2060

CC: Karin Lines, Executive Director, Adolescent Health, Drug & Alcohol and Mental Health Services, NSW Justice Health

CC: Marlyn Sciberras, Clinical Governance, Mental Health Drug and Alcohol Office

Dear David,

Re: Systemic issues relating to forensic consumers

Recently the NSW Consumer Advisory Group – Mental Health Inc. (NSW CAG) completed a submission to the NSW Law Reform Commission (NSWLRC) on '*People with cognitive and mental health impairments in the criminal justice system.*' As the peak body representing consumer's views, NSW CAG welcomed the legislative review of the way people with mental illness interact with, and are affected by, the criminal justice and forensic mental health systems.

To inform our submission, NSW CAG conducted several consumer consultations, including

- Forensic consultations with 35 consumers from Morisset and Cumberland Hospital;
- A community consultation with 13 consumers (which included some consumers with the experience of the criminal justice and the forensic system); and
- Network consultation via a questionnaire which resulted in 16 responses

As part of celebrations for Mental Health Month, NSW CAG also recently visited and spoke with forensic mental health consumers at Long Bay Hospital.

Throughout this process, it was brought to our attention that there are a number of systemic issues within the forensic mental health system which need to be addressed to improve the treatment, care and support received by forensic consumers. NSW CAG felt that this was a good opportunity to raise these issues for your consideration. The issues raised relate to:

- The approach which currently underpins forensic mental health services, and the need to change the focus to a system underpinned by the philosophy of recovery;
- Problems associated with bed blockages in both the community and the forensic mental health systems;
- The impacts of the acute orientation of the public mental health system;
- The inappropriate housing of forensic consumers and involuntary patients under the Mental Health Act together in forensic settings; and
- The food options, particularly at Long Bay Hospital, which are contributing to many physical health problems including considerable weight gain, diabetes and cholesterol problems.

These issues are explored in detail below.

1. Philosophy of recovery to underpin forensic mental health services

Forensic mental health consumers are frequently faced with the difficulty of being placed in an unsupportive environment which does not adequately address their mental and physical health needs. Feedback from forensic consumers indicates that

- They are often threatened to be sent to prison if they do not comply with rules and regulations set by the forensic service. This is a non-therapeutic approach to providing care and support for people who experience mental illness which does not facilitate positive outcomes.
- There are limited activities provided by the service, which many forensic consumers find to be non-productive or meaningless. Some forensic consumers have indicated that they are involved in washing staff cars as a group activity. Meaningful activities should be about improving self worth, esteem and personal satisfaction, promoting healthy lifestyles and enhancing wellbeing.
- Many forensic consumers are held in gaol until a forensic mental health bed is made available, which can exacerbate the symptoms of mental illness. For some mental health consumers, this wait has extended to years. These environments are punishment oriented and do not support the consumer on their journey of recovery.
- There are limited and unbalanced food options which are centred on carbohydrates such as rice and pasta. The poor emphasis on providing a balanced diet for consumers in conjunction with certain medications is leading to considerable weight gain for many forensic consumers, particularly at Long Bay Hospital. This issue has led to poor self esteem, and increased physical health problems with cholesterol and diabetes. These services must focus on providing holistic care which supports the consumer to make healthy food and lifestyle choices, and meets both their physical and mental health care needs.

NSW CAG strongly believes that the forensic mental health system must now move towards providing a health focused system which is underpinned by the philosophy of recovery. NSW CAG has heard that recovery oriented service provision is about supporting consumers to live a meaningful life, being symptom free or having control over their symptoms, healing, being able to participate in the community, taking responsibility, having good relationships, having a positive identity, being able to share experiences and stories, making certain life adjustments, overcoming stigma and discrimination, understanding one's illness, knowing how to stay well, having goals, having a healthy lifestyle, and living

with or without mental illness. What this looks like will be different for each individual, and the system must be flexible to meet the different needs of each person.

At a recent visit to Long Bay Hospital, a forensic consumer spoke to a NSW CAG representative about his experience of having mental illness. The forensic consumer indicated that he had “come to terms” with the fact that he would never “recover” from mental illness or be symptom-free which had been the focus of his treatment and care. He explained that life for him now was just about learning to live with the illness and manage his wellbeing to the best of his ability, and enjoying life. When the personal philosophy of recovery was explained to him, he was relieved to know that other consumers had come to the same conclusion, and also disappointed that he had spent so much energy and focus on eradicating his symptoms, rather than living a meaningful and fulfilling life.

In our core work, NSW CAG has heard that services need to “hold the space” for consumers on their recovery journey, with the expectation that if a person hasn’t yet begun their recovery journey, the service will be ready when they are. This in effect provides hope for the consumer and provides goals for moving through the system, both of which are recovery oriented. To support this, NSW CAG advocates that there is a range of step up and step down support options which enable forensic consumers to move to higher and lower levels of care which matches their health needs. This is quite different from step up and step down models of care based on security, which builds on notions of risk rather than recovery.

Other options to progress recovery oriented service provision in the forensic mental health system include:

- The provision of activities which focus on skill development
- Addressing the punitive staff culture to ensure that health, treatment and care are the priority of service delivery
- The provision of options for recovery and empowering consumers to have hope for the future;
- The provision of continuity of care to support reintegration into the community; and
- Embedding the concept of least restrictive care.

Most importantly, it must be recognised that the consumer has ownership over their recovery journey, and the role of services is to support them on this journey.

While a more recovery focussed approach is being implemented with the forensic hospital at Long Bay, work needs to be done to implement this approach within the other forensic services in NSW.

2. Bed blockage

Movements through the forensic system

While the removal of the Governor’s Pleasure¹ has improved the flow of forensic mental health consumers out of the system, consumers still face difficulty in progressing to less secure settings due to the fact that there are limited or no beds available for their transition.

¹ Governor’s Pleasure – Governor’s being given the power by the Crown to detain, release or pardon people held within the criminal justice system, including forensic consumers.

This blockage occurs from high to medium security, medium to low security; and low security into the community. This causes a considerable amount of unnecessary stress for consumers who are forced to remain in a higher security setting knowing they are well enough to be moved to a less secure setting. This concern is anecdotally supported by staff working within the system.

NSW CAG has heard that consumers also face difficulties in gaining access to housing once they leave the forensic mental health system. To be considered for conditional release, many forensic consumers have to prove that they have access to stable accommodation. However, many fail to establish stable housing due to the perceived risk that they pose to the community. This causes considerable blockages within the system and prevents people from moving into least restrictive care.

To address these issues, NSW CAG advocates for a priority for capital works to be the establishment of community based residential facilities for forensic consumers, as well as for NSW Health to inform and build a working relationship with Housing NSW to enable forensic consumers to secure housing in the community. We further advocate for the scoping of HASI packages specifically for forensic consumers.

Custodial settings

Bed blockages in the forensic system also mean that many forensic consumers are held in correctional facilities until a bed becomes available within the forensic mental health setting. Within the 2007-2008 financial year, approximately one sixth of people who had been found not guilty due to mental illness and exonerated from criminal responsibility in NSW were detained in correctional facilities (NSWLRC 2010, p.199). For many, the experience of being held in these custodial environments further exacerbates their symptoms and prolongs the ability to recover from their acute stage of illness:

“You are told you’re not guilty because you were not well but you are kept in jail until there is a bed available in the forensic system. You are in a situation where you are trying to get better and progress through the system but you are not able to in jail. In Silverwater we were in lock down for 18 hours”.

Forensic Consumer, NSW CAG Consultation, June 16th 2010

NSW is one of only few jurisdictions in the western world that places forensic patients within the precincts of a correctional facility, and under the authority of correctional staff (NSW Legislative Council Select Committee on Mental Health 2002, p.250). Our core work indicates that custodial settings are the most harmful and inappropriate environment to send someone who experiences mental illness because:

- Correctional settings are a criminal response to a health matter;
- Mental health care needs such as case management and plans are often not available;
- Skills and experience of custodial staff of meeting the needs of people who experience mental illness are severely limited;
- Lack of air, sunlight and restricted clothing can exacerbate symptoms;
- As an environment, prisons are non-therapeutic, exacerbate the symptoms of mental illness and prolong recovery;
- Detention in correctional facilities do not provide a stable environment for the treatment, care and recovery of those who experience mental illness;

- Recovery programs are limited; and
- Stigma and discrimination towards people living with mental illness by other prisoners is prevalent.

NSW CAG strongly advocates that the above issues illustrate the need for investment in an expansion of forensic mental health beds which are available in NSW. NSW CAG acknowledges that the opening of the forensic beds Bloomfield may assist in alleviating some of these issues.

NSW CAG's recommendations:

- 1. Ensure that strong step up / step down facilities are available within the forensic mental health system**
- 2. That bed blockage issues are addressed to reduce and where possible eliminate the need to house forensic mental health consumers in custodial settings.**
- 3. That community housing for forensic consumers is a priority for capital works.**
- 4. That work is done to scope HASI packages for forensic consumers.**

3. Acute orientation of the public mental health system

Through NSW CAG's consultations, forensic consumers expressed strongly that accessible recovery oriented care, treatment and support provided in the community when they needed it could have prevented and/or reduced the risk of offending behaviour. Many forensic consumers indicated they were aware that they were becoming unwell but could not gain access to the early intervention support needed to prevent their index offence.

"I went to the hospital shortly before what happened, told them I was suicidal, but they wouldn't listen. Then I called up Lifeline, then they got the cops out – but I was released. Had they kept me in a bit longer I wouldn't be here [in a forensic facility] today. I think they should have said 'since you're suicidal we'll keep you here for a bit longer against your will'. Not to keep you for three days and kick you out when you're unwell".

Forensic Consumer, NSW CAG Consultation, June 16th 2010

Consumers indicated that the crisis-orientation, lack of non-government community mental health services (particularly in rural and remote areas); high case loads for staff; under-staffing and inadequate discharge planning processes combined have created gaps in continuity of care; follow up and share care arrangements in the community. From the perspective of forensic consumers, this puts them at greater risk of coming into contact with the criminal justice setting due to not being able to access services and support at the time where they need it the most.

We are aware that this is an issue not just for forensic consumers, but across the whole system for all consumers. We are further aware that addressing the gaps in community services needs to be undertaken at a state level rather than through Justice Health.

NSW CAG's recommendation: Enhance public and non-government community mental health services which focus on early intervention and prevention focused care within the community.

4. Housing of forensic consumers and involuntary patients under the Mental Health Act together in forensic settings

Another issue expressed by forensic mental health consumers is being placed in the same facilities as involuntary patients who are held under the Mental Health Act. Forensic facilities are considered to be an 'end of the line' resort for difficult-to-manage involuntary patients, due to the lack of suitable services for this population. This poses much disadvantage to forensic consumers as staff attention and service provision is regularly diverted to meet the needs of involuntary patients. This causes an unnatural balance of power when conflict arises between the two populations as forensic consumers are threatened to be sent back to prison and forced to regulate their emotional reactions. It has been expressed by several forensic consumers that involuntary consumers can 'act out' without any additional threats as there is no where else for them to go. Staff have also indicated to NSW CAG that a lot of their time is taken up to address the needs of involuntary patients.

"As a forensic consumer, being sent back to prison is used as a threat. If you stuff up they threaten that they will send you back to a prison, but if you are a CT (involuntary) patient, you won't get sent anywhere, as this is the last resort for them."

Forensic Consumer, NSW CAG Consultation 2010

"Some patients are more stable. It's hard to be around others who are less stable; it is not good for our mental health. We are mixing with people who are very unwell – a lot of programs are designed for people who are very unwell but not us - but we still have to do these programs. We have to complete these programs to get out but the CT (involuntary) patients don't need to and still get out."

Forensic Consumer, NSW CAG Consultation 2010

In NSW CAG's view, the current framework which operates as a one-size-fits-all approach for both groups is inappropriate, ineffective and neglecting the competing needs of both involuntary patients and forensic consumers.

NSW CAG calls for the allocation of resources for involuntary patients with high needs to be provided with care, treatment and support in a separate inpatient facility to forensic consumers so that the system can be more adequately tailored to meet the needs of each group. This would free up the forensic mental health system to remove bed shortages which currently block movement which matches the level of restrictive care required for each individual. We are aware that with the current health reform all forensic facilities will come under the management of the Forensic Mental Health Local Health Network. With this move, we are further aware of plans to consider the situation of the individual involuntary consumers currently located at forensic services and find alternative treatment services that are more appropriate for their needs. NSW CAG supports this work as an important priority.

NSW CAG's recommendation: That separate facilities be provided for involuntary patients under the Mental Health Act, allowing for these consumers to be relocated to alternative environments and which can ensure that the unique and competing needs of forensic consumers and involuntary consumers are more adequately met.

5. Unhealthy food options impacting on physical health care of consumers

During NSW CAG's recent visit to Long Bay Hospital for Mental Health Month, forensic consumers were deeply concerned about poor food options provided to them by the contracted catering company, PPP Solutions. Not only was there concern about the lack of food options, but that most of the meals were heavy in carbohydrates (particularly rice and pasta), and low in protein. While consumers have the opportunity to request an alternative meal, this usually consists of sandwiches or bread which is also high in carbohydrates. Consumers indicated that their speedy weight gain was not only contributing to poor self esteem, but also resulting in physical health problems associated with high cholesterol and problems with diabetes. This was particularly distressing for people who are on medications such as Clozapine, as the provided diet was seen as an additional contributing factor to their speedy weight gain. Many indicated that this was severely impacting on their mental health.

While PPP Solutions is responsible for the catering contract for Long Bay Hospital, NSW CAG strongly urges that NSW Health work to ensure a more balanced diet with options is provided for consumers within these settings.

NSW CAG's recommendation: That NSW Health and Justice Health ensure that forensic consumers are provided with a range of food options which meet a balanced diet.

NSW CAG is aware that NSW Health is developing a new forensic mental health policy to ensure that the needs of forensic mental health consumers are more adequately met. We hope that this feedback can be incorporated into this policy.

NSW CAG is committed to ensuring that all mental health consumers experience fair access to quality services which reflect their needs. NSW CAG looks forward to hearing from MHDAO regarding these key issues and to working with you to improve services for forensic consumers.

Please do not hesitate to contact me with any enquiries you may have.

Yours sincerely,

Karen Oakley
Executive Officer

References

Legislative Council Select Committee on Mental Health (2002) 'Inquiry into mental health services in NSW: Final report', NSW Parliament, Sydney