



victorian refugee  
health network

**July 2021**

## **Mental Health Reform Engagement: Mental Health and Wellbeing Act** Submission from the Victorian Refugee Health Network

The Victorian Refugee Health Network (the Network) commends the Department of Health's dedication to promoting mental health and wellbeing for all people in Victoria, as displayed in the development of the new Mental Health and Wellbeing Act (the Act). In particular, the Network commends the Department of Health's commitment to adopting a social determinants approach which embraces a commitment to promoting conditions that reduce inequalities and acknowledgement that these inequalities have flow-on effects on mental health and wellbeing. However, we believe that determinants of health that particularly impact refugee and asylum seeker communities are often overlooked in policy, as is the case in the development of this Act. As such, we have provided comment on how the Act can be strengthened to capture refugee and asylum seeker mental health and wellbeing. We have only provided comment where relevant to us and so Questions 9-12 have not been addressed.

### **Points for feedback about objectives and principles of the new Act**

*Question 1: Do you think the proposals meet the Royal Commission's recommendations about the objectives and principles of the new Act? If not, why?*

We believe that the objectives and principles of the new Act broadly meet the Royal Commission's recommendations. **In line with recommendation 5 of the Royal Commissions report, we welcome the commitment to ensuring people living with mental illness can access a diverse mix of treatment, care and support, and that service providers and people working in the system will be able to collaborate and coordinate to provide more integrated and holistic treatment and care. However, we believe that the recommendations addressed by the Act are too narrow.** We understand that the purpose of the Act is not to address every Royal Commission recommendation and that some recommendations are more appropriately addressed through other policy instruments. However, we do believe that to ensure the Act works in tandem with future implementation of Royal Commission recommendations, considerations must be broader than the recommendations outlined in the engagement paper. At present, the Act claims to address recommendation 42(2)(a) and 56(1). However, there are broader recommendations that should be considered in the development of the objectives and principles of the Act. For example:

- Recommendation 15 includes supporting good mental health and wellbeing in local communities through the creation of 'community collectives' for mental health and wellbeing in local government areas. **This community-based approach to mental health and wellbeing is not captured in the aims and objectives of the new Act.**

- Recommendation 41 includes addressing stigma and discrimination through the design and delivery of anti-stigma programs. However, **the Act does not address this as part of its principles and objectives.**

*Question 2: How do you think the proposals about objectives and principles could be improved?*

The objectives and principles of the Act could be improved in the following ways:

- **By being more specific around the use of the term ‘diversity’.** The Act acknowledges ‘diversity-related needs and experiences’ but this is very vague. Diversity is not a category for a distinct and separate group of people, rather a defining characteristic of a broader community (like the Victorian community). As such, groups who experience disadvantage and specific barriers to accessing mental health services (like refugees and people seeking asylum) must be specifically mentioned. The Act broadly addresses these in the context of the ‘range of circumstances that influence mental health and wellbeing’ but this must be more specific and include diversity factors such as: visa status; language spoken at home; experiences of trauma; differing levels of health literacy; and diverse models and frameworks of understanding health and mental health. All of these factors can be barriers to accessing mental health services and should be considered when developing more accessible mental health and wellbeing services.
- **By broadening the recognition of the impact of experiences of trauma,** which was a significant theme of the Royal Commission report. In addition to adding this to the list of diversity factors (as above), the Act could add ‘traumatic experiences’ to the list of circumstances that influence mental health and wellbeing mentioned in proposed Principle 10.
- **By being more specific around what ‘diverse mix of treatment, care and support’ looks like.** The Act mentions ‘access to a diverse mix of treatment, care and support’ but is not specific in what these supports look like. There are specific recommendations from the Mental Health Royal Commission Report (such as community collectives mentioned earlier) that could be included here.
- **By acknowledging that interpreters are a core part of ensuring good practice in mental healthcare.** We know that access to qualified mental health interpreters is limited. As part of improving access, it is important that interpreters are: sufficiently funded; trained in mental health; included as key parts of the mental health clinical team.
- **By explicitly mentioning improved coordination and collaboration.** Diversity of treatment, care and support also requires improved coordination and collaboration between different services, and this is outlined in the Mental Health Royal Commission recommendations. It also requires all patients to have equal access to the diverse treatment, care, and support options available. It is important that the commitment to improving collaboration and coordination, as articulated in the Royal Commission recommendations, is reflected in the Act.
- **By acknowledging the importance of ensuring the diversity of refugee and asylum seeker communities is reflected in the workforce.** Best practice health promotion includes ‘workforce mutuality’ which, in this case, requires refugee, asylum seeker, and migrant communities to see themselves reflected in the workforces that serve them. Workforce mutuality standards have been developed by Health West and can be accessed [here](#).
- **By including the mental health workforce.** What is notably missing from the objectives and principles of the Act is ensuring that the mental health workforce is sufficiently supported to deliver mental health services. This should be incorporated into the Act’s objectives and

principles and should incorporate ensuring sufficient training, funding, and debriefing support for the mental health workforce to ensure the system remains sustainable.

### **Points for feedback about non-legal advocacy**

*Question 3: Do you think the proposals meet the Royal Commission's recommendations about non-legal advocacy? If not, why?*

We believe that the proposals for non-legal advocacy broadly meet the Royal Commission's recommendations. However, we believe that there are other recommendations that could be considered in addition to recommendation 56(2) that put forward creative solutions to ensuring access to non-legal advocacy. One example is **recommendation 6 which suggests ensuring that people can access services through referrals as well as by promoting and co-producing a website that provides clear, up-to-date information about Victoria's mental health and wellbeing system, and collaborate with funded non-government helpline services to improve helpline connections with services.** Non-legal advocacy could be mentioned on this website and could be a referral pathway from helpline services.

*Question 4: How do you think the proposals about non-legal advocacy could be improved?*

The Royal Commission report found that not all consumers are aware of the availability of advocacy support or able to access it. This Act aims to introduce non-legal advocacy as an opt-out service to encourage usage. However, it may be worth considering if better communication about the possibility of accessing non-legal advocacy may reflect a rights-based approach that provides individuals with mental ill-health the autonomy and agency to access non-legal advocacy if they so wish.

If the Department of Health decides to maintain non-legal advocacy as an opt-out approach, it is vital to ensure that:

- **Choice to opt-out is communicated clearly to those accessing services.** For refugees and people seeking asylum, this requires: acknowledgement of the power inequalities that can exist between service providers and communities; communication requirements such as access to interpreters; a high level of health literacy; and trusting and accepting of an advocate. These factors cannot be assumed to exist for refugees and people seeking asylum. Hence, the opt-out model may be perceived intrusive and punitive.
- **Advocates are sufficiently trained on how to support refugee and asylum seeker clients and understand the nuances required in advocating on their behalf.** This includes ensuring advocates are sensitised to the specific issues pertaining to refugees and asylum seekers. These can include: the impacts of trauma on individuals and families; family separation; low health mental health literacy; poor understanding of the Victorian health systems; and psychosocial disadvantage. It is essential advocates understand impacts of their potential advocacy on visa applications and visa status for people seeking asylum and how these may be perceived by refugees and asylum seekers. It is also vital that advocates have access to interpreters when working with refugee and asylum seeker clients and that interpreters are trained to support advocates.

### **Points for feedback about supported decision making**

*Question 5: Do you think the proposals meet the Royal Commission's recommendations about supported decision making? If not, why?*

We believe that the proposals for supported decision making broadly meet the Royal Commission's recommendations on this approach. However, we believe that there are other recommendations that could be considered in addition to recommendation 56(4) that put forward creative solutions to enabling supported decision making. One example is recommendation 42 which suggests working in partnership with and improving accessibility for diverse communities by developing digital technologies to support the delivery of language services that assist access to and engagement with mental health and wellbeing services. **We believe that digital technologies could be used to enable supported decision making, particularly for communities where English is not their first language (like many refugee and asylum seeker communities).**

*Question 6: How do you think the proposals about supported decision making could be improved?*

Supported decision making is based upon a high level of health literacy and requires effective communication with individuals to provide the information needed to make informed choices. Amongst refugee and asylum seeker communities, there are varied levels of health literacy, English is often not a first language, and frames of reference may not be a Western legal and / or biomedical one. This incorporates often very low levels of mental health literacy and minimal knowledge of mental health systems in Victoria. It is therefore critical to ensure communication is culturally relevant and translated and adaptable to the diverse needs of refugee communities. For example, the Act references supporting service providers to ensure consumers receive a statement of rights on entry to the service; this must be culturally relevant and appropriate and translated into relevant languages. However, even more important is communication about what a Statement of Rights is and the implications for the person and their family. This needs to incorporate the possible past experiences of trauma inflicted by authorities and incarceration or detention.

### **Points for feedback about information collection, use and sharing**

*Question 7: Do you think the proposals meet the Royal Commission's recommendations about information collection, use and sharing? If not, why?*

We believe that the proposals for information collection, use and sharing broadly meet the Royal Commission's recommendations around data collection and information sharing. However, we believe that there are other recommendations that could be considered in addition to those stated in the Act. For example:

- Recommendation 34 mentions working in partnership with and improving accessibility for diverse communities which includes collecting, analysing, and reporting on data on the mental health and wellbeing of Victoria's diverse communities for planning and funding purposes and to improve transparency in mental health and wellbeing outcomes for diverse communities. **However, collecting, analysing, and reporting on data for diverse communities is not mentioned in the Act.**
- Recommendation 49 mentions monitoring and improving mental health and wellbeing service provision by measuring the effectiveness of mental health and wellbeing services from the perspectives of consumers, families, carers and supports. **However, there is no mention in the Act of any feedback loops or opportunities for data to be used to enable ongoing improvement of services.**

*Question 8: How do you think the proposals about information collection, use and sharing could be improved?*

We were pleased to see the inclusion of information collection, use and sharing in the Act. This is in line with our submission to the Mental Health Royal Commission. **However, this could be further strengthened in the Act through the inclusion of:**

- **Demographic data** (including preferred language) in data collection to enable continuous quality improvement, particularly for communities who face specific barriers to accessing mental health and wellbeing services.
- **Measurement of health and mental health outcomes** in a way that identifies needs and gaps, and thus inform health service planning.
- **Clear guidelines on information sharing** that ensures individuals cannot be identified, and clear communication of these guidelines to service users. This is particularly relevant for refugee and asylum seeker communities, especially those on precarious visas where data breaches could have a detrimental impact on their safety.
- **Communication and transparency on data sharing.** It is important that there is transparency on how individual data will be used and who will have access to it. This information should be available in both plain language English, and in relevant languages. It is also important that this information is communicated in a way that is both culturally safe and relevant for refugee and asylum seeker communities.

In addition, the Act mentions adopting a consent driven approach. However, it is important to ensure that consent is informed, and this requires effective communication of information, as outlined in Question 6 above.

### **Points for feedback about governance and oversight**

*Question 13: Do you think the proposals meet the Royal Commission's recommendations about governance and oversight? If not, why?*

We believe that the proposals for governance and oversight broadly meet the Royal Commission's recommendations. However, we believe that there are other recommendations that could be considered in addition to the recommendations stated in the Act. For example:

- Recommendation 6 addresses improving access through better health promotion activities and cross-referrals. **The oversight function of the Act should specifically address collaboration and coordination between services with regards to health promotion, collaboration, referrals, and other activities that require coordination.**
- Recommendation 58 suggests improving workforce capabilities and professional development by defining the knowledge, skills, and attributes required of a diverse, multi-disciplinary mental health and wellbeing workforce, and developing a Victorian Mental Health and Wellbeing Workforce Capability Framework. This recommendation is not mentioned in the Act and should be considered in its development.

*Question 14: How do you think the proposals about governance and oversight could be improved?*

The Royal Commission report found that there is inadequate system level support and accountability in the mental health system. Currently, the system lacks an overarching framework to address diversity, access, and equity across the service delivery landscape. There is broad commitment to improving this in response to the report, however this is not captured in this Act and should underpin its development. Fundamentally, collaboration and coordination are vital to ensuring that the mental system meets the needs of everyone living in Victorian, but particularly those without Medicare who often fall through the cracks in the current mental health system. It is therefore **important that the**

**Act incorporates reform to governance, oversight, and accountability in the mental health system to ensure the system holistically meets the needs of everyone living in Victoria in an equitable and accessible way.**

Another key component to effective governance and oversight **is the development of safety and quality measures that enable measurement of successes and failures.** As a result, the Act **should capture the importance (and requirement) of data collection and integration to be used to enable continuous quality improvement.** While there is a complaint process mentioned in the Act, it is important that these complaints result in improvement and action. In the long-term, this will decrease the burden on clients having to make complaints and decrease the number of complaints that need to be processed as the system reforms and becomes more responsive to people's needs.