

27 January 2019

Royal Commission into Mental Health Establishment

Department of Premier and Cabinet
1 Treasury Place
Melbourne
Victoria 3002



Dear Premier,

The Federation of Community Legal Centres is pleased to make this submission regarding the terms of reference for the Royal Commission into Mental Health (the Royal Commission).

The Federation of Community Legal Centres (the Federation) represents over 50 community and Aboriginal legal centres across Victoria. Community legal centres are grassroots organisations with strong connections to our communities. Each year our centres provide legal advice and representation to thousands of Victorians and their families who are doing it tough. Through the work that our centres do, we see the profound impact that systemic injustice has on the mental health of our communities.

'Loneliness' – measured by rates of suicide, depression, feelings of isolation and exclusion from society – is fast becoming the leading cause of death in western nations including Australia.¹ The communities we work with are among the most marginalised and excluded people in Victoria and are disproportionately represented in this statistic. In a context of unparalleled levels of inequality, where the wealth of the richest 1 percent in Australia continues to grow, while our communities are pushed into homelessness, unemployment, poverty and prison- we are seeing multiplying mental illness rates among the people impacted by these injustices.

Most people will suffer from a mental health challenge at some point in their lives. It is often the very fact of the injustice that our communities are experiencing that causes, or contributes to the mental health problems. It is clear that exclusion or marginalisation from society will impact upon the mental health of people. If you belong to a certain racial or religious group for example, and

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¹ Matthews, T., Danese A., Caspi, A., Fisher, H., Goldman-Mellor, S., Kupa, A., Arsenaault, L... (2019) *Lonely young adults in modern Britain: Findings from an epidemiological cohort study* Doi.org/10.117/S0033291718000788; Holt-Lundstad, J., Smith, T., Baker, M., Harris, T., Baker, M., Harris, T., & Stephenson, D.. (2015) *Loneliness and social isolation as risk factors for mortality: Perspectives on Psychological Science* doi:10.1177/1745691614568352; Relationships Australia; *Is Australia experiencing an epidemic of loneliness? - Findings from 16 saves of the Household Income and Labour Dynamic of Australia Survey (Working Paper)* (September 2018)

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experience targeted and consistent discrimination (including from authorities or the State)- this would understandably impact upon your mental health.

For some of our centres, up to 60 per cent of the people they support experience mental health challenges. For our specialist mental health legal centre, all of the people they support have a mental illness. For many, an experience of mental illness is one of many vulnerabilities they may experience at that time, resulting in a cluster of legal problems that are complex to resolve.

This Royal Commission into Mental Health comes at a critical time, when our prison population is expanding at alarming rates and nearly half have a diagnosed mental illness.

We are keen to provide insights from our member centres and their communities. We encourage the Royal Commission to look broadly into mental health and related issues across our society and look at system wide solutions.

1. Ranking themes in order of priority that are the most important focus areas for the Royal Commission into Mental Health

The list of themes provided in the Royal Commission's survey on the terms of reference contains many critical areas the Federation believes should be a focus of the Royal Commission.

Ranking the priorities may be useful tool for generating discussion and conversation about people's experience and concerns with our mental health system. However, we urge the ranking system not to be used to narrow the terms of reference to a few issues that appear to be commonly identified as top priority. The strength of the Royal Commission will depend on its ability to look at the system as a whole and provide recommendations that deliver system wide reform.

Additionally, the Royal Commission should be cautious of reading too much into the ranking of priorities it may receive through the online survey. Ranking in order of priority may distort the interconnected relationship of many of the areas. For example, how can early intervention be ranked compared to suicide prevention, when each theme is component of the other. Ranking can also seemingly lower the significance of critical issues which impact fewer people (even though the impact of these people may be more severe)- an example of this may be the relative ranking of forensic mental health services.

All the themes the Royal Commission has listed are significant, deserve investigation and should be expanded on.

2. Additional themes that should be included in the terms of reference for the Royal Commission into Mental Health

The Federation believes the Royal Commission is an opportunity to look at the mental health system as a whole.

The themes listed for the drafting of the terms of reference tend to focus on services and service delivery. It would be beneficial to extend the themes to look at the entire mental

health system and its impacts and interaction with our community to create systemic change.

The following areas should be considered as part of a system-wide review of how to improve the lives of people who experience mental health challenges and their families in our community.

Communities who experience marginalisation

The Royal Commission should ensure it looks at the diverse experience of groups within our State and provide particular focus on communities which experience marginalisation. It is imperative that the Royal Commission look to the experiences of people in the AOD community (as already identified), however, there should also be a focus on:

- Aboriginal and Torres Strait Islander peoples
- Young people
- Seniors – especially seniors in aged care facilities
- LGBTIQ communities
- Culturally and Linguistically Diverse Communities including the needs of new arrivals
- People reliant on income support (including a focus on the experience of women and single mothers in particular)
- People involved in the criminal justice system
- People experiencing homelessness
- Family violence victim/survivors
- Children in the child protection system

The Royal Commission should include these communities in the terms of reference. While it would be possible (and at times it may be appropriate) to consider the impact on these communities within broad themes of the Royal Commission, to fail to provide specific terms of reference for these communities risks marginalising them or overlooking their particular needs.

The participation of these communities, particularly people who themselves have experience of mental health issues or had to navigate the system on behalf of others will be crucial. Consideration should be given to prioritising these experiencing and exploring options of peer to peer support.

Some issues that should be considered in the report include:

- The impact of racism, homophobia and other forms of discrimination and marginalisation on people’s mental health;
- Access to culturally appropriate mental health services;
- Whether people are excluded from services they need because of their age, particularly for older Victorians;
- The experience of elderly parents who care for adult children who have been diagnosed with mental health illness, including the services to support older carers and any risks to carers, such as family and elder abuse;
- Issues around the intersection of cognitive impairment and mental health support – for example, is a person with dementia who has mental health issues able to

access the support they need or does cognitive decline or disorders limit their access to support.

Corrections System and Incarceration

The Royal Commission should investigate why almost half of our prison population have been diagnosed with a mental health disorder.² To investigate this will require looking at the system as a whole, and in particular, how the prison system contributes to, or causes the mental illnesses evident in the prison population. Deep rooted socio-economic, political and structural issues contribute to the uptake of the prison population, which in turn, contributes to the mental health issues for people in prison.

A large number of the adult prison population have already engaged with the youth justice system. When people are criminalised as children, (experiencing immense abuses and trauma within that system itself) their opportunities to flourish are curtailed, whilst their experiences of being subjected to marginalisation, inequality and mental health challenges grows.

The Royal Commission should investigate:

- Why are so many of the prison population experiencing mental health illnesses and how has the prison system contributed to this?
- How has the marginalisation of communities experiencing disadvantage contributed to the increase in the prison population and subsequent mental illness statistics?
- One in four people entering our prison are homeless³ – given the high prevalence of mental health issues experienced by people who are homeless – what relationship is there between homelessness, mental health illnesses and imprisonment?

Apart from the impact of the prison system upon the mental health of people, the Royal Commission should also investigate:

- why people with mental illness are in prison, what offences do they commit? Are there some laws that disproportionately impact on people who experience mental illness/homelessness and marginalisation?
- Are people spending significant periods of time on remand when they could be on bail with tailored mental health support? Are people spending significant periods on remand in prison when they should be receiving care at Thomas Embling Psychiatric Hospital?

Given the high rates of people with a diagnosis of mental illnesses in prison, the Royal Commission should investigate the experience of people who experience mental health in prison and actively involve and prioritise the experiences of people who have been or are in the prison system.

Frontline response and policing

The Royal Commission should explore how mental health crises are dealt with. Frequently police are the first responders to people experiencing a mental health crisis.

² Australian Institute of Health and Wellbeing, '[The Health of Australia's Prisoners 2015](#)' (27 Nov 2015).

³ Ibid.

However, for people in crisis, particularly those with past experiences of trauma or members of communities with traumatic experiences of police interactions, police presence may cause or heighten anxiety and trauma.

The Royal Commission should examine:

- What are the experiences of our Aboriginal and Torres Strait Islander, LGBTIQ and CALD communities in situations of police attendance during crises' and how does this contribute to the mental health challenges experienced by these communities?
- How can frontline services responses to mental health call-outs be improved to ensure cultural safety and minimise trauma?
- What are families and carers experience of first responders and police? Are families confident when they call for support? Or do families hesitate calling frontline services for fear the response may escalate the situation or cause harm to their family member?
- What impact does police transportation of a person to hospital have on a person experiencing a mental health crisis, including their willingness to engage in future treatment?
- Are emergency departments the best place for a person who is experiencing mental health crisis? What is that experience like for a person experiencing a health crisis? Are there more appropriate settings?
- What are best practices overseas and in other jurisdictions?

Further the Royal Commission should consider the human rights of people who have been diagnosed with a mental illness and how well our current legal system works to support and protect these human rights, including:

- Coercions and compulsory treatments, and its impact on people who experiences vulnerabilities, particularly elderly people.
- The processes within the Mental Health Tribunal and the provision of legal representation

Integration of services

One of the suggested themes for the Royal Commission include the integration of alcohol and other drug services and mental health services should be considered. This is a significant issue, particularly if considered in the context of the prevalence of dual diagnosis and the effect dual diagnosis may have on accessing services.

The integration of services should not be limited to alcohol and other drugs, but take a holistic approach to the intersection between mental health and other services, including:

- Housing services
- Social Security
- National Disability Insurance Scheme
- Child protection
- Family violence support services
- Prison services

Stable and affordable housing is an issue for too many Victorians who experience mental illness. Without addressing the need and access to housing, the ability to access support and other health services are compromised.

The Royal Commission should:

- Examine the availability of safe, supported and linked-in housing options for people with mental illness and communities at risk, such as older people and communities who are marginalised.
- The links between housing options and wellness, the impact of poor quality housing, rooming housing, on people's ability to be well.
- Examine the impact of the social security system on people who have experience of mental illness, how easy is it to navigate, how does the system impact on their health and wellness.
- Examine in detail the interconnection with the National Disability Insurance Scheme and making it easier for people to navigate and avoid slipping through the cracks.
- Examine how to enhance the prevention and early intervention of abuse by the provision of more accessible mental health services for alleged perpetrators and victims of abuse including examining the development of education and service pathways via which family members can access mental health treatment for someone close to them, taking into account the complexities associated with family abuse (abuse should be broadly defined, including family violence, elder abuse and other forms of non-intimate partner family violence).
- Consider recommendations that assist people access services, by reviewing the interplay between services and addressing siloed service delivery that can leave people vulnerable to falling through the cracks.

Additionally, there is substantial overlap between people who have experience of mental illness and have experiences of family violence and/or childhood sexual abuse. The Royal Commission should consider the intersection with the Royal Commissions into Family Violence and Institutional Responses to Sexual Abuse.

Prevention and early intervention should be broadly defined

Prevention and early intervention may appear as a high priority for many people from the themes listed. Early intervention makes sense as it may prevent issues spiralling out of control. However, early intervention should not be misinterpreted in the terms of reference as one intervention. Intervention early in a person's experience of mental health illness should not be limited to a view of prevention, but to also provide life-long support to a person with mental health needs. The Royal Commission should:

- Separate prevention and early intervention into different terms of reference and broadly define the terms of reference;
- Investigate the experience of receiving a diagnosis and the immediate and ongoing impact a diagnosis has on a person's wellness, including issues of stigma, anxiety and access to services.

Also, prevention should be broadly defined to look at the causes of mental illness and our responsibility and responses as a society to protect and support people. Causes may include:

- Experiencing of trauma and how institutions support people who have experienced trauma;

- Experiencing or witnessing family violence;
- Experiences of homophobia, racism, other discrimination, isolation and marginalisation from mainstream society; and,
- Impact of poverty on mental health and social connectedness.

3. Comments and suggestions

How the Royal Commission engages with communities who are marginalised will be integral to the success of the recommendations and their implementation.

The Royal Commission should actively engage diverse communities and people who have personal experience to facilitate their participation in the Royal Commission. Particularly plans should be in place to engage with Aboriginal communities, Culturally and Linguistically Diverse communities, LGBTIQ, young people, older Victorians, and people in prisons. We expect the Royal Commission will ensure people in regional Victoria are able to participate and hearings are held in multiple locations.

The approach taken by the Royal Commission into Institutional Responses to Child Sexual Abuse has been applauded by those who were engaged in that Commission. Witnesses to this Commission were able to give oral evidence one-on-one with a Commissioner. A support person was present and critically ongoing wellbeing and legal support was provided after the hearing. Such support should be culturally appropriate, particularly for Aboriginal families.

Funding and support for communities who experience disadvantage should be provided for the explicit purpose of facilitating members of these communities with lived experience to participation in the Royal Commission.

Consideration should be given for how a person is able to provide evidence in a safe and confidential environment, particularly within institutional settings. This would include best practice of if and when it is appropriate to have a carer or support person present.

Thank you for this opportunity to provide input to the terms of reference for the Royal Commission into Mental Health. Should you require any further information you can contact myself, or our Senior Adviser Michelle Reynolds on michelle.reynolds@fclc.org.au or 03 9652 1501. We look forward to participating in the Royal Commission.

Yours sincerely,



Belinda Lo

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