3 July 2019

Mental Health Royal Commission Establishment
Department of Premier and Cabinet
1 Treasury Place
Melbourne VIC

To Whom It May Concern

First Step Legal submission to the Royal Commission into Victoria's Mental Health System

First Step welcomes the Royal Commission into Victoria's Mental Health System as a critical catalyst to improve the lives of people experiencing mental illness, their families and carers.

About First Step

1. First Step is a not for profit mental health addiction clinic in St Kilda that is co-located with First Step Legal, a pro-bono and low cost community legal centre located in St Kilda. The clinical and legal teams work collaboratively with clients to address interrelating legal and health problems by assisting them to develop positive life strategies. At First Step, we are committed to addressing the inequity experienced by the most disadvantaged and vulnerable members of the community and welcome the Royal Commission as a critical catalyst of change to Victoria's mental health system.

2. Most of First Step's clients have come from extraordinarily difficult starts in life, including severe poverty and neglect, out of home care, childhoods marred by emotional, physical and sexual abuse, juvenile incarceration, lack of positive role models and early school leaving. We know that experiences such as these give rise to significant trauma and a lack of connection and identity, which is not conducive to sound mental health and can be the catalysts for drug use, with more pronounced mental illness, often leading to self-harm and suicide.

3. It is now more commonly appreciated that mental health issues often present co-morbidly with drug addiction, and vice versa. When this is

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compounded with unemployment, homelessness and physical health issues, a more nuanced and specialist approach to treatment is required.

4. First Step's model is based on Whole-Person-Care. Nowhere else in Victoria, or Australia, can a person come to one site, free of charge, and receive support and services from an addiction medicine specialist, a GP, psychologist, mental health nurse, and lawyer, all of whom collaborate in their care. We are strong believers that wrap around services that facilitate interconnection between varying disciplines, in a compassionate and non-judgemental environment, where the client is respected and supported is fundamental to breaking the cycle of illness, addiction and self harm.

5. In view of the above, we make this submission through the lens of an integrated and connected service model and based on the key themes of the Commission's questions that are relevant to our service model – prevent, treatment and support.

6. It is clear that Victoria needs an overarching, whole-of-government policy response that works to address the underlying causes of mental illness and suicide through a coordinated and collaborative service provision design and execution.

7. We advocate that what is truly needed is systemic reform that centers on interconnected and wrap around service provision and is based on person-centred and evidence-based design and evaluation. We see that sustained effectiveness will only be realised through targeting the underlying causes of mental illness and bridging the evidence gap on what, in fact, is effective in reducing and preventing stigma, discrimination, mental illness and suicide – as well as providing necessary treatment options and accessibility.

> *'First Step nurtured me and catered for my every need and supported my mindset regardless of whether I thought I needed help or not. They were always professional and courteous, always calling to check up on me and accommodating me to the best of their ability. Very highly trained in dealing with at risk patients. They managed to get my legal issues sorted which is a whole other story, but the legal team are amazing, can't speak highly enough about them… always kept faith and believed in me which helped stimulate self-motivation for myself. My life has changed because of you guys and I'm out there living 9-5*

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normality that is all so comforting and manageable. Thanks for bringing choice back into my life'. - **Penny**, First Step Client

Preventing mental illness / suicide and supporting people to get treatment early

Prevention

8. The referral to and subsidisation of mental health treatment and support services assists the community to access early and preventative mental illness supports. These services work well to link people with other support services, including specialised services that are designed to tailor services to particular groups in the community or types of illnesses.

9. Work focused on improving nutrition, housing, access to education; reducing economic insecurity and harm from addictive substances, while strengthening community networks is key to reducing mental illness.[1] Early intervention programs that address risk, facilitate protective factors and are targeted at child populations at risk of developing mental illness in the future have been amongst the most successful programs in prevention.[2] Preventative strategies work best when they are appropriately adapted to local conditions, including cultural considerations, and are evidence-based.

10. First Step Legal advocates for the promotion of integrated interventions with a multidisciplinary and multilevel (psychological, social, familial and legal) approach as a means to treat and support people with mental illness. This includes dual diagnosis services that combine mental health support with addiction services and incorporate legal services to assist people with mental illness respond to and resolve a legal problem, which is often intertwined with, exacerbating, causing or can lead to mental illness. This model acknowledges that the onset of mental illness is often precipitated by the presence of social, environmental and economic determinants. Preventative mechanisms that are developed through intersectional linkages such as between scientific disciplines, professional groups, and policy makers and by involving the public can lead to more effective

[1] World Health Organisation, Prevention of Mental Disorders – Effective Interventions and Policy Options, Summary Report (2004), pp 24 – 26.
[2] World Health Organisation, Prevention of Mental Disorders – Effective Interventions and Policy Options, Summary Report (2004), pp 28.

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prevention. This extends to all areas of public policy that connect – from health, education, justice, housing and employment services.

Improvements needed

11. Investment is required in intervention supports that address the relatively larger group of individuals in our community who live with diagnoses with sub-acute[3] mental health needs. Properly funded programs, including outreach that addresses psycho-social and medication needs. Training for people performing mental health care roles should be improved, with adequate resourcing of mental health facilities to deliver treatment for individuals with dual diagnosis. This extends to increased funding for existing dual diagnosis organisations to deliver increased services to the community. In this regard, Victoria's negotiation with the Commonwealth on the NDIS should extend to exploring how early intervention service providers can be better supported to deliver much needed services to the community, particularly by expanding funding eligibility to people with dual diagnoses and addition, which is currently not funded. Where this is not available under the NDIS, requisite service delivery needs to be provided by the state system.

12. The Crisis Assessment and Treatment team should be centrally organised, with dispatch services occurring in a coordinated manner and informed by information sharing to and across dispersed Crisis Assessment Treatment teams. The current structure of catchment specific services reflects a lost opportunity for services to be informed by available data, leading to fragmented service provision and individual experiences not being considered holistically and with an appreciation of an individual's escalated behaviours, for example.

Diversion as prevention to mental illness onset and exacerbation

13. Our experience shows us that it is imperative to move away from notions of treating mental illness, addiction and criminal behaviour separately. As they so often present co-morbidly they are interrelated and need to be treated holistically.

[3] Those who do not require hospitalization such as those experiencing depression, schizophrenia, personality disorders, bi polar affect disorder, ADD, ADHD (whether on its own or in conjunction with addiction).

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14. The link between poor mental health and imprisonment is well known. We refer to the experience of First Step client, Steven to highlight the interconnection between trauma, mental illness and crime:

15. Steven[4] is [redacted] years old and came to First Step Legal seeking help for a total of 48 charges, including driving while drug impaired, trafficking methamphetamine and possession of cannabis. Steven was raised by a single mother and without a father. He reported being a "wild child," having been prescribed Ritalin at the age of four. Steven described his school years as isolating – he was unable to socialise with other kids and suffered bouts of depression. He knew he was gay [redacted] but resisted coming out in fear of stigmatisation until a number of years later. Steven self-medicated with drugs, using his mother's prescribed OxyContin for her chronic back pain, and was then diagnosed with bipolar affective disorder [redacted] although he did not receive adequate treatment. By his early 20s, Steven was addicted to opiates and methamphetamine and dealing to fund to his addiction. He had attempted suicide twice with numerous attempts at self-harm and told us he always thought he would never live beyond 26.

16. Over his time at First Step, Steven was treated with a combination of medical and clinical interventions. Our in-house specialist general practitioner and our credentialed mental health nurse supported him while our legal team worked to represent his interests. He was medicated appropriately for his bipolar affective disorder and supported in his detox from drugs. We facilitated his engagement in the supportive and therapeutically focused Assessment and Referral Court. At every hearing, Steven was supported by a First Step Legal lawyer. After [redacted] Steven's matters were finalised, with a disposition that discharged his charges in recognition of his circumstances. This meant Steven would have no criminal record. Today, [redacted] Steven is clean and drug free. He lives with his dog in a flat [redacted] and works part-time. He has joined a gym and feels optimistic about the future.

17. Steven's story is one that illustrates trauma, crime and mental illness at play. It tells us that through a multidisciplinary approach and appropriate diversion, it is possible to address the underlying causes of

[4] Not his real name.

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crime and treat mental illness and addiction, with a view to improving people's capacity to contribute to society in a meaningful way.

18. In 2015, the Australian Institute of Health and Welfare reviewed the health and wellbeing of prisoners. That review exposed that almost half of prison entrants (49 per cent) had been told by a health professional that they have a mental health disorder. More that 27 per cent reported being on medication for a mental health disorder at the time of their receipt into custody.[5] We also know that when people enter prison, they leave to face a recidivism rate of over 43 per cent,[6] perpetuating the cycle. This tells us that mental illness is a driving force to crime or that it, at least, has a relationship to crime.

19. More opportunities for diversion should be built into all stages of the criminal justice process, with a focus on mental health, inclusive of addiction, intervention. Less serious offences that are often linked to mental illness, such as shop theft and other property offences, some driving offences, drug possession and small trafficking charges, should be diverted to a therapeutic court. This will provide the needed opportunities to address underlying mental health and addiction issues that present as contributing factors to crime and connect the person to community support. In addition, the Commission should serve to reinforce key conclusions and recommendations made by other review mechanisms, such as Justice Coghlan's recommendations arising out of the review of Victoria's bail system. This extends to considering the role current bail laws play in perpetuating the cycle of crime. These laws fail to recognise and address the underlying causes of crime, which is often mental illness.

20. Consideration should also be given to abolishing the crime of public intoxication. As highlighted by Dr Tim Read, Greens in Parliament earlier this year, it has been over 28 years since the *Royal Commission into Aboriginal Deaths in Custody* recommended that governments

[5] Australian Institute of Health and Welfare, The health of Australia's prisoners – Mental health of prison entrants, 2015.
[6] The Sentencing Advisory Council, Released Prisoners Returning to Prison, 1 February 2018, https://www.sentencingcouncil.vic.gov.au/statistics/sentencing-statistics/released-prisoners-returning-to-prison.

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abolish the offence of public drunkenness and instead create and fund sobering up centres.[7] Despite this, Victoria retains the offence.

21. Sobering up centres not only provide an alternative to police cells and conviction, but connect a person with key support services to address alcohol-related problems, such as addiction developed to deal with mental health issues. Victoria's Safe Injecting facilities, which have been celebrated for its efforts in facilitating healthcare to clients including a quarter of its clients requesting alcohol and other drug treatment,[8] should inform a policy response to public intoxication.

22. A protocol should be developed between Victoria Police and the Department of Health and Human Services to prioritise keeping child offenders, particularly those who may have a mental illness, in a caring environment and outside youth detention centres.

23. Treatment programs for low-level offenders with mental illness should be created that allow for charges against the individual to be dropped upon successful completion of the treatment program. This will allow an appropriate form of punishment that meets community expectations, with appropriate recognition of underlying causes to crime. The Work and Development Permits policy program administered by Fines Victoria could inform the development of such a program.

24. The Assessment and Referral Court intake should be expanded to include people who intend to plead not guilty on the grounds of mental impairment so as to link people to needed services at an early point in the criminal justice process. Alongside this, the court's functions should be extended to all suburban courts. Also expanded generally in all suburban courts or in Melbourne to meet demand for crimes committed in other locations.

25. Eligibility requirements for the Assessment and Referral Court should be reviewed to ensure they sufficiently address mental illness and particularly, the probability that mental illness is present in co-mordid

[7] Hansard, Victorian Parliament, *Public Intoxication Strategy*, Legislative Assembly, Tim Read (GRN), 5 March 2019, http://hansard.parliament.vic.gov.au/isysquery/270a32fc-4fc0-426f-a2d2-ee40c526f4d9/1/doc/.
[8] Minister for Mental Health, Media Release – Saving More Lives and Making North Richmond Safer, 20 April 2019, https://www.premier.vic.gov.au/saving-more-lives-and-making-north-richmond-safer.

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presentations of addiction. Supporting this, increasing resourcing should be provided to facilitating formal mental health diagnosis to occur before trial so as to enable necessary referrals to the Assessment and Referral Court. The Judicial College of Victoria should develop necessary resources and guidance to support the recognition of mental illnesses other than acute Axis 1 mental illnesses and for mental health illnesses and disorders to be given appropriate weight during court proceedings and sentencing.

Service provision

26. Service provision needs to be delivered through a whole-of-government, integrated and holistic model.

27. We draw on the experience of First Step client, Amanda,[9] to demonstrate the strength of a holistic, integrated and multidisciplinary service delivery model.

28. Amanda is a mother of a six-month-old child, and was referred to First Step Legal by her Care Co-ordinator at First Step Clinical after her drug-affected ex-partner threatened her with a weapon. Amanda is also the victim of emotional and psychological abuse and there was an intervention order in place, prohibiting family violence and the use of drugs around her and the child. Amanda initially attended the St Kilda police station to report breaches of the order.

29. First Step provided a holistic service to Amanda, which included:
    - assisting her in dealings with the police
    - providing a referral to Safe Steps, which placed Amanda her into a refuge
    - explaining to Amanda her legal safeguards and rights in terms she understood
    - providing family violence legal support in court
    - negotiating repairs to the Department of Health and Human Services' housing property that were caused by family violence to ensure Amanda's return from the refuge was to a safe and secure place
    - providing family law support in facilitating an appropriate access arrangement between Amanda's child and their father. Amanda

[9] Not her real name.

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was supported to consider steps that would keep her and her child safe.

- engaging Amanda in our Mental Health program, which included providing specialist supports from our Mental Health Nurse, Care Co-ordinator, General Practitioner and Psychologist, who all worked in connection with our legal team to strengthen the sustainability of the outcomes developed with Amanda.

30. By providing Amanda with holistic supports, she was assured that her medical and legal needs would be taken care of in a personalised manner and with her whole of life circumstances in mind. The sustainability of the outcomes facilitated were strengthened through a person-centred and integrated approach, which involved working with Amanda to empower her to take control of her life.

31. In addition to providing holistic, person-centred supports, access to drug and alcohol rehabilitation facilities should be increased to ensure there is no gap between detox and rehabilitation, whether residential or community based. This includes facilitating the necessary resources to accommodate demand and developing the necessary processes to coordinate planning and delivery to people in need.

32. As far back as 2006, the Australian Institute of Criminology was reporting increases to the levels of drug and mental health issues affecting those in the Victorian remand population.[10] Since changes to Victorian bail laws in 2014, the amount of people held on remand in a Victorian correctional facility have increased by 130 per cent, [11] and in March 2019, a total of 3166 people were being held on remand. [12] Yet, the remandee population receives limited health services.

33. Appropriate resourcing is needed to provide those who have entered the criminal justice system with necessary mental health supports as both a prevention and treatment. This resourcing is needed to address the significant delays in accessing mental health assessments, diagnosis, medication and treatment. Increasing intervention opportunities for remandees to access therapeutic facilities and

[10] Sarre, R, King S & Bamford D 2006. *Remand in custody: critical factors and key issues*. Trends & issues in crime and criminal justice no. 310, Canberra: Australian Institute of Criminology, http://aic.gov.au/publications/tandi/tandi310.
[11] Chip Le Grand, Bail laws leave accused waiting months in jail, The Australian; Canberra, A.C.T, 3 September 2018: 6.
[12] The Sentencing and Advisory Council, Remand and Sentencing, 13 May 2019, https://www.sentencingcouncil.vic.gov.au/projects/remand-and-sentencing

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treatment programs while on bail should sit along side service additional in-correctional service provision.

34. Consistent with the Victorian Ombudsman's recommendation,[13] investment should be made in secure therapeutic alternatives to prison for people found unfit to stand trial and/or not guilty because of mental impairment under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic). Priority should be given to service gaps identified in the Ombudsman's report *Investigation into the imprisonment of a woman found unfit to stand trail*, October 2019 and the Victorian Law Reform Commission's 2014 report.[14] This should be resourced alongside investment in Forensicare to improve the availability of mental health treatment facilities in the correctional system.

35. Prison release programs should be sufficiently resourced and expanded so that a person released from prison receives person-centered services. This will see caseworkers with appropriate expertise providing link-up services and liaison to a range of community based supports that will be tailored to addressing the person's needs from the day of release. This extends to the ability to draw on safe transitional housing, which at present is a significant barrier to parole eligibility, with 80 per cent of applications being declined on the basis that there is no appropriate housing in place.

Suicide prevention

36. It is recognised that mental illness is a precursor to suicide. As such, the observations made above will also apply to the prevention of suicide.

37. There is a significant lack of evidence that indicates what, overall, works well in suicide prevention. In 2013, the National Mental Health Commission pointed to some effective single interventions that work to reduce the risk of suicide. It found that the programs most effective

[13] To the Minister for Housing, Disability and Ageing and the Minister for Mental Health / the Victorian Government; *Investigation into the imprisonment of a woman found unfit to stand trail*, October 2019.
[14] Victorian Law Reform Commission, *Review of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*: Report (2014).

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were those that were systemic in nature and incorporated a coordinated approach across multiple interventions.[15]

38. Given there is a very high chance that survivors of suicide attempts have not attended a mental health service at all,[16] this means extending prevention strategies to other areas of the community and all levels of government. Whereas, the Commonwealth Department of Heath's 2014 evaluation of suicide prevention activities, reported that a number of projects, particularly those with an individual or community focus, led to demonstrated improvement in resilience and wellbeing, and minimised risk factors associated with interpersonal and school functioning, self esteem and personal behaviour strengths.[17]

39. Insights into the effectiveness of existing suicide prevention interventions appear to be limited due to an absence of data to demonstrate that suicide has in fact been prevented, as a result of a specific program/s, and that the results of such programs can be sustained.

40. A key gap is the lack of interconnectedness in service provision across varying support services provided to survivors of suicide attempts and those bereaved by suicide.[18] Engaging in sensitive person-centred research will assist in gaining evidence from those who are well positioned, about what has worked well and what could work better. This particularly includes those who have survived a suicide attempt or have lost a loved one to suicide. Increased funding to conduct research, and the research itself, will necessarily bridge the evidence gap.

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[15] Australian Government, National Mental Health Commission, Need help? Leading, Collaborating, Advising, Reporting, 2013, https://www.mentalhealthcommission.gov.au/our-reports/our-national-report-cards/2013-report-card/preventing-suicide/what-works-in-suicide-prevention.aspx

[16] Australian Government, National Mental Health Commission, Need help? Leading, Collaborating, Advising, Reporting, 2013, https://www.mentalhealthcommission.gov.au/our-reports/our-national-report-cards/2013-report-card/preventing-suicide/what-works-in-suicide-prevention.aspx

[17] Department of Health, Evaluation of suicide prevention activities, January 2014, https://www.health.gov.au/internet/main/publishing.nsf/Content/mental-pubs-e-evalsuic (123).

[18] Australian Government, National Mental Health Commission, Need help? Leading, Collaborating, Advising, Reporting, 2013, https://www.mentalhealthcommission.gov.au/our-reports/our-national-report-cards/2013-report-card/preventing-suicide/what-works-in-suicide-prevention.aspx

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41. As the National Mental Health Commission pointed out, in 2007, over 65,000 people in Australian reported attempting to take their own life. However, of those people, many people would otherwise have been interacting with aspects of society – attending or failing to attend school or work, speaking with friends or family, or visiting medical services or welfare support services.

42. The National Mental Health Commission advocated for more rapid and localised reporting of suicidal behaviour so that support services can be facilitated to those in need and in turn, preventable suicides, prevented.[19] This need for an interconnected service model is as present as ever. Evaluation of the effectiveness of suicide prevention strategies should be planned at the commencement of implementation to ensure the right data is collected to track effectiveness against universal and target group populations, and that reporting mechanisms lead to qualitative evidence. This is consistent with the evaluation of suicide prevention activities funded under the National Suicide Prevention Program,[20] which found there was limited empirical data that could be quantified in ascertaining the effectiveness of interventions.[21]

43. What we have observed is that depression and increasing isolationism are now key characteristics of our community. Whereas the United Kingdom has a Ministerial portfolio dedicated to addressing loneliness, Victoria does not have anyone portfolio responsible for addressing loneliness as a means to preventing mental illness. If we are serious about addressing mental illness in Victoria and reversing predictions that by 2030 depression will be a more critical public health endemic – ever beyond physical illness – we need to see clear responsibility to drive a whole-of-government reform agenda.

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[19] Australian Government, National Mental Health Commission, Need help? Leading, Collaborating, Advising, Reporting, 2013, https://www.mentalhealthcommission.gov.au/our-reports/our-national-report-cards/2013-report-card/preventing-suicide/what-works-in-suicide-prevention.aspx

[20] Department of Health, Evaluation of suicide prevention activities, January 2014, https://www.health.gov.au/internet/main/publishing.nsf/Content/mental-pubs-e-evalsuic

[21] Department of Health, Evaluation of suicide prevention activities, January 2014, https://www.health.gov.au/internet/main/publishing.nsf/Content/mental-pubs-e-evalsuic (116).

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