



# Submission to Royal Commission into Victoria's Mental Health System

4 July 2019



## Background to legal need

Over one-fifth of people in Australia experience three or more legal problems in a given year (Legal Australia Wide survey, Law & Justice Foundation of NSW 2012). People often report multiple legal problems and these problems tend to cluster – such as family breakdown and money issues or poor quality housing.

One in five of the most disadvantaged in our community take no action in response to their legal problems, for reasons including not recognising the issue as a legal problem, stress, time, cost, fear of damaging relationships and having bigger problems to deal with.

When people do seek advice for their legal problem, they are more likely to ask a non-legal advisor, including health professionals, than a lawyer. That's why health justice partnerships (HJP) bring legal help into health settings.

## Health justice partnerships

Health justice partnerships embed legal help into health care services and teams to improve health and wellbeing for:

- individuals, through direct service provision in places that they access
- people and communities vulnerable to complex need, by supporting integrated service responses and redesigning service systems around client needs and capability
- vulnerable populations through advocacy for systemic change to policies which affect the social determinants of health.

HJPs support populations that are particularly at risk of poor health and justice outcomes, like people experiencing domestic and family violence, people at risk of elder abuse, Aboriginal and Torres Strait Islander people, culturally and linguistically diverse communities and people experiencing poverty and inequality.

Health justice partnerships provide legal support across a wide range of needs, such as:

- Advocating for public housing tenants needing repairs to address untreated mould, or having handrails and other aids installed to continue living independently in their own homes;
- Assisting people with accumulated fines or debt that cause stress or act as a barrier to meeting health costs like filling prescriptions; and
- Advising on wills, powers of attorney and custody – the legal needs that can present at the most unexpected times, like following a diagnosis of serious illness.

**These are just some of the many legal issues that people can face in life. By integrating legal services into health settings, we can improve access to justice, address the social determinants of health and increase wellbeing.**

## Health Justice Australia

Health Justice Australia is a national charity and centre of excellence supporting the effectiveness and expansion of health justice partnerships through:

- Knowledge and its translation: developing evidence and translating that evidence into knowledge that is valued by practitioners, researchers, policy-makers and funders.
- Building capability: supporting practitioners to work collaboratively, including through brokering, mentoring and facilitating partnerships.
- Driving systems change: connecting the experience of people coming through health justice partnerships, and their practitioners, with opportunities for lasting systems change through reforms to policy settings, service design and funding.

## Executive summary

**Mental health must be understood within a social determinants framework.** While mental illness does not discriminate, there are some people and communities who are disproportionately affected by mental health problems. This includes people and communities experiencing co-occurring and compounding problems that are socially determined, such as educational access and attainment; experiences of stigma and discrimination; quality and security of housing; and social and economic interconnectedness and security.

**Integrated, multidisciplinary and client-centred service responses are required to address the complex and compounding health, social and legal problems that drive poor mental health.**

Health justice partnership is one service model that aims to do just that. By embedding legal help into healthcare services and teams, they provide an opportunity to identify and address the complex systems that compound disadvantage and, with that, legal need, and poor health and wellbeing.

**Service funding and investment in collaborative capability should support the expansion of health justice partnerships and other integrated approaches that enable existing services to meet the needs of people with complex and intersecting needs affecting their mental health.**

Consideration of the skills, leadership and operational conditions required to build and maintain integrated, collaborative service models must be made. Benchmarks and reporting must also reflect the time and resourcing required to build and maintain integrated, collaborative service models.

**Health justice partnership provides an innovative and practical solution to closing the service gaps through which people vulnerable to mental health-harming legal problems routinely fall.**

Health justice partnership is an example of what innovative, practical and collaborative service responses can look like in responding to the unmet needs of people experiencing mental health problems. Further, health justice partnership provides key and translatable lessons regarding ‘what it takes’ to scope, build and manage effective cross-sector collaborative service models.

**Any prioritisation of best practice principles should not act as a barrier to innovative, placed-based solutions.**

The ways in which mental health services are designed, funded and delivered should be informed by evidence and place-based approaches, recognising the immense value that can be gained from local innovation and from lessons that can be translated and disseminated at a regional and national level.

## Royal Commission into Victoria’s Mental Health System (“The Royal Commission”) terms of reference

Health Justice Australia’s submission addresses the following terms of reference:

1. How to most effectively prevent mental illness and suicide, and support people to recover from mental illness, early in life, early in illness and early in episode, through Victoria’s mental health system, and in close partnership with other services.
2. How to deliver the best mental health outcomes and improve access to and the navigation of Victoria’s mental health system for people of all ages, including through:

- 2.1 best practice treatment and care models that are safe and person-centred;
  - 2.3 strengthened pathways and interfaces between Victoria's mental health system and other services.
4. How to improve mental health outcomes, taking into account best practice and person-centred treatment and care models, for those in the Victorian community, especially those at greater risk of experiencing poor mental health, including but not limited to people:
- 4.2 living with a mental illness and other co-occurring illnesses, disabilities, multiple diagnoses or dual disabilities

## Submission

### Mental health must be understood within a social determinants framework

Mental illness does not discriminate; it effects people of all walks of life. But there are some people and communities who are disproportionately affected by mental health problems. This includes people and communities experiencing co-occurring and compounding problems that are socially determined; the many structural and systemic factors that affect wellbeing, such as educational access and attainment; experiences of stigma and discrimination; quality and security of housing; and social and economic interconnectedness and security.

It is the social problems in people's lives that bring them into contact with the health, legal and human services we work with through health justice partnerships. Accumulation of fines or debt can exacerbate stress or anxiety and act as a barrier to accessing timely and appropriate

healthcare, and meeting healthcare costs. Housing insecurity and tenancy problems can make home life difficult or unsafe. Family disputes can lead to relationship breakdown and interpersonal conflict. At the acute end of these experiences, health justice partnerships work with people experiencing family violence; concerned about the health and safety of their children; or at risk of or experiencing elder abuse.

Many of the people that come into contact with health justice partnerships are dealing with one or more of these problems at the same time. In other words, social, legal and health problems intersect with and are compounded by each other. Yet the policy settings and service design of Australia's health and human service systems tend to focus on single issues, reflected in referral pathways confined to specific problems and availability of appointments capped to pre-determined numbers of sessions, irrespective of what is happening in someone's life. These system-driven assumptions mean existing services are rarely able to deal with multiple issues at the same time; nor able to respond appropriately to compounding need.

The dynamic of intersecting and compounding problems plays out particularly often for people living with mental illness. Health Justice Australia's most recent analysis across Australia has identified that:<sup>1</sup>

- For all health justice partnerships, at least some of their clients were experiencing economic disadvantage
- For nearly 80% of health justice partnerships, most (>85%) of their clients were facing economic disadvantage
- For 90% of health justice partnerships, at least some clients were experiencing mental health, alcohol or other drug issues.
- For nineteen partnerships (28%), most of their clients were experiencing these issues.

<sup>1</sup> Health Justice Australia 2019 (forthcoming), *2018 census of health justice partnerships*. **Embargoed until publication.**

By consequence, people may fall through the gaps in existing services, even though they need help and support. Many individuals may be facing social or legal problems that are having a negative impact on their mental health. In these circumstances, a single issue approach might not provide the best response and services might need to take into consideration the other social and legal issues going on in someone's life, if they are to provide effective support for that person's mental health.

We need to recognise these intersecting and compounding impacts from unmet social problems, including legal need, on people's mental health. Recognising this requires policy settings, program design and service delivery that can address problems in the way they intersect in people's lives as a whole. It requires service responses that are holistic, moving beyond traditional practitioner siloes. While specialist services can play a key role here, there is also a critical role for mainstream services in forging connections across an otherwise complex service landscape, bringing different services together around the needs of the people they are here to help.

This recognition underpins the collaborative model of health justice partnership. Not all services can or will engage in integrated service delivery. But even where that is not possible, it is incumbent upon policy-makers and funders to ensure that they do not prevent collaborative approaches, either through tied funding, specified outputs, or desired outcomes.

The reality that problems in people's lives intersect with and compound each other has been recognised internationally. The Legal Problems Resolution Survey found that, 'more

than twice as many respondents with mental health problems as others reported legal problems concerning rented housing, antisocial neighbours and employment. More than three times as many reported problems concerning accidents and health; and more than four times as many reported problems concerning relationships, debt and welfare benefits'.<sup>2</sup>

In Australia, the landmark Legal Australia Wide survey of 20,000 people found that people with a disability, including mental illness, stood out among disadvantaged or socially excluded groups that were particularly vulnerable to legal problems who were 'not only more likely to experience legal problems overall, but also had increased vulnerability to substantial legal problems and multiple legal problems'.<sup>3</sup>

Disability was linked to high overall prevalence rates and high rates of most problem types – namely, accident/injury, consumer, credit/debt, education, employment, family, general crime, government and housing problems.<sup>4</sup>

As other evidence notes, 'practitioners report that practical problems can sometimes be the main cause of a client's mental health deterioration, or can exacerbate feelings of isolation. For instance, having financial difficulties may prevent people from engaging in social activities'.<sup>5</sup>

Beyond broad evidence that poor mental health is associated with unmet legal and social problems, evidence also suggests that these intersecting problems can compound and further the disadvantage some people are already experiencing. For example,

- People with higher health, housing or unemployment needs are more likely to have multiple legal and non-legal problems.

<sup>2</sup> Balmer NJ & Pleasence P (2018) Mental Health, Legal Problems and the Impact of Changes to the Legal Aid Scheme: Secondary Analysis of 2014-2015 Legal Problem Resolution Survey Data, p.7.

<sup>3</sup> Coumarelos C et al (2012) Legal Australia-Wide Survey: Legal Need in Australia *Law and Justice Foundation of New South Wales*, p. xv.

<sup>4</sup> Coumarelos C et al (2012) Legal Australia-Wide Survey: Legal Need in Australia *Law and Justice Foundation of New South Wales*, p. 19.

<sup>5</sup> Fairak A (2018) The roadblock to recovery: How mental health practitioners deal with people's practical problems in England Citizens Advice, p. 13.

- These compounded problems increase with the severity of disability.
- Meanwhile, young people with physical and mental health issues are particularly vulnerable to experiencing legal problems.<sup>6</sup>

Lack of support for finances, debts, social security payments, housing, social isolation and employment makes it more difficult for people with mental health issues to find help or engage with treatment, dampening recovery rates and reducing the efficiency of services.<sup>7</sup> Given this clustering of legal and other issues, people with mental illness may benefit from holistic solutions that can coordinate the timing of health and legal assistance to improve the impact of each.<sup>8</sup>

Particular demographics might experience further vulnerability. For example, those of migrant backgrounds are more likely to experience domestic violence, depression and adjustment disorders making it harder to access traditional support providers and leave toxic environments.<sup>9</sup> Meanwhile the age-related experience of crime and young people being less likely to seek help indicates the need for targeted services that are timely in helping young people address their legal needs.<sup>10</sup>

**Recommendation 1: Mental health must be understood within a broader social determinants framework.** Early intervention and preventive approaches should be designed with the recognition that the social, cultural, environmental and health problems in people's lives intersect with and compound each other. At the heart of this design should be:

- person-centred design principles, placing the needs of people living with mental

- illness at the heart of the policy settings and program design about them; and collaborative approaches that pool the expertise of health, legal, social, and where appropriate culturally safe services to address the complex and interrelated problems that can be determinants of poor mental health, enabling different services and approaches to work together around the particular and varying needs of the people and the communities those services are here to support.

**Recommendation 2: Integrated, multidisciplinary and client-centred service responses are required to address the complex and compounding health, social and legal problems that drive poor mental health**

Siloed health and human service systems create gaps through which vulnerable members of our communities fall. This problem has been well-identified, including through the National Health and Hospitals Reform Commission (2009), the Partners in Recovery program (2011) and the Victorian Royal Commission into Family Violence (2016). In particular, the policy drivers behind the Partners in Recovery program recognised the likelihood that a range of factors were compounding the prevalence of severe and persistent mental illness and invested specifically in the capability for service coordination around people in this cohort.

Health justice partnerships respond to these systemic failings through collaboration between practitioners to address the legal and health needs of people who are vulnerable to complex or compounded problems, in the service settings they trust and/or already access. Health justice

<sup>6</sup> Coumarelos C, Macourt D, People J, McDonald HM, Wei Z, Iriana R and Ramsey S (2012) Legal Australia-Wide Survey: Legal Need in Australia *Law and Justice Foundation of New South Wales*.

<sup>7</sup> Fairak A (2018) The roadblock to recovery: How mental health practitioners deal with people's practical problems in England *Citizens Advice*.

<sup>8</sup> Pleasence P, Coumarelos C, Forell S & McDonald HM (2014) Reshaping legal assistance services: Building on

the evidence base *Law and Justice Foundation of New South Wales*.

<sup>9</sup> The Royal Australian College of General Practice (2014) Abuse and violence: Working with our patients in general practice, 4<sup>th</sup> edn. Melbourne: The Royal Australian College of General Practitioners.

<sup>10</sup> Marcourt D (2013) Legal needs of younger people *Law and Justice Foundation of New South Wales*, p. 2.

partnerships are an example of an integrative, person-centred care model for people experiencing a number of different problems simultaneously. They involve a partnership between legal and health services, embedding legal help into healthcare teams and settings to better address the compounding issues effecting patients. For example, when an individual is experiencing depression and/or anxiety exacerbated by stress that is the result of unpaid fines, employment problems or housing issues.

The availability of legal help in a health care setting means that non-health related issues can be resolved; which in turn may improve the mental health or reduce the stress and anxiety of a patient, and provide more of an opportunity to focus on health-related treatment and care. The pooling of expertise of health, legal and social services, and the 'joined-up' nature of support provided creates an opportunity to significantly reduce the service gaps through which people vulnerable to health-harming legal need routinely fall.

As an example, mental health charity Mind developed a health justice partnership with community legal centre WEstJustice, embedding a WEstjustice lawyer in one of Mind's community services in the Western suburbs of Melbourne to provide general advice and assistance, build trust, and create a space where conversations could be held around legal issues.<sup>11</sup> From the strength of that experience, they are now expanding this model with additional partners across Victoria.

At their most acute end in terms of impacts on people and their families, health justice partnerships have demonstrated an ability to help people experiencing poor mental health, drug and alcohol dependence and family violence including in circumstances where those issues

have resulted in the removal of children from their care by child protection authorities.<sup>12</sup>

The evidence to support this model is further supported by over twenty years of experience in the USA, where medical-legal partnerships have been bringing lawyers into healthcare teams and services across the country. An analysis of the ability of American medical-legal partnerships to improve outcomes for children focussed particularly on the impact of traumatic childhood events, including the likelihood that the stress they cause can negatively affect health over a lifetime. Medicaid's Early Periodic Screening Diagnostic and Treatment mandate requires mental health check-ups that could identify childhood trauma as part of a comprehensive approach to child development. Yet data suggests that many children do not receive these mandatory comprehensive screenings. It has been argued that the medical-legal partnership model provides a framework for filling this gap, through its 'three-tiered paradigm for change for physicians and attorneys to improve the trajectory for children who have suffered trauma and address the gaps in:

- i. collaborative advocacy to improve patient health;
- ii. transformation of health and legal institutions, and
- iii. policy change'.<sup>13</sup>

**Recommendation 3: Service funding and investment in collaborative capability should support the expansion of health justice partnerships and other integrated approaches that enable existing services to meet the needs of people with complex and intersecting needs affecting their mental health.**

Funding and investment should take account of the needs of a range of different populations, including people who are vulnerable to poor

<sup>11</sup> For further details, see Mind submission to The Royal Commission.

<sup>12</sup> Forell S (2018) Mapping a new path: The health justice landscape in Australia, 2017 *Health Justice Australia*, p. vii.

<sup>13</sup> Cannon Y (2017) A mental health checkup for children at the doctor's office: Lessons from the Medical-Legal Partnership movement to fulfil Medicaid's promise *Yale Journal of Health Policy, Law and Ethics* 17(2): 253-308.

health and unmet legal and social problems and who fall through the gaps of existing service infrastructure.

**Recommendation 4: Integrated and collaborative service models require sustained investment over time in capability and capacity.**

Funding and policy environments for cross-sector collaboration must recognise the time, resourcing and skills it takes to work collaboratively; and reflect this recognition in associated performance benchmarks and reporting. Specifically, these environments should:

- a. support programmatic solutions that do not act as a barrier to collaborative practice
- b. enable the pooling of resources across Government and departmental portfolios for greater impact
- c. maximise learning from existing approaches like health justice partnerships through robust comparative research into the cost and impact of different service models, to ensure the effectiveness of reforms
- d. reflect the time and resourcing required for collaborative service design and delivery
- e. adopt a truly equity and place-based, person-centred approach to service design and delivery, recognising the time and resourcing it takes to reach marginalised, vulnerable and isolated population groups
- f. contain performance benchmark and reporting frameworks that adequately provide for the differences in time and resourcing it takes to undertake collaborative service design and delivery well.

**Recommendation 5: Funding for services should support collaborative service models and opportunities to translate collaborative service models to other service settings and contexts.**

**Recommendation 6: The value placed on best practice should not come at the expense of innovative, place-based solutions that can meet the needs of people not otherwise met.**

<sup>14</sup> Cabaj M (2016) *Five good ideas: Evaluation in disruptive times*, <<https://maytree.com/five-good-ideas/five-good-ideas-evaluation-disruptive-times/>>.

Where it is informed by reliable evidence, best practice can be a key approach that secures positive outcomes. But we also need to create environments that support and enable innovation, particularly for those people who are poorly served by the existing service landscape.

As Mark Cabaj notes, “best practice is anti-innovation.”<sup>14</sup> Best practice requires fidelity to a model. Some of the best examples of scaling social service models in Australia have come out of the mental health system, where the positive effects of a program have been attributed to its accurate replication. Where this works, it should be encouraged. But for the people who are falling through the gaps of even these best practice models, we must encourage and enable innovation in service delivery.

The innovation of health justice partnership responds to the emerging evidence that health teams and settings are not always well-placed to respond appropriately to the range and complexity of the issues identified by their patients.

We have seen the benefits of this first-hand. Health justice partnerships are an innovation that emerged out of a recognition that existing service models were not working for some of the key people they were there to help. Health, legal and human service practitioners recognised that they needed to change the way they worked to better meet the needs of people who were otherwise falling through the gaps of *status quo* service models. This recognition led to the innovation of health justice partnerships as a service model; an innovation that would not have been possible if practitioners were prioritising fidelity to an existing model.



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