

Mental Health Statement of Rights and Responsibilities

Mental Health Statement of Rights and Responsibilities

© Commonwealth of Australia 1995

ISBN 0 644 45482 2

First published 1991

Reprinted 1992

Reprinted 1995

This work is copyright. It may be reproduced in whole or in part for study or training purposes subject to the inclusion of an acknowledgment of the source and no commercial usage or sale. Reproduction for other purposes than those indicated above, requires the written permission of the Australian Government Publishing Service, GPO Box 84, Canberra ACT 2601.

Publications and Design (Public Affairs)
Commonwealth Department of Human Services and Health

Produced by the Australian Government Publishing Service

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Foreword

By Professor Beverley Raphael

For some years the Commonwealth and the States of Australia have been concerned about the needs of those whose lives are affected by problems of mental health. Until the relatively recent past, people with such problems have often felt stigmatised and discriminated against, and society's attitudes have shown little understanding. People who are affected by mental health problems or mental disorders have been "hidden" from community awareness.

Recent advances in care and understanding have greatly improved the treatment available to those suffering such problems, so that care can now often be provided in the home and in the community. Severe illnesses such as schizophrenia have brought heartache and distress to sufferers and their families. Yet active treatment and rehabilitation can make a very great difference to the quality of the individual's life and to the well-being of the family. Depression is another far more common disorder which can now be rapidly effectively treated in most instances.

Despite these and many other advances, people with mental illness problems and mental disorders, and their families, have not experienced the full recognition and support they require. Equity, access and social justice have frequently not been available to them. Yet it is clear that one in four people in our community will be affected by such problems at any one time. Mental health is a most important asset for the whole community, enhancing not only the well-being and integration of the groups within it, but the capacity of individuals to love, to work and to play in ways which provide for the fullest achievement of their capacities.

It is the interest of Australia that all members of the community should have access to good mental health and freedom from mental health problems and mental disorders.

In a consultative process which has extended over several years, the Commonwealth, States/Territories and consumer and professional groups concerned with mental health and the needs of those affected by mental health problems and mental disorders, have worked to achieve a statement of rights and responsibilities. This statement has evolved from the concerns and contributions of Australians in every part of the country and from every walk of life. Its intention is to promote social justice, equity, access and a compassionate society with mental health as a primary goal.

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Preamble

GOOD MENTAL HEALTH is a resource for everyday life. It is a positive concept which embraces both inner individual experience and interpersonal group experience. It is the capacity of the individual and the group to interact effectively with the environment. To the individual, good mental health means happiness, competence, a sense of power over one's life, positive feelings of self esteem and capacities to love, work and play. Good mental health also allows individuals to deal appropriately with difficult life events. Supporting the community in improving the mental health of its members is therefore a major investment in all aspects of community life, and is part of the function of health service providers.

Mental health is the product of biological, psychological and social environments (both past and present), health, care and lifestyle. A broad multifaceted and multidisciplinary approach which can include social, psychological and biomedical aspects is required when undertaking:

- the promotion of mental health;
- the prevention of mental health problems and mental disorders; and
- the assessment, treatment, protection, care and rehabilitation of people who have mental health problems or mental disorders.

Mental disorder is prevalent, extensive, affects all age, social and cultural groups, and may be associated with chronic disability, handicap and invalidity as a result of symptoms which disrupt the capacity for satisfying family and personal relationships and enjoyment of work and leisure. The report of the Better Health Commission notes that 25% of the population are likely to suffer from emotional or psychological disturbance at any one time, and of these approximately 15% suffer from diagnosable mental disorders with females showing the preponderance; 12% of children may suffer from mental disorder: and 15-25% of all days in hospital are attributable to people with a mental disorder. For many of these people the general practitioner is the first "port of call".

Low socioeconomic status, unemployment, poor physical health and experiences of sexual and physical abuse are amongst risk factors for increased incidence of mental health problems and mental disorders. Equally, people with mental health problems and mental disorders may face unemployment, poor physical health and experience sexual and physical abuse.

The majority of people who develop a mental health problem or mental disorder have only one episode and are likely to recover completely if they have access to appropriate care. In most cases further episodes are able to be treated adequately with a good prognosis.

It is inappropriate to assume that a mental health problem or mental disorder is an insurmountable barrier to an individual leading a fulfilled and valued life. However, a significant number of people do become disabled as a result of chronic mental disorder.

Mental health services exist to meet the needs of consumers and for the promotion of mental health. In the past, people with mental health problems and mental disorders have had limited say and, in some cases, little choice about the nature and form of services they received. These decisions have generally rested with health and welfare professionals and service administrators. Voluntary mental health organisations have played a role in the dissemination of information and the provision of support, care and advocacy.

Current thinking about health acknowledges the vital importance of promoting and protecting as well as restoring mental health. To ensure that this broader understanding of health is reflected in programs and policies, there needs to be national cooperation by public, private and voluntary sectors, and between consumers, carers, members of the community and service providers.

All people have certain fundamental human rights. Membership in our society confers on all Australian residents, including people with mental health problems or mental disorders, certain rights, roles and responsibilities. Rights cannot be considered in isolation from responsibilities. In many cases it is difficult to

balance rights and responsibilities. The freedom to exercise rights and assume appropriate roles and responsibilities is, however, inherently linked to the mental health functioning of individuals and communities.

People who suffer from mental health problems or mental disorders should be protected from abuse and neglect. It is essential to ensure that their needs for care, protection and rights to treatment and rehabilitation are satisfied. The diagnosis of mental health problems or mental disorder is not an excuse for inappropriately limiting their rights.

Australia is a diverse society comprising people from a wide variety of cultural backgrounds. Every Australian needs to be encouraged to maintain his or her mental health and to work towards the prevention of mental health problems and mental disorders. Some may require assistance to do this.

The Commonwealth, State and Territory Governments are now seeking to redress inequities in Australian society by way of social justice strategies. The Mental health statement of rights and responsibilities reflects these concerns and

- recognises the aspirations of all Australian residents to a dignified and secure way of life with equal access to health care, housing and education, and equal rights in civil, legal and industrial affairs;
- is free of prejudice; and
- is caring, just and humane.

Much is already known and should be implemented about how the above principles may be put into action and the human and economic benefits of so doing. However, much also remains unknown, and as an integral part of policy implementation, research and the dissemination of its findings must be seen to be of crucial importance in the further understanding of the causes of mental health problems and mental disorders, and their prevention, treatment and rehabilitation.

The Mental health statement of rights and responsibilities will require regular review and updating. The process of developing rights and responsibilities is an evolving one that will become more sophisticated over time as new mechanisms are developed to facilitate the involvement of primary consumers.

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Mental health statement of rights and responsibilities

THIS STATEMENT OF RIGHTS and responsibilities aims to ensure that consumers, carers, advocates, service providers and the community are aware of their rights and responsibilities and can be confident in exercising them.

Consumer rights and responsibilities

The key rights which affect individuals seeking promotion or enhancement of mental health or care and protection when suffering mental health problems or mental disorders are:

- the right to respect for individual human worth, dignity and privacy;
- the right equal to other citizens to health care, income maintenance, education, employment, housing, transport, legal services, equitable health and other insurance and leisure appropriate to one's age;
- the right to appropriate and comprehensive information, education and training about their mental health problem or mental disorder, its treatment and services available to meet their needs;
- the right to timely and high quality treatment;
- the right to interact with health care providers, particularly in decision making regarding treatment, care and rehabilitation;
- the right to mechanisms of complaint and redress;
- the right to refuse treatment (unless subject to mental health legislation);
- the right to advocacy;
- the right to access to relatives and friends;
- the right to have their cultural background and gender taken into consideration in the provision of mental health services.
- the right to contribute and participate as far as possible in the development of mental health policy, provision of mental health care and representation of mental health consumer interests; and
- the right to live, work and participate in the community to the full extent of their capabilities without negative discrimination.

All members of Australian society have responsibilities in relation to health care. Specifically, mental health consumers have a responsibility:

- to respect the human worth and dignity of other people; and
- to participate as far as possible in reasonable treatment and rehabilitation processes.

Promotion of mental health

This statement recognises that positive mental health is dependent on individual, group and environmental factors working effectively together.

Programs of mental health promotion need to target identified risk factors affecting individuals and the community as a whole.

- The individual has the right to be assisted to achieve satisfying and productive patterns of living through programs for promotion of mental health.
- Individuals have the right to expect that mental health promotion will be an integral component of all health promotion programs.
- The individual has the right to protection from negative influences on mental health or factors which increase the risk of developing mental health problems or mental disorders including poverty, exploitation and other major adverse social influences.

Prevention of mental health problems and mental disorders

Mental health problems may occur at any age and in any social group. Amongst the people most vulnerable are those genetically related to a person diagnosed as having a mental disorder, and children at specific stages of development. There is also a propensity for mental health problems and mental disorders to develop amongst adolescents, the elderly, the unemployed, the socially isolated, those passing through a major life crisis such as bereavement or relationship breakdown, people experiencing or recovering from accidents or life threatening illness, indigenous and immigrant populations and families with minimum coping skills. It is recognised that with our present understanding some conditions may defy primary prevention measures.

- Individuals have the right to expect that factors contributing to the development or exacerbation of mental health problems and mental disorders will be identified and that where possible strategies will be implemented to minimise the impact of those factors.
- Individuals have the right to expect that cultural, gender and age, appropriate primary, secondary and tertiary preventive programs will be developed as far as is currently possible.
- Individuals have the right to expect that preventive programs will be developed, implemented and evaluated as an essential component of all care provided for people at risk or suffering from mental health problems or mental disorders.

Access

This statement recognises that people with mental health problems or mental disorders should have access to services and opportunities available in Australian society for people of a similar age with equity and justice.

- Access to, and availability of, appropriate services requires consideration of specific needs and ideally is not limited by:
 - geographic location;
 - social barriers;
 - economic barriers;
 - cultural and ethnic barriers;
 - changing demographic patterns of need;
 - communication capacities and skills including language;
 - barriers which arise from the disorder itself, and in addition to the disorder, age;
 - gender; and
 - disabilities arising from other sources including physical illness.

Mental Health Statement of Rights and Responsibilities

Assessment, diagnosis, treatment and rehabilitation

THIS STATEMENT RECOGNISES that there are a number of groups such as teachers, police, welfare workers and clergy who often are the first point of contact for people who may have a mental health problem or mental disorder. The capacity to recognise the nature of the problem and easy referral to mental health expertise is essential as a component of primary health care.

- The consumer has the right to expect that educators, police and other non- health professionals will receive sufficient education to enable them to recognise and refer people who may have a mental health problem or mental disorder.

This statement also recognises that people with mental health problems or mental disorders may present with a variety of symptoms to primary health care providers such as general practitioners, accident and emergency departments, community nurses, psychologists, social workers and pharmacists.

- The consumer has the right to expect that recognised education and assistance programs covering mental health problems and mental disorders will be provided for primary health care workers to help them understand, manage and, where appropriate, refer people with mental health problems or mental disorders.

Additionally, assessment (including appropriate physical investigation), treatment and referral are facilitated when a comprehensive, flexible and integrated range of community and hospital based mental health services is provided in non discriminatory service settings.

The circumstances and wishes of the individual, their carers and the best way of reaching an effective outcome all need to be taken into account in the provision of services.

- The consumer has the right to expect that hospital and community mental health services will be part of an integrated network to ensure continuity of care.
- The consumer has the right to expect that mental health services will be integrated with general health services so as to provide comprehensive health care, including access to specialist medical services.

Issues within families frequently need to be addressed when a child or adolescent is being treated for a mental health problem or mental disorder. However, the refusal of other family members to participate in the treatment process should not provide grounds for refusing treatment to the child or adolescent.

- A child or adolescent has the right to be treated as an autonomous individual by service providers when seeking assistance with a mental health problem or disorder.
- A child or adolescent has the right to appropriate assessment and treatment taking into account the presentation and nature of their mental health problem or mental disorder.

The aim of all intervention should be to promote health, to preserve and enhance personal autonomy and minimise personal, social and economic costs to individuals and the community. To achieve this, a range of co-ordinated multidisciplinary services needs to be offered by appropriately trained staff.

- The consumer has the right to have possible mental health problems or mental disorders assessed, diagnosed and, where appropriate, treated and regularly reviewed in accordance with professionally accepted standards.
- The consumer who is suffering from a mental health problem or a mental disorder has the right to treatment or be given reasons for refusal of treatment and referral to alternative services.
- The consumer has the right to have age, gender and culturally appropriate mental health services provided in an environment which is conducive to his or her continued participation in community life.
- The consumer has the right to have mental health services provided in an environment in which he or she is protected from the threat of sexual harassment and abuse.

- The consumer has the right to a co-ordinated and ongoing range of adequately resourced public, private and non government care, treatment, rehabilitation, information and support services.
- The consumer has the right to be treated in the most facilitative environment with the least restrictive or intrusive effective treatment.
- The consumer has the right to have treatment carried out within a coordinated and multidisciplinary framework appropriate to his or her health and rehabilitation needs and the need to protect the safety of themselves and others.
- The consumer has the right to obtain treatment at an early stage of their illness to minimise the likelihood of involuntary admission to a treatment program.
- The consumer has the right to seek a second opinion.
- The consumer has the right to advocacy.
- The consumer has the right to information on and access to mechanisms of complaint and redress and to appeal decisions made regarding their treatment and care.

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Admission to a mental health facility or community program

THIS STATEMENT RECOGNISES that mental health problems and mental disorders cause upheaval in the lives of consumers and their community. From time to time admission to a mental health facility or community program is required for an individual to obtain care and treatment.

- Where a person needs treatment in a mental health facility or community program, wherever possible every effort must be made to encourage voluntary admission.
- Every person admitted to a mental health facility or community program has the right to an explanation of their condition as it is understood and the plans for their management.
- Every person admitted to a mental health facility or community program has the right to adequate discharge planning.

This statement also recognises that a number of people may require extended periods of hospital care on the basis of the debilitating nature of their mental health problem or mental disorder.

- Long term voluntary patients in mental health facilities have the right to have their inpatient status reviewed on a regular basis.

This statement recognises that from time to time it is necessary for some children and adolescents to receive specialised mental health care.

- Children and adolescents admitted to a mental health facility or community program have the right to be separated from adult patients and provided with programs suited to their developmental needs.
- Children and adolescents admitted to a mental health facility or community program must have available to them a person who will represent them and whose task it is to protect their rights.

This statement also recognises that some people will require admission to a mental health facility or community program on an involuntary basis due to the severity of their mental health problem or mental disorder. Such admissions should be for as short a period as is appropriate for adequate treatment and must be governed by the requirements of mental health legislation.

- Consumers must be informed of their rights and reasons for admission, diagnosis and treatment prior to or as soon as practicable after admission to a mental health facility or community program. This should be in a form and language which he or she understands.
- Every person admitted to a mental health facility or community program must have available to them a person who will represent them and whose task it is to advise and protect their rights as long as that person wishes to have such representation. The availability of such representation should be clearly offered to the person, and they should be able to make an unhindered and informed decision about whether to accept such representation. Where the person wishes to secure the services of a lawyer, he or she must be able to do so.
- Every person detained or treated involuntarily in a mental health facility or community program must have the right to appeal against their continued detention or treatment to an expertly advised independent court or tribunal.
- The case of every person detained or treated involuntarily must be subject to independent review at regular intervals (not exceeding every 6 months).

Mental Health Statement of Rights and Responsibilities

Standards

THIS STATEMENT RECOGNISES that high standards of mental health care are essential for the treatment and rehabilitation of people who have mental health problems or mental disorders.

- The consumer has the right to mental health services which are resourced, organised and administered to provide care as set out in this statement.
- The consumer has the right to have explicit standards set for all sectors of service delivery and that such standards should have operational criteria by which they can be assessed.
- The consumer has the right to access mechanisms established for the development and regular review of standards. Such mechanisms should be used for the evaluation of services, including both the process of service provision and the outcome of treatment.
- The consumer has the right to mechanisms of complaint and redress regarding standards of service delivery.
- The consumer has the right to have services subjected to quality assurance to identify inadequacies and to ensure standards are met.
- The consumer has the right to be informed and consulted about proposed changes to services and standards.
- The consumer has the right to mental health services which comply with standards of accountability to consumers, the community and governments.
- The consumer has the right to expect governments to ensure adequate levels of professionally trained and qualified staff in mental health services.
- The consumer has the right to expect that services will ensure a capacity for, and a commitment to, the maintenance and further development of staff knowledge and skills.

Mental Health Statement of Rights and Responsibilities

Mental health legislation

THIS STATEMENT RECOGNISES that all citizens suffering mental health problems or mental disorders have the right to dignity, privacy, protection and appropriate care and treatment in the most facilitative setting, when ill.

- The consumer has the right in all States and Territories to mental health legislation which affirms the fundamental rights and responsibilities contained in this statement.
- The consumer has the right to have mental health legislation reviewed and updated at regular intervals.

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Mental health and legal matters

THIS STATEMENT RECOGNISES that people with mental health problems or mental disorders may have special needs in relation to the law.

- A person suffering from a mental health problem or mental disorder subject to the criminal justice system has the right to assessment, treatment and rehabilitation appropriate to their mental health needs.
- An individual has the right to expect that the law will not discriminate against him or her on the basis of them suffering or previously suffering a mental health problem or mental disorder.

In situations where a person has a mental health problem or mental disorder judgements about culpability are sometimes difficult to make.

- An individual has the right to expect that careful consideration will be given to his or her ability to comprehend and take responsibility for their actions at the time of the misdemeanour.

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Rights and responsibilities of carers and advocates

THIS STATEMENT ACKNOWLEDGES the capabilities of non-professional carers and advocates. It recognises the contribution they make to the support and care of people with mental health problems and mental disorders. In the majority of cases the caring role is assumed by women. The caring and advocacy roles are complex and the relationship between carers, consumers and advocates can change frequently. It may also vary according to the age of the consumer. There are many issues that arise for people living with, caring for, or acting as an advocate for people with mental health problems or mental disorders.

- Carers and advocates have a right to respect for individual human worth, dignity and privacy.
- Carers and advocates have a right to comprehensive information, education, training and support to facilitate the understanding, advocacy and care of those consumers they care for.
- With the consent of the consumer, carers and advocates are entitled to:
 - have access to the consumer;
 - be consulted by service providers about measures under consideration for treatment of the consumer or for his or her welfare;
 - arrange support services such as respite care, counselling and community nursing facilities;
 - exchange information with those providing treatment concerning the consumer's lifestyles and their relationships with others.

There may be circumstances where the consumer is unable to give consent or may refuse consent because of their disturbed mental state. In such cases it may be appropriate for service providers, carers and/or advocates to initiate contact and involve those who may be able to assist with the consumer's diagnosis and care.

- Carers and advocates have the right to put information concerning family relationships and any matters relating to the mental state of the consumer to health service providers.
- Carers and advocates have a right to seek further opinions regarding the diagnosis and care of the consumer.
- Carers and advocates have a right to place limits on their availability to consumers.
- Carers and advocates have a right to mechanisms of complaint and redress.
- Carers and advocates have a right to help with their own difficulties which may be generated by the process of caring for or acting as an advocate for a person with a mental health problem or mental disorder.
- Carers and advocates have a responsibility to:
 - respect the human worth and dignity of the person who has a mental health problem or mental disorder;
 - consider the opinions of professional and other staff and recognise their skills in providing care and treatment for the person who has a mental health problem or mental disorder; and;
 - co-operate, as far as is possible, with reasonable programs of treatment and care aimed at returning the consumer to optimal personal autonomy.
- The parent/guardian/carer of a child or adolescent has a responsibility to obtain appropriate professional assistance if they have reason to believe that the child may have a mental health problem or mental disorder.

Mental Health Statement of Rights and Responsibilities

Service provider rights and responsibilities

THIS STATEMENT ACKNOWLEDGES the care, expertise and support that service providers give to consumers and their carers. Service providers may be employed in government or non government sectors.

- In providing services, service providers have the right to:
 - acknowledgement of their professional qualifications and capabilities;
 - recognition of their contribution to the care of consumers;
 - cooperation as far as possible in reasonable treatment processes;
 - work in optimal conditions of service delivery and employment including the right to ongoing training and a safe and supportive work environment;
 - an active involvement in the planning and management of services;
 - contribute to the development and regular review of standards for the evaluation of services including both the process of service provision and the outcome of treatment; and
 - representation in the development of mental health policy and service delivery guidelines;
 - access to mechanisms of complaint and redress; and
 - expect that mental health services will be administratively integrated with general health care services while retaining their specialised focus, identity and funding.
- In providing services, service providers have a responsibility to:
 - provide the highest quality service to the consumers, carers and advocates in line with their training and recognised professional practice;
 - inform and involve the consumer and their carers' about options for service and support available to them at recovery stage of assessment, treatment and rehabilitation;
 - be responsive to the diverse social, cultural, spiritual, emotional and physical experiences and needs of consumers, carers' and advocates;
 - inform consumers of their rights and responsibilities including mechanisms of complaint and redress;
 - recognise the role of the carer and to be responsive to his or her need for education, training and support;
 - respect the privacy and confidentiality of consumers, carers and advocates;
 - deal with a consumer or his or her carers' complaints fairly and promptly and without retribution;
 - promote the best interests of children and adolescents whose parents or caregiver is suffering from a mental health problem or mental disorder;
 - ensure the involvement of consumers, carers' and advocates when planning, managing and evaluating mental health service provision;
 - keep adequate data bases and monitor outcomes for consumers; and
 - ensure their knowledge base is in line with current trends in care and treatment.

Mental Health Statement of Rights and Responsibilities

Community rights and responsibilities

THIS STATEMENT ACKNOWLEDGES the impact that changes in care, treatment and rehabilitation approaches have had on local communities in recent years.

- The community has the right to be informed and educated so that public awareness of mental health issues will be enhanced.
- The community has the right to be protected from severe harassment or undue intrusion by people who have mental health problems or mental disorders.

In line with the principles of social justice the community has a responsibility to:

- treat people who have a mental health problem or mental disorder with dignity and respect; and
- accept community based programs of care, treatment, rehabilitation, employment and accommodation for people who have a mental health problem or mental disorder.

© Commonwealth of Australia

Mental Health Statement of Rights and Responsibilities

Glossary

ACRONYMS, ABBREVIATIONS AND TERMS used in the Mental Health Statement of Rights and Responsibilities are explained below.

Advocates

People who have been given the power by consumers to speak on their behalf, who represent the concerns and interest of the consumer as directed by the consumer, and seek the outcome desired by the consumer. Although governments and others may give power to advocates, such advocacy is token unless it is directly accountable to the consumer.

Carer

A person whose life is affected by virtue of his or her close relationship with a consumer, or who has a chosen and contracted caring role with a consumer.

Consumer

A person making use of, or being significantly affected by a mental health service.

Disability

A disability is any restriction or lack of ability to perform an activity within the expected range for a human being.

Governments

Includes all Australian States, the two Territory Governments and the Commonwealth Government (and local government).

Mental disorder

A mental disorder may be defined as a significant impairment of an individual's cognitive, affective and/or relational abilities which may require intervention and may be a recognised, medically diagnosable illness or disorder.

Mental health

Mental health is the capacity of individuals within the groups and the environment to interact with one another in ways that promote subjective well-being, optimal development and use of mental abilities (cognitive, affective and relational) and achievement of individual and collective goals consistent with justice.

Mental health problem

A mental health problem is a disruption in the interactions between the individual, the group and the environment producing a diminished state of mental health.

Mental health services

Specialised services which are specifically designed for consultation and/or intervention the mental health problems or mental disorders and the promotion of mental health.

Service provider

A person (usually with professional qualifications) who receives remuneration for providing services to people who have a mental health problem or mental disorder.

Service providers

People who manage and deliver mental health services in a paid or voluntary capacity.