Done by Law Radio interview on the upcoming Royal Commission into Victoria's Mental Health System

1. Could you tell us about the work of the Mental Health Legal Centre and the types of services you provide?

The MHLC has existed for over 30 years to meet the needs initially of people who were detained on treatment orders across the state and in recent years this work has expanded into many other environments.

People contact us through our phone service which receives 12,000 calls a year or our outreach programs which are targeted at vulnerable Victorians experiencing mental health issues with often complex medical, social and legal needs. All our services incorporate multi-disciplinary elements and this means effectively working together with social workers, financial counsellors, case managers, nurses and doctors. This is highlighted through our Inside Access program at DPFC and Ravenhall. Our project with Bolton Clarke Homeless Persons Team providing legal advice to over 150 consumers and legal education to over 40 nurses. We also provide Advance Statement support to help people write down their wishes to navigate the mental health system on their terms. And representation before the Mental Health Tribunal in the past year totalling nearly 200 hearings. Our phone service provides legal advice two evenings a week, on Tuesdays and Thursdays, to residents Victoria wide and general information during office hours four days a week.

2. The Centre has been involved in developing the terms of reference for the Royal Commission – could you tell us how you worked with the government to do so, and what your priorities were for the Terms of Reference?

We made a submission on the terms of reference and we participated in one of the working groups. We also encouraged and facilitated many of our clients being able to participate in the terms of reference. We particularly focused on people who we had represented before the tribunal and prisoners. To enable this we took hardcopy forms to two prisons where they were completed and then scanned back to the department.

Our priority is the voice of the consumer being paramount and we were very disappointed to note that there was not a public appointment of a consumer voice. We would like to have seen rolling consumer commissioners, we would also like to see a consumer co-chair on the expert advisory panel.

Alongside this legal representation before the Royal Commission for consumers is paramount so that this does not become a wasted opportunity to be heard.

We want to have consumer's advice on how they believe the system can and should be changed to meet their needs.

4 March 2019

3. Follow up question- The Terms of Reference that have been announced seem to align with the priorities outlined in the Centre's submission to the Royal Commission, although they are a bit broader in nature. Do you think the Terms of Reference provide an adequate framework to examine the most important issues facing Victoria?

We believe that the terms of reference are broad enough to be a start and much will depend on the implementation through the Royal Commission. We are hopeful that this will be inclusive and mobile, going to see and talk to consumers directly across Victoria to truly understand the scale of the issue and the vast difference in practice and treatment across the providers of services.

Employers also need to be part of this discussion dealing with people who are unwell is complex and places burdens on the community in different ways. It is important to recognise that people who work with people who are traumatised need to be helped and supported.

One of the many impacts we see is the lack of continuity in the system and for many clients this problem is paramount. This as a result of the high levels of staff turnover in the mental health system and the rotation of junior doctors.

Alongside this reform of the child protection system is vital. Many clients who have been through this child protection system are now in contact with the criminal justice system and many also have mental health issues. When these are combined often their children are removed leading to entrenched multi-generational disadvantage. This then leads to a spiral of addiction and further offending resulting. This is often when we come into contact with the client at DPFC or Ravenhall. Early intervention could play a strong role in defining the future outcomes for the next generation of Victorians.

4. The Centre's submission raises some complex issues; one of these is with the role that coercion can play within the mental health system: people being detained for purposes other than the provision of mental health treatment and others being coerced into agreeing to treatment through threats of compulsory treatment.

a. Can you give us some examples of these?

A commonly heard statement for a mental health consumer is if you behave we will let you have a pass to go for a cigarette. This is fundamentally flawed as it implies a level of control to which our consumers often struggle with and then when given unrealistic goals to attain often fail which leaves them feeling frustrated and humiliated.

The threat of placing people on treatments orders is used to obtain compliance with medications often in their own home where they are told if you don't do this we will call the ambulance and take you to hospital or worse the police will come and take you away. The humiliation and stigma attached to being taken to hospital for mental health treatment is still widespread and then the admission process can be equally as harrowing.

b. What measures would prevent or limit this?

It is clear that people are detained for the purposes of other orders being obtained particularly in relation to financial control. A specialist mental health court which can understand capacity where a person has a mental illness would be a step forward.

Education of staff across what coercion is and what it does to the person who is being coerced. Alongside more access to timely legal representation and support. Consumers struggle to navigate complex phone systems and information when already facing huge pressure alongside a mental illness and then a legal hearing which is intimidating regardless of the substantial efforts made by the tribunal. The effective use of supported decision making would enable staff to work with consumers in achieving outcomes.

This is why we believe it is extremely important that consumers are given legal support by a trusted body to access the Royal Commission. When people are supported and have strong advocates both legal and non-legal outcomes are directly impacted. Our nurses and clients have reiterated to us that without our assistance clients would have gone to prison or lost accommodation and as a direct result of our service this has not happened. This means that their mental health was also directly impacted by our intervention and legal assistance.

We also need an independent body who inspects all environments where people of any age can be detained or maintained without their express consent.

One of the most complex issues facing the royal commission is the belief that mental health consumers are not truthful. Consumers who try to stand up to the system to call out bad practice, amend a record, or make a formal complaint are often considered to be inherently unreliable and this perception has to stop. We only learn and make effective changes when we listen to those with lived experience, this is what previous Royal Commissions has taught us.

5. Prevention and early intervention was a key interest of the MHLC, and has been reflected broadly in the Terms of Reference. Could you please tell us what this might look like and what sorts of services and supports need to be put in place to achieve this?

Trauma lies at the heart of many of our clients issues. .

For many clients who try to deal with an emerging mental health issue with up to 10 sessions of Medicare supported psychological support there are immediate barriers. It is often immensely hard to access and it is a very limited solution. Particularly when you consider how hard it is to find a bulk billing service alongside the fact that many of our clients struggle to access Disability Support Pension and as such are reliant on Newstart Allowance.

We need to design hubs where people can access all supports in one location with overlapping communicative embedded services. Ideally someone having their first contact with mental health services would receive case management and support through the services they need to access. This means that there is always a facilitator to support, encourage and enable access to the services in the short, medium and long-term, this is demonstrated by the Bolton Clarke nurses on the Homeless Persons Project. Our lawyer goes with nurses to see their clients and the nurses facilitate the referrals. This will require an effective use of the NDIS service provision as it now exists with collaborative partners and co located services whose shared understanding of consumers lies at the heart of the service. Again accessing the NDIS presents a further set of challenges for our clients.

The mental health system does provide limited support at first instance and again if you are in crisis. The concern is the vast numbers who sit in between these two points those who cannot access services which do not bulk bill and have yet to reach a crisis, the issue is that the system is only resourced to deal with that point and the opportunity to avoid crisis is lost.

The example I recall was a client, who had recently been released after a drug induced psychosis, who did not want to use drugs knowing his house mates would that weekend and asked if he could be hospitalised to keep him safe. This is not a medical problem because there is no imminent risk of harm this is an attempt not to be harmed.

6. MHLC also highlighted mental health care for people with significant mental health issues in prison. This is reflected in Term of Reference 4. What is the current state of mental health care in Victorian provisions, and what would you like to see instead?

Many of our consumers have been traumatised. However, we have no accurate data detailing the number of male prisoners who have been victims of family violence and sexual abuse and yet despite this we continue to detain them alongside perpetrators. We do know how many women have identified as victims of family violence and sexual abuse through our projects at DPFC. At DPFC we are able to provide additional supports including a VOCAT and Intervention Order lawyer and alongside this a Child Protection Lawyer.

Mental Health care in prison needs to be reviewed in terms of our contracts with Correct Care. We have to stop the Pharmaceutical Benefits Scheme ending at the door of the prison. For people this means that while they may have received standard medications in the community it make take many months for these to be prescribed again in prison and often they are not carefully titrated unless they get access to the mental health unit. We have to ensure that those who are acutely unwell are placed in appropriate psychiatric services. At this level we need to at the very least triple the beds available to the acutely unwell.

We need effective Drug and Alcohol services inside prison and we also need appropriate psychological supports recognising that many prisoners are suffering enduring and long term mental health issues alongside having complex histories of trauma.

Prison provides an opportunity for meaningful intervention and rehabilitation but at the present time this is not available and the whole community has an interest in prisons working towards rehabilitation.