

Monday 16 May 2022

Views invited on mental health laws

People are invited by the independent South Australian Law Reform Institute (SALRI) based at the University of Adelaide to share their experiences in using, accessing and dealing with South Australia's mental health laws as the first stage in a review of the *Mental Health Act 2009* (SA). SALRI are particularly interested in ways in which the law and practice can be improved.

The State Government has asked the SALRI to undertake the review, which must happen every five years.

The University of Adelaide's Professor John Williams AM, Director of SALRI, said: "Mental health laws can significantly impact upon the rights of consumers, particularly in the context of involuntary treatment orders.

"It is vital to ensure that the law strikes the right balance between sometimes conflicting priorities and remains consistent with international human rights law, principles and frameworks."

The review is an important opportunity to investigate current law and practice and to identify any areas for reform. This ensures the law remains effective in providing a suitable framework for mental health services in South Australia.

As part of this review, SALRI will:

- Consult with the community and relevant parties, such as experts, interested groups and persons with lived experience of mental illness;
- Recommend appropriate changes to the current law which promote human rights and best practices;
- Consider the findings of the Royal Commission into Victoria's Mental Health System;
- Consider the meaning and practice of decision-making capacity;
- Consider whether changes to the legislation could improve access to mental health services;
- Determine the effectiveness of establishing the role of Mental Health Commissioners under the Act, and
- Consider any other relevant issues raised in this reference.

Professor John Williams, Deputy Director of SALRI Associate Professor David Plater, and SALRI researchers Olga Pandos, Dr Michaela Okninski and Katerina Grypma, will undertake this topical review.

Olga Pandos said: "Legislative reviews are an opportunity to determine whether the law remains fit for purpose. In this case – to provide a mental health system that adequately safeguards the autonomy and human rights of consumers."

According to its terms of reference from the State Government, SALRI will not examine the provision or delivery of mental health services. SALRI acknowledges there are very real issues and needs in this area, that impact many South Australians. However, SALRI cannot look at issues beyond the scope of this review.

Dr Michaela Okninski said: "Over time, the legal frameworks underpinning mental health laws have shifted to promote a supported decision-making paradigm. This is an important shift, encouraging a more inclusive and human-rights based approach to mental health services."

SALRI is committed to an active and inclusive consultation process. The SALRI team has begun consulting the community about their experiences of the existing mental health laws with visits to Port Pirie, Port Augusta and Berri. Community consultation will continue at:

- Whyalla on Friday 3 June;
- Port Lincoln on Thursday 16 and Friday 17 June; and
- Mount Gambier on Wednesday 22 and Thursday 23 June.

Submissions can also be made through the YourSAy website www.yoursay.sa.gov.au/mental-health-act-review or made by sending a written submission to SALRI at salri_mha@adelaide.edu.au or to the South Australian Law Reform Institute, University of Adelaide, Ligertwood Building, Adelaide, South Australia, 5005. Further enquiries can be made to 08 8313 5063.

SALRI is expected to submit their review to the SA Government by the end of February 2023.

/continued

Media Release

adelaide.edu.au/newsroom/



Media contacts:

Olga Pandos, Project Manager and Lead Researcher SA Law Reform Institute, University of Adelaide. Mobile: +61 (0)434 525 975, Email: olga.pandos@adelaide.edu.au

Crispin Savage, Acting Manager of News and Media, The University of Adelaide. Mobile: +61 (0)481 912 465, Email: crispin.savage@adelaide.edu.au

CRICOS 00123M