



Department of Justice
Office of the Secretary
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Via Email: HaveYourSay@justice.tas.gov.au

Advocacy Tasmania Inc. Submission to the Mental Health Amendment Bill

Advocacy Tasmania Inc. (ATI) is an independent, non-government organisation that has been providing advocacy services across Tasmania since 1990. ATI's client groups consist of people with disability, older persons, people who experience mental illness and people who use or have used alcohol and other drugs. We are also responsible for the operation of Tasmania's Elder Abuse Helpline, coordinating volunteer representatives for people who appear before Tasmania's Mental Health Tribunal and providing NDIS Appeals support for people seeking review of National Disability Insurance Agency decisions

Thank you for the opportunity to comment on the draft amendment to s 181 of the *Mental Health Act 2013* (Tas) ('the Act'). As per our submissions to the previous round of proposed amendments to the Act, we are concerned about reducing protections in the Act without a corresponding increase in education and a realised increase in consumer knowledge and understanding of their rights under the Act. This especially relates to the right to request a review of a Treatment Order by the Mental Health Tribunal at any time. Treatment Orders under the Act fundamentally interfere with people's right to liberty and we believe that proportional and appropriate safeguards need to be in place across the duration of Treatment Orders due to this interference.

We understand that the proposed amendment reflects a step-up, step-down model of involuntary mental health care, where the location of care can vary from inpatient to community care based on an individual's changing needs. We are not opposed to such a model in principle, given the inherent benefits in tailoring treatment to the individual. However, in implementing such a model, we believe it is vital for appropriate safeguards to remain included in this Act.

We would contrast the practical effect of Treatment Order harm reviews with other circumstances that entail a persons' liberty being curtailed. In these circumstances, people are generally entitled to be promptly brought before a competent judicial body, to have the legality of the decision to interfere with their liberty confirmed. This automatic protection seeks to address the arbitrariness of the detention and reflect the value placed on liberty as a human right. People on involuntary Treatment Orders under the Act would not have this automatic protection under this amendment in circumstances where an Approved Medical Practitioner believes they should be admitted to prevent possible harm. Rather, people in these circumstances would need to take positive action to enforce their rights and seek a review.

Given that the automatic review timeframes were recently doubled in the Act and can last for an extended period of time, the impact of this amendment is increased. We are concerned that being on a Treatment Order could create an ongoing uncertainty for mental health consumers about when

and how they may find themselves detained across the duration of a Treatment Order and that this ongoing uncertainty could have unanticipated impacts on clients.

In our work providing the Mental Health Tribunal Representation Scheme, we have not been requested to provide regular support to people at the type of hearing this amendment seeks to remove. On that basis, we are unable to provide further comment reflecting what our clients have experienced relating to these hearings.

Please contact us on (03) 6224 2240 or via email at CEO@advocacytasmania.org.au for any further information regarding this submission.

Authorised By:

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