MHCA submission to the Commonwealth Ombudsman's Own Motion Investigation: Engagement of customers with a mental illness with the social security system

October 2009

Summary
MHCA acknowledges the changes relating to the operations of the Department of Education, Employment and Workplace Relations (DEEWR), Centrelink and disability employment services that have been made by the Australian Government in the last eighteen months. These changes show a commitment to addressing the disadvantages faced by mental health consumers and carers, in particular the most onerous burdens under the previous *Welfare to Work* arrangements.

It is still unclear whether the changes that have been made will ultimately achieve the promised improvements because there is little information on how well these changes have been implemented or are being monitored and seemingly few avenues for consumers and carers to provide this sort of feedback to the agencies involved.

More concerning however, is that mental health consumers and carers still report a range of ways in which they are being disadvantaged by the policies and operations of these agencies. There are no well developed mechanisms, apart from the Centrelink decision review process, through which this information can be fed back to the relevant social security agencies. These processes are often inaccessible to people with mental illness. Further, the lengthy nature of review mechanisms can cause undue financial hardship and compromise the health of mental health consumers.

More efficient and effective mechanisms are required to assist mental health consumers and carers to work with these agencies to:

- be able to navigate the system without enduring undue hardships due to the inability of these agencies to meet the needs of people with mental illness; and
- provide input to policy development on an agency wide or whole of government level.

Mental Health Council of Australia (MHCA)
MHCA is the peak, national non-government organisation representing and promoting the interests of the Australian mental health sector, committed to achieving better mental health for all Australians. The membership of the MHCA includes national organisations of mental health service consumers, carers, special needs groups, clinical service providers, community and private mental health service providers, national research institutions and state/territory peak bodies.

In addition to its broad membership, MHCA auspices the National Mental Health Consumer and Carer Forum (NMHCCF), which is a combined voice for mental health consumers and carers (see www.nmhccf.org.au). The NMHCCF has a particular interest in employment and income support and has made a number of submissions to the relevant agencies since the introduction of *Welfare to Work* arrangements.

MHCA National Mental Health Employment Strategy – Let's get to work
In November 2007, the MHCA released *Let's get to work – a National Mental Health Employment Strategy for Australia*. *Let's get to work* was developed following almost 12 months of background research, consultation and extensive input. It describes social, personal, economic and productivity implications of Australia's low rate of workforce participation amongst people with a mental illness and highlights a range of strategies to improve the way the sector supports mental health consumers including:

- measures to determine the success of services;
- investing in skills;
- policy changes;
- support services for employment providers and the work place; and
- leadership within the field and by government.

The overall aim of the strategies in *Let's get to work* was to increase the level of workforce participation for people with mental illness by focussing on the needs of the consumer.

The report highlights that the person with a mental illness must be at the centre of decision making about their lives. If the process of seeking or remaining in employment or participating in training or vocational support is disempowering for the individual then it is unlikely to be successful. The disadvantages created by the Welfare to Work policies of the Australian Government at the time were also covered by *Let's get to work* which outlined a range of strategies to assist agencies improve their services and achieve a more person centred approach. *Let's get to work* is available at the MHCA website (www.mhca.org.au) and a copy included with this submission.

2009/10 Budget Initiatives
Since the release of *Let's get to work*, there have been some significant changes in operations and policies around employment and income support policy for people with a mental illness. Extensive public consultation through the Disability Employment Services Review and the Job Capacity Assessment Review began in mid 2008. The Australian Government's willingness to listen to the community's views on these issues was greeted as a positive sign amongst mental health

consumers, carers, professionals and service providers because people in the sector were desperate to have their voice heard on these policies that concerned them. This sort of consultation had not happened in any real way since the introduction of *Welfare to Work*.

The positive changes that resulted from this consultation included the uncapping of disability employment services to respond to demand; fairer breach conditions; enhanced flexibility of services to cater to the needs of people with mental illness; and improved Job Capacity Assessment (JCA) processes as part of the 2009/10 budget measures.

These and other changes are most recently summarised in the new The National Mental Health and Disability Employment Strategy[1] released by the Minister for Employment Participation, Senator Mark Arbib, and the Parliamentary Secretary for Disabilities and Children's Services, the Hon Bill Shorten MP on 14 September 2009.

The National Mental Health and Disability Employment Strategy

MHCA welcomes the Australian Government's publication of a National Mental Health and Disability Employment Strategy. The Strategy is to be applauded for recognising that:

- positive employment outcomes are directly affected by "poorly coordinated support, inadequate education and training, opportunities, outmoded community attitudes and the fear of losing eligibility for crucial benefits"[2]; and
- addressing these is the joint responsibility of the range of national government agencies whose work directly effects employment and support of people with disabilities.

While the Strategy purports to address these issues, mental health consumers and carers report that there are still numerous gaps in the way services are being provided and that these cause serious disadvantage.

MHCA is extremely concerned that the key messages around the episodic nature of mental illness and the supports required by mental health consumers and carers are still not being taken into account by these agencies. There is still much to be done to address the disadvantages for mental health consumers created by the *Welfare to Work* system and it is of great concern that the following important issues are not addressed by the Strategy:

- the level of service provision offered by Centrelink is still causing undue hardship and continues to alienate those who are already disadvantaged by mental illness and disability; and
- the lack of ongoing consultation processes with mental health consumers and carers.

The following elements of the National Mental Health and Employment Strategy are discussed in detail:

1. New Disability Employment Services

[1] Department of Education, Employment and Workplace Relations 2009 *National Mental Health and Disability Employment Strategy*, Commonwealth of Australia, Canberra.

[2] Ibid, page 2

2. Removing the disincentive for people on Disability Support Pension to seek work
3. Workforce re-engagement through better and fairer assessments for Disability Support Pension
4. An enhanced Job Access website
5. Developing a National Disability Strategy
6. Implementing the Fourth National Mental Health Plan.

1. New Disability Employment Services[3] are proposed to give job seekers immediate access to personalised employment services better suited to their needs with stronger links to skills development and training. However, it is still extremely unclear how these services will operate and how they will be monitored. As outlined in *Let's get to work*, MHCA knows that it is only by including consumers and carers in the development of these operational guidelines and monitoring arrangements that these services can be truly effective.

Mental health consumers and carers are not being directly consulted on these new service arrangements in any coordinated or ongoing way. While there are broad provisions for seeking consumer feedback and developing Key Performance Indicators, these are nowhere near adequate to meet the aim of this program.

In July 2009, the NMHCCF provided a submission that noted the following mitigating strategies that need to be in place to ensure that people with mental illness are not disadvantaged any further by the new DES model:

- close monitoring of the new JCA processes including the provision that DES and their clients need to be able to participate in providing feedback on how well the new JCA arrangements are working;
- close monitoring of the new Ongoing Support Assessment arrangements to ensure that these do not disadvantage mental health consumers in the same way that the old JCA process did;
- the development of guidelines that include rigorous monitoring and continuous quality improvement arrangements and utilise the experience of service users to inform service improvement;
- close monitoring of flexible ongoing support safety net arrangements to ensure that they are providing the necessary safety net for vulnerable clients;
- appropriately detailed KPIs that have been developed with the input of clients (people with a mental illness); and
- appropriate use of KPI data to ensure continuous quality improvement.

A copy of the NMHCCF submission is available on the NMHCCF website (www.nmhccf.org.au).

Details around how the new disability services will operate and how they will be monitored will drive the quality of the National Mental Health Disability Employment Strategy. These will need to include the provision for the inclusion of consumers and carers in the development and implementation of new programs and the ongoing evaluation of activities to ensure that they are working most effectively.

[3] Ibid

It is also understood that as part of the Strategy:

> "a major study is underway to evaluate the most successful models of employment assistance for people with mental illness and that this will look at interventions provided to job seekers during their journey through employment services, including the effectiveness of relationships between employment service providers and mental health services. A final report, due in 2010, will identify and describe best practice employment assistance for people with mental illness."[4]

This is a much needed initiative. However, people with mental illness have been telling services what they need for a long time and it would seem that improving consultative mechanisms with people with mental illness would provide much of this information. Further, unless mental health consumers and carers are involved in the study, it is more likely to provide information on how services think they can be more effective than how best to meet the needs of mental health consumers and carers.

2. "Removing the disincentive for people on Disability Support Pension to seek work".[5] This has been an important step in assisting people with mental illness to seek work and yet not enough has been done to address these systemic disincentives.

For example, people with mental illness who are eligible for the Disability Support Pension (DSP) report significant financial hardship and distress being caused by the policy of putting them on Newstart Allowance rather than the DSP if they become unwell for less than six weeks whilst working. This unfairly discriminates against a group who are otherwise deemed eligible for the DSP and does not adequately acknowledge the episodic nature of mental illness.

Ongoing and more effective monitoring arrangements also need to be implemented to ensure that appropriate safety nets are in place for people with episodic conditions such as mental illness. These need to be supported by other elements of the system such as effective JCAs and knowledge and information exchange between agencies. It is easy for vulnerable clients to fall through cracks in such a complex system without support and advocacy, neither of which are easily available to people with mental illness under the current system. Addressing these issues will encourage mental health consumers to engage with the system, build their trust and confidence in it and thus support better employment outcomes.

3. "Workforce re-engagement through better and fairer assessments for Disability Support Pension"[6]. A number of measures have been implemented to support the support the re-engagement of people with disability within the workforce as part of the Disability Support Pension-better and fairer assessments 2009-10 Budget measure.

[4] Ibid page 14
[5] Ibid page 8
[6] Ibid page 5

These measures include:

- "an increase in JCA fees paid to JCA providers to ensure that Job Capacity Assessors are appropriately qualified allied health professionals, such as registered psychologists".[7] This is an extremely important initiative but again, it is one that will need to be monitored for effectiveness. Improving the qualifications of the assessors only addresses part of the assessment process. Another problem with JCAs is that the interview is structured as a box ticking exercise and unless the process is structured to ensure that the assessor builds up a meaningful relationship with their client, the process can easily result in the wrong outcomes. This is reported to occur regularly.
- "changes to booking arrangements to make sure that people see the assessor, or combination of assessors, best placed to help them"[8] and more assessment availability to ensure access. Again these processes will need to be appropriately monitored to ensure their effectiveness.

Mental health consumers continue to report that the JCA process is challenging, unfairly intrusive and disadvantages them in a number of ways. This has not been addressed through measures to make the conduct of JCAs a fairer process. Risk management approaches, backed up by safety net arrangements, urgently need to be put into place to address the following.

i. Disclosure of personal information

As outlined in *Let's get to work*, disclosure is a major issue for people with mental illness and this was exacerbated under the introduction of JCAs which have placed additional pressures on people with mental illness seeking work.[9] Many mental health consumers feel that the JCA process forces consumers to disclose information about their illness experience that they are not comfortable with disclosing to anyone but their medical practitioner. This unnecessarily places a burden on them by requiring them to reiterate their support needs rather than their skills and strengths. This discomfort is exacerbated for people whose assessor does not have the required skills or if the assessment is inappropriately handled. Mental health consumers also report that this is causing some to not disclose their illness, thus cutting off their eligibility for appropriate supports. In both of these situations, appropriate access to an effective JCA is compromised.

ii. *Identifying with disability*

There is also a significant proportion of mental health consumers who do not identify as having a disability. The latest ABS data indicates that only 35% of people with a mental illness are receiving care.[10] Community service and Australian Government agencies are already aware that there are a proportion of social security clients who do not have a formal medical diagnosis or who otherwise do not choose to identify their disability but whose employment prospects and records are adversely affected by mental illness and/or disability. There is little flexibility in the current system to assist people to access appropriate JCAs or indeed to meet their Centrelink

[7] Ibid page 12

[8] Ibid page 12

[9] Mental Health Council of Australia 2007 *Let's Get to Work – a National Mental Health Employment Strategy for Australia*, MHCA, Canberra, page 26.

[10] Australian Bureau of Statistics 2007 *National Survey of Mental Health and Wellbeing Summary of results*, ABS, Canberra ABS 4326, page 23.

obligations or obtain and maintain work. Very often this contributes to further alienation from available supports and reliance on assistance from emergency welfare agencies.

Mental health consumers and carers have offered creative solutions to many of these issues and it is disappointing that they have not been given the opportunity to assist the appropriate agencies to develop these.

4. "An enhanced Job Access website to increase awareness among employers of the services available to support both people with disability and mental illness"[11]. For this new service to work well it will be important to monitor how well people with mental illness are able to link up with appropriate disability employment services through Job Services Australia when appropriate. How this will be done is unclear and the input of mental health consumers and carers will be important in determining effectiveness.

5. "Developing a National Disability Strategy to increase the social, economic and cultural participation of people with disability, to eliminate the discrimination they experience and to improve disability support services for families and carers."[12] It will be important that the National Disability Strategy include consideration of the needs of people with mental illness and work directly with mental health consumers and carers during the development phase. It is not clear at this stage what mechanisms are in place to facilitate this. The National Disability Strategy will also need to link directly to the Fourth National Mental Health Plan so that these are not developed independently resulting in gaps in the types of services available to mental health consumers and carers.

6. Implementing the Fourth National Mental Health Plan, "which represents a renewed commitment by all health ministers to the continual improvement of Australia's mental health system."[13] The new Draft Fourth National Mental Health Plan has already been challenged by MHCA and other mental health organisations as not adequately reflecting the needs of the sector and in failing to provide appropriate implementation and monitoring components that will ensure genuine improvements in the sector. To be specific and in relation to employment, there must be a clear commitment, resources and a timeframe towards the establishment of effective and independent processes by which to collect and publicly report on the employment status of people with a mental illness. The need for this information is acknowledged in the 4th Plan. To the extent that a process to develop this information has been outlined, it fails to ensure adequate independence in the data gathering process to instil confidence in the outcome. For the National Mental Health and Disability Employment Strategy to be effective it will need to ensure that it establishes mechanisms to better manage this situation.

[11] Op Cit, Australian Government 2009, page 10
[12] Ibid page 9
[13] Ibid pages 5 and 9

People with a mental illness who do not qualify for the Disability Support Pension

Since the introduction of *Welfare to Work* hardship has increased for people who have a mental illness but do not now qualify for the DSP as they are able to work more than 15 hours per week. This group of people, who often do not disclose information about their mental illness, are eligible to access supports such as Disability Employment Services but their needs are not always appropriately identified by relevant agencies and as a consequence, remain unmet. These mental health consumers often become recipients of emergency welfare with these agencies regularly identifying and reporting their needs to DEEWR and Centrelink.

Stigma and communicating with people with mental illness

Stigma and resulting discrimination is a major issue for mental health consumers and their carers. This is a significant reason for non-disclosure of illness and disability and continues to play a major role in services provided in the employment and social security sectors both on a national policy level and at the service delivery level.

Mental health consumers regularly report their interaction with Centrelink to be difficult, confusing and/or disempowering. The nature of mental illness is such that it can result in a lack of self confidence, making communication with others challenging, overwhelming or intolerable.

The Centrelink customer charter includes:

1. You can expect us to make it easy for you to use our services.
2. You can expect us to treat you with respect and courtesy.
3. You can expect us to explain your options to you.
4. You can expect us to respect your rights. [14]

In situations concerning mental health consumers it is appropriate that the definition of making it easy to use the service and be treated with respect includes communication that includes patience and empathy. Indeed most members of the Australian community would expect such treatment. Many Centrelink customer service staff just do not have the skills or the time to use this approach and this results in situations where people are less likely to engage with this system leading to further disadvantage.

Further, many Centrelink offices are open plan design and do not facilitate disclosure of sensitive health information, even if a mental health consumer were able to find a customer service officer who may be willing to listen to their concerns and assist them to navigate the system.

Mental health consumers consistently report the difficulty of being informed of many issues by letter with little explanation. They report that there is no person with whom they are able to talk to assist them in interpreting the implication of the communications or what is required of them. The telephone number provided on the letters is often not helpful in this respect as consumers and carers must again and again re-tell their story.

[14] Centrelink Customer Service Charter available at www.centrelink.gov.au, accessed 27 October 2009.

The services of Disability Support Officers are inaccessible at best and only available to those who know enough about the system to work within it. This eliminates many people with mental illness whose complex range of support needs can leave them more marginalised than most.

For example[15], a person with a mental illness receives a letter that advises them that they must attend a meeting with Centrelink at a certain time or their claim for income support will be referred to the Director of Public Prosecutions. They may have some awareness of the context of the letter but are unable to attend on this date and are distressed at the potential of a financial catastrophe over which they feel they have no control. The letter refers to a phone number but the Centrelink officer staffing that telephone number is unable to discuss the particulars of their case with them. This precipitates further acute distress. The person seeks assistance from an already under resourced emergency welfare agency or a welfare rights organisation. Alternatively the person's health could deteriorate to the extent that they become unable to deal with the issue. Either way the crisis could more easily be resolved with more appropriate Centrelink processes or other effectively resourced advocacy support.

Let's get to work outlines a range of proposed strategies to address stigma in the Australian community and to assist Centrelink and employment services to evaluate their performance against appropriate benchmarks. It is not clear if such actions would be picked up under the National Mental Health and Disability Employment Strategy.

Support for Carers

In April 2009 the MHCA provided a submission on the Senate Community Affairs Committee inquiry into the *Social Security Legislation Amendment (Improved Support for Carers) Bill 2009.* The content of this submission is of relevance to the own motion investigation and a copy is available on the MHCA website www.mhca.org.au.

The proposed amendments gave much needed recognition to the gaps in the financial and other support needs of carers of children with a disability but did not recognise the same needs for carers of people with disability who are adults. Many carers of people with a mental illness are family members such as parents or spouse, however sometimes the consumer's children (many of whom are under 16 years of age) assist them to maintain their daily routine, remain well or look after them when they are ill.

The financial and other support needs of these carers is described in detail in the attached submission. It highlights that urgent changes are also required to improve support for carers of adults with a disability and this is particularly urgent in the case where such carers are children themselves. The Ombudsman should consider this grave disadvantage faced by many mental health carers.

Ongoing community consultation processes

[15] This example was provided to MHCA from one of our consumer contacts.

While much public consultation has been undertaken on some of the elements of the National Mental Health and Disability Employment Strategy, mental health consumers and carers are concerned that the ongoing consultation processes that have been used in the past to provide some input on the development and implementation of policies on the ground are now not operating. The Disability Customer Reference Group run by Centrelink was one mechanism for direct input from mental health consumers on policy affecting them. While there was some concern expressed by mental health consumers about the way that the group operated, consumers and carers are keen to maintain a mechanism for such consultation. As has already been outlined, consultation processes are going to be an important way of ensuring that mental health consumers and carers are involved in the implementation and monitoring of policies and that agencies are aware of their views. Ongoing consultative mechanisms that meet best practice principles for consumer and carer participation (such as remuneration for time and expertise), urgently need to be reinstated.

Interaction with Centrelink

Mental health consumers and carers advise a range of problematic issues relating to the operation of Centrelink services. These appear to indicate a lack of information and coordination between DEEWR and Centrelink, or between Centrelink policy areas and customer service staff so that policies are not implemented or are implemented incorrectly. These include:

- clarity and consistency of information continue to be major difficulties faced by people with mental illness when dealing with Centrelink. For example Centrelink staff do not appear familiar with their own policies around same sex couple recognition and do not have effective methods of dealing with this lack of information, leaving the onus on consumers to navigate Centrelink's internal systems to resolve the issue themselves;
- consumers remain unclear (and it appears many Centrelink employees also remain unclear) how Centrelink recognises the 'nominee' arrangements and how this fits with an enduring or other power of attorney arrangement; and
- consumer requests for a review of decisions are initially undertaken by the Centrelink officer/s who made the decision/s. Undertaking a reviews on their own decisions effectively undermines the integrity of the review process.

Resolving these situations is challenging to any customers who do not operate within this system. It can be severely disadvantageous for a mental health consumer who may be already be marginalised, lack skills and/or motivation to navigate a system that does little to support them.

This is especially the case when Centrelink staff are not easily able or willing to assist in resolving these challenges. Compounding the above disadvantages are the time lags on decisions that are faced by Centrelink customers as these issues are resolved or not resolved. The health and quality of life of mental health consumers can be severely compromised by the consequent financial implications of delayed decisions.

It is clear that mental health consumers require further advocacy and support mechanisms if their needs are to be met by agencies such as Centrelink, DEEWR and Job Services Australia.

Conclusion
MHCA would be pleased to assist in developing solutions to these issues in partnership with the social security agencies and looks forward to the Commonwealth Ombudsman assisting with this process through this own motion investigation.