

Community engagement feedback report on the public consultation for the Draft

ACT Charter of Rights for Mental Health Consumers

Purpose: To provide a summary of the consultation process, and the recommendations for the future development of the ACT Charter of Rights for Mental Health Consumers (the Charter). This information is for the ACT community and in particular those who participated in the consultation process. A copy of the draft Charter consultation version is at [Attachment A](#).

Background: The ACT Charter of Rights for Mental Health Consumers (the Charter) is an ACT Government 2008 election commitment. The purpose of the Charter is to protect and promote the rights of people who experience mental illness or mental health problems across the ACT jurisdiction. People who experience mental illness or mental health problems have the same rights as everyone. Sometimes those rights are ignored. The Charter:

- Highlights the rights of individuals but does not introduce new legal rights.
- Highlights the established and recognised rights of people who experience mental illness or mental health problems.
- Sets out those rights that explicitly support people to be free from discrimination and to access high quality health and social care services.
- Informs and guides mental health consumers, their family, carers and service providers of their rights.
- Aims to promote knowledge and a general awareness of these rights and how these rights are supported by Human Rights Act 2004 and how they relate to other relevant legislation, covenants and declarations.

The draft Charter was developed by a working group comprised of key community stakeholders: the ACT Mental Health Consumer Network, Mental Health Community Coalition of the ACT, The Human Rights Commission, Carers ACT and ACT Government Health Directorate. The draft Charter was tabled at the ACT Ministerial Advisory Council on Mental Health meeting on 1 December 2010. The document was endorsed for distribution and further community-based consultation.

The objective of the public consultation was to inform the community of the Charter, the development process, origin and purpose, and to seek any specific, final community comment on the Charter, most notably its implementation and application in the community. This aspect of the consultation was important to ensure the overarching purpose of the Charter and the extensive expert community and legal contributions, translated to a valuable community resource.

Public consultation period

The public consultation period was originally set for the period, 9 February to 22 March 2011. However, a number of requests were made by individuals and organisations to extend the closing date to allow for their considered input. Consequently, the consultation period was extended until 4 April 2011.

Media dissemination for the consultation

A multi-pronged communication strategy was put in place to ensure as many people as possible, especially those affected by mental illness, knew the draft Charter was open for public consultation and knew how to provide contributions. Information regarding the release and consultation process for the draft Charter was promoted through: the ACT Government community engagement website; ACT Health Directorate; other ACT Government websites; non-government websites and; newsletters such as those of: Carers ACT, ACT Mental Health Consumer Network, ACTCOSS, and the Youth Coalition of the ACT. Information was also provided through the Canberra Times, the Chronicle, 666 ABC Radio and Triple J Radio.

The start of the consultation period coincided with the inaugural “Leading the Change” Mental Health Community Coalition conference which provided a good opportunity for media coverage.

Public meetings, submissions and individual responses to the draft Charter.

Contributions were received from a total of 42 participants/respondents. An outline of the consultation locations, respondents and participants is at [Attachment B](#).

[Attachment C](#) details the organisations which responded to the consultation.

The Responses

In general, the draft ACT Charter of Rights for Mental Health Consumers was commended. Many respondents commented positively on the development process of the Charter. The majority of respondents thought the Charter was a positive step toward promoting the rights of people who experience mental illness or mental health problems.

The consultation respondents identified a number of areas to improve the Charter notably through:

- Improving its readability and reducing repetition;
- Clarifying the audience the Charter is designed for, and improving the definition of consumer ;
- Balancing the language used to improve acceptance and recognition, for example, it was noted that many respondents did not like the term ‘consumer’. The reason being: the term suggests a person who has experienced mental illness or mental health problems is a consumer of Mental Health, Justice Health and Alcohol and Drug Services in the ACT, yet those who are may or may not see themselves as consumers, and those who seek assistance elsewhere may think the Charter does not apply to them. A number of advocates for specific cohorts such as young people and the elderly strongly reiterated this point.

Recommendations:

The four major themes arising from the consultation were:

1. The language used in the Charter needs to be plain and clear.
2. The term consumer needs to be defined.
3. The Legislation, Charters and Rights based documents that align with this Charter need to be stated.
4. There needs to be a guide as to what mechanisms exist to help support a person whose rights may have been contravened.

The suggestions provided through the consultation have significantly influenced the development of the final draft Charter. The Charter Advisory Group met on several occasions to redraft the Charter to reflect these recommendations. The Charter's preamble states for whom the Charter is intended, the structure of the Charter is now similar to the Australian Charter of Healthcare Rights, and has stated the rights more simply and under the headings of Respect, Safety, Communication, Access, Participation, Privacy and Comment. The term "consumer" was unpopular for a number of reasons, predominantly because many people did not identify with being a "mental health consumer". The Charter Advisory Group recommended the Charter be renamed, "The ACT Charter of Rights for People who experience Mental Health Issues". The Health Minister Katy Gallagher has agreed to this name change. The Charter is intended to include *all* persons who experience mental illness and mental health problems. The change in name is to broaden the scope of the Charter to be inclusive of those affected by mental illness or mental health problems that do not identify with the term consumer.

Public release of the ACT Charter of Rights for People who Experience Mental Health Issues:

Information about the Charter will be made widely available through a number of ways. The Charter will be accessible online and in a pamphlet form, A2 posters will also be created. The pamphlet and online information has accompanying documentation about services that provide advocacy and support if rights are contravened ([Attachment D](#)). It also outlines Legislation, Charters and Rights based documents that align with the ACT Charter of Rights for People who experience Mental Health Issues ([Attachment E](#)).

An implementation and distribution strategy is being devised based on the advice received through the consultation process.

The Charter is currently being progressed through Government for the Health Minister's endorsement. Once endorsed, an official launch of the Charter will be organised and publicised.

DRAFT Charter of Rights for Mental Health Consumers

The ACT Charter of Rights for Mental Health Consumers is a Statement of Rights intended to enhance the quality of services and promote a rights based approach to mental health service delivery. It is also a guide for mental health consumers, their family and carers and service providers. It highlights the rights of mental health consumers to live their lives free from discrimination and to access high quality health care services that respect the diverse needs and backgrounds of consumers. It is a commitment of the ACT Government. It is a statement of values. It is subject to reasonable limits and the laws of the ACT.

1. Consumers, at all times, have the right to receive services and to be treated in a way that is consistent with the Human Rights Act 2004 (ACT).
2. Consumers have the right to respect and to have their individual human dignity valued and to be free from unlawful discrimination.
3. Consumers have the right to evidence based health care at all stages of their illness.
4. Consumers have the right to equality and non discrimination; to live, work and participate in the community to the extent of their full potential with equitable access to human services.
5. Consumers, regardless of diagnosis, have the right to timely access to mental health services that promote independence and recovery according to their needs.
6. Consumers have a right to mental health services that respect the individual needs of consumers, including needs related to age, culture, language, disability, gender and sexuality.
7. Consumers have the right to appropriate, comprehensive and timely information regarding their mental health and the treatments available, and to participate at all stages of their care and recovery.
8. Consumers have the right to be treated in the most therapeutic and least restrictive environment appropriate to their individual needs.
9. Consumers have the right to access mechanisms of complaint and redress, to appeal decisions and to seek second opinions regarding their treatment and care.
10. Consumers have the right to participate in mental health proceedings. Consumers have the right to access independent advocacy and legal advice regarding their treatment and care and social needs.
11. Consumers have the right to access family and friends and other supports.
12. Children and young people requiring mental health services have the right to the provision of services that are appropriate to their age and developmental needs; they have the right to participate in decisions about their care and treatment.

13. Consumers have the same right to privacy and confidentiality of personal information as other health consumers.

14. Consumers subject to the criminal justice system have the right to access mental health care appropriate to their clinical and social needs that is equivalent to care available in the community.

This Charter is not a law, and while it remains a commitment and statement of values, the rights set out cannot be directly enforced in a court or tribunal. However, under the Human Rights Act 2004 (ACT), public authorities providing health and human services have an obligation to act in a way that is consistent with human rights protected by that Act and to consider those human rights in decision making.

Attachment B

The following table indicates the consultation locations, dates and times and the number of participants who attended those sessions. It also shows the number of respondents who chose to submit a response t via email, mail or personally.

Consultation Location:	Number of participants/respondents
Belconnen Community Services: – Tuesday 15 Feb 11am to 12pm, Swanson Court, Belconnen	1
Tuggeranong Community Services: Wednesday 16 Feb 5.30 to 6.30 pm, Cowlshaw Street, Tuggeranong	5
Rainbow: MENTAL HEALTH CONSUMERS ONLY – Wednesday 23 Feb 11am to 12pm H BLK Canberra Technology Park Phillip Avenue, Watson.	12
Carers ACT: Wednesday 9 March 5pm to 6pm 2/80 Beaurepaire Street, Holt	2
Submissions received by mail or email from organisations or networks	15
Submissions/or comments emailed or phoned individuals	7
Total	42 Participants/ Respondents

Attachment C

The following table lists the organisations or networks who submitted a written response to the draft Charter during the consultation period.

1. AACT : Autism Aspergers ACT
2. AASW: Australian Association of Social Workers Member
3. ACTCOSS: ACT Council of Social Services Inc
4. ACTMHCN: ACT Mental Health Consumer Network Inc
5. ADACAS: ACT Disability, Aged and Carer Advocacy Service Inc
6. ATODA: Alcohol Tobacco and Other Drug Association ACT
7. CARE FIN: Care Inc Financial Counselling Service
8. COMPANION HOUSE: Assisting Survivors of Torture And Trauma
9. HCCA: Health Care Consumers Association Inc
10. headspace: National Youth Mental Health Foundation National Office
11. MHCC: Mental Health Community Coalition ACT
12. TCMHN: Transcultural Mental Health Network
13. UNITING CARE
14. WCHM: Women's Centre for Health Matters ACT: Women and Mental Health Working Group
15. WCHM : Women's Centre for Health Matters ACT: Women with DISABILITIES

Attachment D

This attachment indicates the content that will be placed online to accompany the Charter. An abbreviated version of this will be developed and will form part of the Charter pamphlet.

Fact Sheet: People who can help me when my rights are ignored.

Sometimes things go wrong and our rights are ignored. It's important to know who can help at these times.

In the first instance, it is a good idea to try and resolve concerns directly with a service provider. However, at times this doesn't work and some situations need an external third party.

Within the ACT Mental Health Community Sector.

Every ACT government funded mental health community provider is required to have a formal complaints mechanism for clients and carers. It is okay to ask about these, where they are and how you use them. If you don't feel able to do this on your own then get a support person to help you.

ACT Government Health Directorate takes consumer feedback and complaints seriously. You can talk to the feedback coordinator over the phone or make a time to meet them in person. They will help you with your concern. Tel: 6207 7627 Or Email healthfeedback@act.gov.au

The web site www.health.act.gov.au/consumer-information/feedback/consumer-feedback is a link for healthcare consumers and gives information about healthcare standards, giving feedback, and accessing your medical records. It also provides links explains and to other feedback avenues such as the Health Services Commissioner.

ACT Government Health services directory www.health.act.gov.au/health-services lists health services, the service address, phone number, location on a map, and opening hours.

Each ACT Government Directorate has its own feedback mechanisms. Or you can provide feedback directly to the ACT Government by visiting [Canberra Connect](http://Canberra.Connect). www.contact.act.gov.au/

ACT Human Rights Commission

The ACT Human Rights Commission resolves complaints about the provision of health services, services for older people, disability services and services for children and young people. The Commission also resolves complaints about unlawful discrimination, and promotes human rights in the ACT. www.hrc.act.gov.au Tel: 6205 2222 or Email: human.rights@act.gov.au

Public Advocate: The Public Advocate of the ACT is an independent Statutory Authority which provides best interests advocacy for children, young people and adults in the community who suffer from a condition or situation that makes them potentially vulnerable to abuse, exploitation or neglect. This includes people 'in care' such as in a mental health facility or supported community accommodation, children living out of home or people in custody. The ACT Public Advocate can also be appointed as Guardian, in line with the [Guardianship and Management of Property Act 1991](#), for

those people who have 'impaired capacity' and for whom there is no-one else suitable or available to act as their guardian and make substitute decisions on their behalf. They can be contacted on Tel: 6207 0707 or www.publicadvocate.act.gov.au

Official Visitors

Under the Mental Health Act 1994, Official Visitors are appointed to independently inspect and oversee services and facilities that provide services under that legislation. They have the power to enter premises, inspect documents, and make formal reports to the Minister. official.visitors@act.gov.au or telephone: 62055045.

ACT Disability, Aged and Carer Advocacy Services (ADACAS)

ADACAS is an independent community organisation that provides free advocacy and information to people with disabilities, including those with psychiatric disability, and vulnerable older people. They can be contacted on telephone: 6242 5065 or www.adacas.org.au

Advocacy for Inclusion: -Provides individual and systemic advocacy to improve life for people who have a disability. Telephone 6257 4005 www.advocacyforinclusion.org

CarersACT is the Peak Body for Mental Health Carers' in the ACT. They will provide advocacy services. They can be contacted on Tel: 6296 9900 or 1800 242 636

Healthcare Consumers Association www.hcca.org.au

Tel: 62307800

Disability Discrimination Legal Service: Free legal service assisting people who have been discriminated against on the basis of their disability as recognised under legislation. Tel: 6247 2018 or www.welfarerightsact.org.au

Tenants Advice Service: Free over the phone legal advice on tenancy matters, information and community education for all ACT tenants. Works on tenancy /housing issues and represents ACT tenants in a range of forums. Tel: 6247 2011

ACT Mental Health Consumer Network Inc- Mental health consumers volunteer and train to advise, inform and partner with organisations and Government to improve outcomes for people using mental health services. They can be contacted on Tel: 6230 5796 or Email: actmhcncn@actmhcncn.org.au or www.actmhcncn.org.au

Factsheet- Legislation, Charters and Rights based documents that align with Charter of Rights for people who experience mental health issues.

Links to Legislation, Charters, Standards and Conventions

www.legislation.act.gov.au

- Human Rights Act 2004.
- Mental Health (Treatment and Care) Act 1994.
- Health Records (Privacy and Access) Act 1997.
- Discrimination Act 1991

www.health.gov.au

- Australian Charter of Health Care Rights.
- National Standards for Mental Health Services 2010.
- National Mental Health Statement of Rights and Responsibilities 1991

www.un.org

- United Nations Convention on the Rights of the Child.
- United Nations Principles for the Protection of Persons with Mental illness and the Improvement of Mental Health Care.
- United Nations Convention on the Rights of Persons with Disabilities.

Policies and Plans in ACT Health Directorate that relate to the Charter of Rights for People who experience Mental Health Issues can be found

www.health.act.gov.au/policies-and-plans

Some of these policies are:

- ✓ Consumer request for a staff member of a specific gender Policy
- ✓ Consumer Access to Legal representative/Legal Aid Policy
- ✓ Rights and responsibilities of Consumers, Carers and Service providers policy
- ✓ Seclusion of Consumers Policy
- ✓ Quality and Safety Framework
- ✓ Standard of Practice for ACT Allied Health Professionals 2004

Related Charters in the ACT can be found at

www.dhcs.act.gov.au

- ✓ ACT Homelessness Charter
- ✓ Charter of Rights for Children and Young people in Out of Home Care in the ACT
- ✓ ACT Carers Charter

Statement of Consumer Principles for a Mentally Healthy Community

www.actmhcn.org.au