



ENIGMA

NEWS AND VIEWS ON MENTAL HEALTH

AUTUMN 2017 EDITION

This newsletter was put together by the staff of the Otago Mental Health Support Trust. Editor: Grant Cooper

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OTAGO MENTAL HEALTH SUPPORT TRUST

- Peer Support
- Information, Education
- Advocacy, Consumer Networking
- Resource Centre for Tangata Whaiora

**3rd Floor, Queens Building,
109 Princes Street, DUNEDIN.**

Phone: (03) 477-2598 or

Tollfree on 0800364462

E-mail: info@omhst.org.nz

Website: www.omhst.org.nz

DISCLAIMER

The opinions and articles expressed in this newsletter do not necessarily represent the views of the Otago Mental Health Support Trust or anyone associated with the organisation

We welcome your feedback on our newsletter. See above for contact details.

To coerce or not to coerce...that is the question

The Mental Health Act is currently being looked at by the Ministry of Health in relation to human rights.

The rates of people under a Community Compulsory Treatment order have been rising. The key question is "Does coercion produce better outcomes?" Many would argue that it does not. The Ministry of Health stated "A review of the most recent international literature concluded that the scientific evidence for community treatment orders is weak at best (Heun et al 2016)." What then are the alternatives? Maybe a system that is more hope than fear based? A discussion we all need to have. The thing is – if we keep doing things the same way we will keep getting the same results...

This edition looks at the Mental Health Act and some views from people who have accessed the system. - - Grant Cooper - Editor

What happens to you under the Mental Health Act...?

You are in a psychiatric hospital, maybe for the first time. You do not want to be here and perhaps don't believe there is anything wrong with you. Can you be held and treated against your will? What about your rights?

Usually, when a person in New Zealand experiences mental illness they get to choose what to do about it, just as they would for any other illness. However, the mental health act does allow people with 'mental disorder' to be held and treated against their will. 'Mental disorder' is a legal definition, not a medical diagnosis. The act overrides the Health and Disability Code of Rights in regard to your health choices. Your other rights under the code including being treated with respect, being fully informed and given treatment of a proper standard must still be upheld. Encountering the psychiatric system can be scary and confusing, for you and those that care about you. However, there is a clear legal process which must be followed to protect your rights. Really good people to help you make sense of this process are a District Inspector, an advocate, or a peer support worker. Ask to be put in contact with them. In the meantime here is a basic outline of what may be happening to you (see over the page)

Who are your District inspectors in Otago and Southland?

In Otago:

If your surname is from A to L contact Max Winders Ph 03 477 9696

If your surname is from M to Z contact Jenifer Anderson Ph 03 474 0574

In Southland:

Contact Cleland Murdoch Ph 03 214 0777

What happens to you under the Mental Health Act...? (continued)

CERTIFICATE OF PRELIMINARY ASSESSMENT

This means that a doctor has assessed you and has issued a certificate saying whether or not there are reasonable grounds to believe you are mentally disordered. That means that you have such an abnormal state of mind that you are a danger to yourself or others or can't look after yourself.

- If the doctor has decided that you are not mentally disordered then you are free to go.
- If the doctor says that you are mentally disordered you will receive a copy of the certificate and so will the person who asked for you to be assessed, your usual doctor, your welfare guardian if you have one, and your principal caregiver. This certificate means that you can then be legally held for a further 5 days to be assessed and treated, compulsorily. You have the right to ask for a judge to review the situation. Ask to speak to a District Inspector.
- You will also be given written notice of where the assessment and treatment are to happen, whether at your home or in a hospital.

5 DAYS AND COUNTING...what now?

You will be closely monitored and assessed and probably given treatment. You do not have the legal right to refuse this treatment. All of your other rights under the Health and Disability Code of Rights must still be upheld. You must be treated with respect, communicated with properly and given all the information you need to make informed decisions. Before the 5 days are up the responsible clinician (usually the psychiatrist) will decide whether you are now OK or whether you need a 'Further period of assessment and treatment'. Again copies of the certificate will be sent to significant people. This certificate will be for a further 14 days assessment and treatment. During this period you once again have the legal right to ask for a judge to review your situation. About 6% of people who apply for these reviews are released by the judge. During the 14 day period if your mental health is thought to be improving you may be able to get some leave from the ward. This can only be granted by the responsible clinician.

14 DAYS ARE UP AND YOU ARE STILL IN HOSPITAL...What now?

Before the 14 days are up the responsible clinician will decide whether to let you go or not. If they want to hold you or to keep treating you without your consent beyond the 14 days then they must apply to the court for a 'compulsory treatment order'. This is a legal decision, made in a court by a judge. You will be notified of a hearing date. You are entitled to a lawyer; the ward will have a list of lawyers that may be able to represent you.

Generally court hearings are held in a room adjacent to Wakari Hospital ward 9b on a Wednesday.

The doctors and nurses will explain to the judge why they believe they need the power to detain or treat you without your permission. If you have a lawyer they will put your thoughts to the judge. The judge will also ask you what you think. You can also enlist the support of an advocate or someone to support you. Appearing before a judge is a daunting process. Don't forget that this is not a criminal matter, you are not on trial. It is where the doctor has to justify to the judge why they think it is necessary to deprive you of your liberty and to give you treatment you may not choose. In exceptional circumstances it may not even be necessary for you to go in to the court. The judge has the option of talking to you elsewhere, without the doctor present.

COMPULSORY TREATMENT ORDERS

After listening to the arguments the judge has 3 choices.

- To decide that you are not mentally disordered, or that even if you are disordered there is no need to use compulsion.
- To decide that the act is necessary to ensure that you get treatment, but that this could happen at home so that your life is disrupted as little as possible.
- As a last resort the judge might decide that the only place you can be successfully treated is in hospital.
- Compulsory treatment orders expire after 6 months. They can be renewed for a further 6 months and after that time they can be made indefinite. However at any time you can apply to the Mental Health Review Tribunal to have the order revoked.

What are your thoughts...?

The Ministry is currently reviewing whether the Mental Health Act should be changed so that it does not breach people's human rights. Recently we ran a forum to give people the opportunity to share their experiences of the Mental Health Act. Some comments by people at the forum were:

- The Mental Health Act is discriminatory.
- The threat of being put under the act is used to coerce people who seek treatment voluntarily. This negatively affects the therapeutic relationship.
- The whole "mental health system" is disempowering.
- Mental Health Act processes are very slow because of paternalistic clinician attitudes.
- My family was fed a lot of fears.
- In practice the Mental Health Act is about getting people to take medication. Is there not evidence for the effectiveness of other treatments?
- People should have the right to choose. That right is removed by the Mental Health Act.
- Clinicians should be heavily sedated for three months so that they know what it is like.
- Sedating people for several months so that they can't even get out of bed should become a crime.
- Being under the act is very isolating. It's hard to find someone in there battling for you.
- Attitude changes are needed in mental health service staff. Should this happen through training or at recruiting time?
- This review of the Mental Health Act was very poorly promoted. No-one on the wards knew about it.
- There is no Maori version of this review process.
- Statistics claim 59% consultation with families during admissions under the Mental Health Act. Where does this figure come from? Is it fabricated? Anecdotally the figure would seem much lower.
- Why has Raise Hope not introduced Open Dialogue as used in Finland. This has family involvement right from the start.
- It can be traumatising for family members to knock on the door at 9B.
- Solitary confinement (seclusion) varies greatly around the country.
- Seclusion is necessary if people are causing trouble.
- Restraint, physical and chemical – is this treatment or punishment?
- Should there perhaps be cameras in public areas of hospital wards? There would be pros and cons. Some people would see it as loss of privacy. Others would see it as openness and transparency.
- Another way to have transparency in mental health services is collaborative note writing.
- The Mental Health Act comes from a perspective of fear rather than hope.
- Clients have hope for the future, clinicians have fear.
- The Mental Health Act court experience – some people feel able to speak up for themselves, others find it impossible; it makes you feel like a criminal; it divides families as they are often the ones who get you in there; your only chance is a genuine second opinion and they are impossible to get.
- There is very little training for lawyers working in mental health – nothing from a client perspective.
- The service from District Inspectors is poor. Why do people who use mental health services not have a say in selecting District Inspectors for Otago. This does happen in other areas.
- Peer support and advocacy are the answer.
- Informal peer support is very important. E.g. patients on the wards talking to each other.
- Some people stay under the Mental Health Act only because they get free medication.
- Psychiatric district nurse vs. Peer Support worker: both nice people but different relationships. The nurse is more about helping, fixing.

Website Resources on the Mental Health Act (MHA)...

The **MHA** can be found at: www.legislation.govt.nz/act/public/1992/0046/latest/whole.html

Legal Coercion fact sheets by the Mental Health Foundation: <https://www.mentalhealth.org.nz/assets/Our-Work/MHF-Legal-Coercion-Fact-Sheets-2016.pdf>

Citizens Advice Bureau details of the MHA at: www.cab.org.nz/vat/hw/leg/Pages/MentalHealthAct.aspx

Brochure and poster on the MHA can be found at: www.changingminds.org.nz/projects/the-mental-health-act-and-you

Mental Health and the Law by Wellington Community Law Centre: Chapter 2. Note list of District Inspectors may be out of date:

<https://www.mentalhealth.org.nz/assets/Uploads/Ch-2-MH-the-Law-Mental-health-compulsory-assessment-treatment-act-2002.pdf>

FORUM

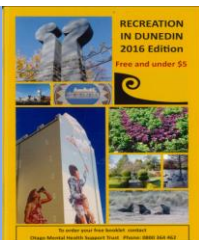
Come and hear Max Winders, a Dunedin District inspector speak about the role and powers of a District Inspector - *District Inspectors are lawyers appointed by the Ministry of Health under the Mental Health Act.*

Date: Monday 27th March 2017

Time: 6pm to 7pm

Place: Otago Mental Health Support Trust, 3rd Floor, 109 Princes Street (above Black Dog cafe)
We will provide some nibbles so it would be great if you could let us know if you are coming.

We still have copies of our "Recreation in Dunedin - \$5 and under" book. Contact us to get your FREE copy.



Women's Group is held on the last Friday of every month. This is a friendly informal meeting giving an opportunity for women to make new friends, and share experiences.

**1-3pm meet at our rooms,
Queens Building, 109 Princes Street.**

New Books in our Library...chosen and reviewed by Selina Dekker

Overcoming Anxiety. By Helen Kennerley: Self-help strategies using Cognitive Behaviour Therapy (CBT) to manage anxiety.

Depression: Natural Remedies that really Work. By Shaun Holt & Iona MacDonald: Explores how effective and safe natural remedies are. Offers alternative options to prescribed medications, what works and what doesn't.

Insanely Gifted. By Jamie Catto: Looks at how society dictates what is acceptable and how we should behave. Catto poses the question 'What if we dare to be our real selves, honestly and fully?'

Mindfulness in Eight Weeks. By Michael Chaskalson: A valuable resource with instructions to practice mindfulness. This book offers simple and easy to follow instructions to help you reach the calmer, more peaceful you.

Sheldon Mindfulness – Anxiety and Depression. By Cheryl Rezek: Combines mindfulness with research from clinical psychology to help you examine your life and emotions. This book presents the reader with evidence that in some cases mindfulness and psychological input can be as effective as medication.

Trouble in My Head (A Young Girl's Fight with Depression). By Mathilde Monaque: A sensitive and eloquent account of her experiences and resolve to conquer her inner turmoil. Inspirational and insightful.

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