An overview of policy changes affecting mental health since the launch of *Living Well* in December 2014

December 2015

Supporting paper for:

*One year on: Progress Report on the implementation of Living Well: A Strategic Plan for Mental Health in NSW 2014-2024*
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Since the launch of *Living Well: A Strategic Plan for Mental Health in NSW 2014-2024* there has been a range of significant developments within NSW and the Commonwealth, this section outlines the changes that will have an impact on the context in which the reform will be delivered.

### NSW STATE PRIORITY AREAS

In September 2015, the NSW Premier Mike Baird replaced the State Plan\(^1\), with twelve key priority areas none of which directly address mental health, which previously had been a priority under the State Plan.

The key priority areas are

- Creating jobs
- Building infrastructure
- Reducing domestic violence
- Improving service levels in hospitals
- Tackling childhood obesity
- Improving education results
- Protecting children
- Reducing youth homelessness
- Driving public sector diversity
- Keeping our environment clean
- Faster housing approvals
- Improving government services.

### HOUSING AND HOMELESSNESS

*Living Well* clearly identifies the importance of stable, affordable and safe housing for supporting recovery for people living with a mental illness. *Living Well* specifically proposes actions for expanding the Housing and Accommodation Support Initiative program, improved referral pathways to social housing, homelessness and mental health services.

**Residential Tenancies and Housing Legislation Amendment (Public Housing - Anti-Social Behaviour) Act 2015 (NSW)**

The Act, assented to on 22 October 2015, although not yet in force introduces a range of measures to tackle anti-social behaviour within NSW Social Housing, including a three strikes eviction policy for repeat offenders. Implementation is being discussed at a local level with coordinators of mental health services to ensure clients with mental health issues are identified early and are not unduly targeted by these new provisions due to the consequences of psychosocial disability\(^2\).

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Homelessness: Going Home Staying Home

The Going Home Staying Home, reform of Specialist Homelessness Services in NSW was rolled out throughout the 2014-15 financial year. The reforms reallocated resources based on predicted levels of client need, introduced a new balance of service models and ensures a consistent service at the point of entry. The reform enables support to be provided at home to prevent homelessness and provides guidance to address the issues presented by mental illness. The introduction of the Specialist Homelessness Services client information management system and associated referral protocol addresses the Living Well action to ‘improve care through better information sharing among service providers’ (8.4.3).

Social Housing Reform (NSW)

A Ministerial Advisory Committee has been established and tasked with “building the strongest possible ideas for delivering more social housing at a time of substantial need”. Accountable to the NSW Minister for Social Housing, the Committee is made up of six members with one year terms to May 2016. Members come from government, private and community managed sectors and will liaise with the social and private housing sectors, as they consider the options for reform. We look forward to Family and Community Services identifying ‘multiple ways in which consumers and carers can influence policy, services and programs’.

Domestic and Family Violence

Living Well identifies the importance of building safer and healthier families and supports NSW Government’s priority for improving the prevention and early intervention system for vulnerable children and their families.

It Stops Here

On the 15 February 2014, the NSW Government announced It Stops Here: Standing together to end domestic and family violence. The aim of this reform is to improve the way government agencies and non-government organisations respond to and prevent domestic and family violence across NSW.

The reform focusses on a number of key initiatives outlined below:

- A policy framework that promotes a common understanding of, and response to, domestic and family violence (such as a common definition)
- Research to determine activities designed to support men, women, children and young people to understand and develop healthy, respectful relationships
- Improving the consistency and effectiveness of the system response through new referral pathways of service coordination, including consistent screening through an evidence based

risk identification tool; an electronic Central Referral Point (CRP) to ensure referrals are made and acted on quickly; Local Coordination Points across NSW to provide victims with case coordination and access to local services and local Safety Action Meetings to reduce the risk to victims identified as at serious threat of further harm

- On-the-ground initiatives such as minimum practice standards, which ensure victims of family and domestic violence receive a consistent level of response that helps them to recover regardless of the point at which they enter the system
- Training to support workers implementing the reforms, as well as to generally up skill the sector to better support victims
- A state-wide database has also been established with details of victims and incidents to be shared among police, health-workers and welfare agencies.

The reform was developed in parallel to the Domestic Violence Justice Strategy which aims to strengthen the criminal justice response to domestic and family violence, for example, by holding perpetrators accountable and preventing re-offending.

**Domestic and Family Violence Funding**

In October 2015, the NSW Government committed an additional $60 million package to domestic and family violence reform. This funding is in addition to the $148.5 million over four years already committed for specialist domestic violence services in the 2014-2015 budget.

The package includes $15 million to introduce Domestic Violence High Risk Offender Teams in six police regions, these teams will target serious recidivist matters and investigation of the most serious cases involving domestic and family violence. The NSW Police Force will also introduce suspect targeting management plans for recidivist domestic violence offenders. A further $4.1 million will advance the roll out of all 24 Domestic Violence Liaison Officers (DVLOs) positions to support victims of domestic and family violence during police investigations. $19.5 million will be used for mandated perpetrator behaviour change programs.

The second annual National Family & Domestic Violence Summit ‘Building an integrated response to preventing family & domestic violence in Australia’ is also scheduled to be held next year in Sydney, on 25-26 February 2016.

**Sexual Assault Reforms in NSW**

The NSW Government committed $1.3 million in October 2015 to expand the number of qualified Sexual Assault Nurse Examiners in high-risk rural and regional communities in NSW, to provide improved support responses for victims of sexual assault.

**Child Protection Reforms in NSW**

The Department of Family and Community Services *Safe Home for Life* reforms provide a number of new initiatives in child protection within NSW. The objectives of these reforms are to strengthen the child protection system through legislative change, new policy and practice, as well as redesigning how technology is used in child protection. This includes an investment of $500 million over four years.

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years to implement the changes. *Living Well* sets out the case for robust early intervention and prevention services to support families and children to grow up healthy, well and resilient.

**The Royal Commission into Institutional Responses to Child Sexual Abuse**

The Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse, which commenced in January 2013, is continuing into 2016 with hearings scheduled across Australia. The Royal Commission is investigating how institutions including schools, churches, sports clubs and government organisations have responded to allegations and instances of child sexual abuse, investigating where systems have failed to protect children so it can make recommendations on how to improve laws, policies and practices.

The objectives of the Royal Commission are to promote a safer future for children, bearing witness and providing a just response. On the 14 September 2015\(^8\) the Royal Commission’s final report on redress and civil litigation was released, ‘*Safer Future for Children*’.

The work of the Royal Commission is highlighting the close link between childhood trauma and mental illness in later life.

**LEGAL**

*Living Well* states that it is a critical requirement for government to ensure future processes explicitly consider the effect legislation and policy will have on the mental health and wellbeing of the people of NSW.

**Draft Joint Protocol to reduce the contact young people in residential care have with the criminal justice system**

Last year, the NSW Ombudsman started working with stakeholder agencies to develop a joint protocol to reduce the contact young people in residential care have with the criminal justice system. This was in response to the concerns raised by Legal Aid NSW that the most frequent users of the Children’s Legal Service were young people with a history of being in residential care in NSW.

Almost 20,000 NSW children are in out-of-home care, a figure growing by nine per cent each year. More than one-third are homeless in the first year after leaving care, only 35 per cent complete the HSC and 2.6 per cent go on to tertiary education, according to figures from peak advocacy body the Create Foundation.\(^9\)

In August 2015, the protocol was endorsed for a state-wide rollout and a state-wide Steering Committee (SSC) was formed to oversee its implementation. The SSC includes representatives from the NSW Police, Family and Community Services, the Association of Children’s Welfare Agencies, AbSec, Department of Justice, Legal Aid NSW, Youth Action, Office of the Children’s Guardian, Aboriginal Legal Service and a residential service provider representative.

The protocol aims to:

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• Reduce police involvement in responding to behaviour by young people living in residential services, particularly behaviour that can be better managed within the service

• Improve relationships, communication and information sharing between residential services and police

• Facilitate a shared commitment by police and residential services to a collaborative early intervention approach to challenging behaviour by certain young people in these services

• Enhance police efforts to divert young people from the criminal justice system by providing them with better information to inform the exercise of their discretion

• Ensure that appropriate responses are given to young people living in residential services who are victims.

The NSW Ombudsman hosted the first meeting of the SSC in the final quarter of 2015. To support the work of the SCC, two working groups will also be established to focus on priority issues such as:

• Involvement of young people

• Identifying the type of data needed to inform the ongoing implementation and evaluation of the Protocol

• Processes for identifying and sharing good practice

• Developing a training strategy.

Mental Health Act Amendment (Statutory Review) Act 2014

The Mental Health Act 2007 underwent a review and the Mental Health Amendment (Statutory Review) Act 2014 was passed by NSW Parliament in November 2014, with the provisions coming into force in August 2015.

The Act was amended to reflect contemporary language, improve operational clarity and oversight arrangements and to align with best practice in mental health. Some of the key changes are the inclusion of recovery in the principles for care and treatment; changes to initial involuntary assessment processes; amendments aimed at strengthening consumer rights; introduction of the concept of designated carers and principal care providers; provisions relating to persons under the age of 16; and changes to procedures relating to community treatment orders.

Witness Intermediaries (NSW)

In October 2015, the NSW Government announced it will pilot a specialist child sexual assault evidence program. ‘Witness Intermediaries’ – also known as Children’s Champions, will provide support to child witnesses as they navigate the criminal justice process in the NSW District Courts. The pilot program will commence on 31 March 2016, in the District Court in Sydney and Newcastle, and will run over three years.

Witness Intermediaries will help child complainants of sexual assault giving evidence in criminal investigations and at trial. The Intermediaries will help child witnesses understand the questions

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they are asked and get their answers across effectively. Witness Intermediaries will work closely with victims, witnesses, police officers, legal professionals and the judiciary. They may be called upon to attend an investigative interview and/or District Court proceedings with a child complainant, and will produce a report for investigators and the court that outlines the child's communication needs. The pilot program will also expand the use of pre-recorded evidence in court proceedings. This is expected to ease the trauma experienced by child complainants in the criminal justice process while preserving an accused person's right to a fair trial.

The Commission welcomes these proposals; it takes a keen interest in this area due to the well documented link between childhood trauma and adult mental illness.

Social Services Legislation Amendment Bill 2015

The Social Services Legislation Amendment Bill 2015, currently before the Senate, seeks to amend the Social Security Act 1991 to remove the right of consumers in psychiatric confinement to receive social security payments when they have been charged with a serious offence12.

NSW prison population forecast

The State’s prison population has grown significantly over the past year. In April 2015, the NSW Bureau of Crime Statistics and Research released forecasts of the 2021 prison population, indicating an increase to between 11,200 to 12,700 inmates - up from 10,578 in 201413. However, the November 2015 NSW Auditor General’s Report on law and order shows that this figure has already been met. During 2014 – 15, the average number of inmates in NSW was 11, 011 and on the last weekend of October this figure increased to 12,16114. The system is only designed to cater for 9,829 inmates15.

People with a mental illness are disproportionately represented in custody, with three quarters of prison entrants in 2015 reporting having ever been told that they have a mental health disorder16. In 2009, nearly half (48.6 per cent) of NSW inmates reported having ever received assessment or treatment by a psychiatrist or doctor for an “emotional or mental” problem17.

Living Well states that mental health services should be integrated with interventions aimed at reducing criminal behaviour and models should be developed to further facilitate interaction between community mental health services and prisons.

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansardr%2Ff16c26f7-7d81-47f6-b117-32cd0df510e%2F0009%22
15 Ibid
On 13 October 2015, the NSW Government announced a substantial transformation of the *NSW Trustee and Guardian, 2017 and Beyond*. A major component of the change is a new operating model\(^\text{18}\). Clients will be allocated to a team of Client Service Officers instead of single staff member and teams will be centralised, with frontline service delivery primarily delivered remotely or through Service NSW centres.

The Commission will be interested to see how Service NSW centres are supported to take a trauma-informed approach to working with vulnerable clients.

**ABORIGINAL AND TORRES STRAIT ISLANDER**

*Living Well* sets out a range of actions to strengthen Aboriginal participation in service design, partnerships and relationships among Aboriginal communities and improve the mental health and social and emotional wellbeing of Aboriginal people.

**National Aboriginal and Torres Strait Islander Leadership in Mental Health (NATSILMH)**

NATSILMH launched the Gayaa Dhuwi (Proud Spirit) Declaration at the TheMHS Conference on 27 August 2015, for the use of Aboriginal and Torres Strait Islander leadership to achieve the highest standards of mental health and suicide prevention outcomes for Aboriginal and Torres Strait Islander people. A link to the Declaration can be found on the opening page of the NATSILMH website: [www.natsilmh.org.au](http://www.natsilmh.org.au). The Gayaa Dhuwi Declaration should now be considered by all NSW agencies and services in the design and delivery of their services and programs.

**National Aboriginal and Torres Strait Islander Health Plan 2013 – 2023.**

Last year both the National Aboriginal and Torres Strait Islander Health Plan 2013 – 2023 and supporting Implementation Plan for the National Aboriginal and Torres Strait Islander Health Plan 2013 – 2023, were released. The plan was developed to provide an overarching framework which builds links between major Commonwealth health activities and identifies areas of focus to guide future investment and effort in relation to improving Aboriginal and Torres Strait Islander peoples’ health.

**DISABILITY AND INCLUSION**

*Living Well* aims to address long-standing systemic issues relating to access and co-ordination of care and support for people with complex needs.

**National Disability Insurance Scheme (NDIS)**

The NDIS will deliver a national system of disability support focused on the individual needs and choices of people with disability. On 16 September 2015, NSW Premier Mike Baird and Prime

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Minister Malcolm Turnbull signed a bilateral agreement for the roll out of the NDIS across NSW between 1 July 2016 and 30 June 2018.

The Commissioner has raised concerns with the Department of Premier and Cabinet about:

- People with complex needs
- Governance mechanisms following full implementation of the NDIS and the cessation of Ageing, Disability and Home Care
- Ensuring NSW citizens eligible for the scheme are encouraged and supported as appropriate to access the NDIS
- Ensuring that Tiers 2 and 1 of the NDIS are integrated with state and local services.

The Commission is continuing to work with agencies to ensure that uncertainties surrounding the application of the NDIS for people living with a mental illness and psychosocial disability are resolved, via:

- Being a member of the National Disability Insurance Agency’s National Mental Health Sector Reference Group,
- Through regular meetings with Premier and Cabinet
- Partnership with the Mental Health Coordinating Council and stakeholders monitoring the roll out the NDIS in the Hunter trial site.

**Disability Inclusion Act 2014**

The Disability Inclusion Act 2014, commenced on 3 December 2014, replaces the Disability Services Act 1993. The Disability Inclusion Act expands the ‘target group’ to which it applies to include people who are an involuntary or forensic patient, subject to a community treatment order or under detention in a mental health facility, without reference to the sorts of services they receive. This is a key difference from the Disability Services Act.

The Disability Inclusion Act 2014:

- Reinforces the human rights of people with a disability
- Promotes the inclusion of people with disability by requiring government departments and local councils to engage in disability inclusion action planning
- supports people with disability to exercise choice and control through individualised funding wherever possible
- Provides safeguards for people accessing NSW funded disability supports and services, including new employment screening requirements and the need for disability accommodation providers to report abuse or neglect of people with disability to the Ombudsman.

**NSW Disability Inclusion Plan**

On 26 February 2015, the Minister for Disability Services launched the NSW Disability Inclusion Plan. The Disability Inclusion Plan aligns with the National Disability Strategy and obligations under the United Nations Convention on the Rights of Persons with Disabilities.
The Plan has four focus areas:

1. Defining positive community attitudes and behaviours
2. Creating liveable communities
3. Supporting access to meaningful employment
4. Improving access to mainstream services through better systems and processes.

All NSW public authorities, as defined by the Disability Inclusion Act, are now required to develop individual disability inclusion plans. Depending on the nature of the agency the plans are due by 1 December 2015 or 1 July 2017.

Disability Employment Advisory Committee

The NSW Government sector is undergoing a comprehensive set of workforce reforms. Among these reforms is ensuring a diverse workforce reflective of the wider community. People with disability are currently underrepresented in the sector workforce, compared to the NSW working age population.

In July 2015, the Disability Employment Advisory Committee was established to advise on next steps to improve outcomes for people with disability who are employed, or seeking employment, in the NSW Government sector. The Committee has 10 members from disability peak/ advocacy groups, academia and the private sector, as well as the Public Service Commissioner and the Secretary of the Department of Family and Community Services.

The Commissioner is a member of the Committee and works with his fellow members to ensure the consideration of people with psychosocial disability in disability inclusion activities across NSW.

NATIONAL CONTEXT

*Living Well* makes a clear case for improved Commonwealth and state government co-ordination, particularly in terms of mental health funding and programs. While we await further developments regarding Partnerships for Health, the following changes to the context of reform at the national level can be reported:

**National Review of Mental Health Programmes and Services and the Federal Government Response**

The National Mental Health Commission conducted a national review of mental health programmes and services, it provided the following nine strategic directions (with associated recommendations):

1. Set clear roles and accountabilities to shape a person-centred mental health system
2. Agree and implement national targets and local organisational performance measures
3. Shift funding priorities from hospitals and income support to community and primary health care services
4. Empower and support self-care and implement a new model of stepped care across Australia
5. Promote the wellbeing and mental health of the Australian community, beginning with a healthy start to life
6. Expand dedicated mental health and social and emotional wellbeing teams for Aboriginal and Torres Strait Islander people
7. Reduce suicides and suicide attempts by 50 per cent over the next decade
8. Build workforce and research capacity to support systems change, and
9. Improve access to services and support through innovative technologies.

A COAG Working Group on Mental Health Reform was established to address the report’s key findings and recommendations. On 26 November 2015, the Federal Government released its response. Key aspects of the reforms, which are to be rolled out over three years from 2016, include:

- Contestable mental health services to be commissioned through Primary Health Networks
- Coordinated packages of care will be created for people with severe and complex needs and flexible support for mild and moderate needs
- A digital mental health gateway to support the use of digital mental health services
- A new approach to suicide prevention, coordinated by Primary Health Networks.

The Mental Health Commission of NSW welcomes these reforms, particularly the focus on individualised treatment, the focus on primary health and the move to region-specific planning. This approach aligns strongly with *Living Well*.

It is assumed that these reforms will be incorporated into the Fifth National Mental Health Plan, which is expected early next year.

**Primary Health Networks**

Primary Health Networks (PHNs) were established in 2015, replacing Medicare Locals. The structure and ownership of the new PHN Primary Health Networks allows a mix of private, public and not for profit entities to become owner operators. Unlike Medicare Locals, PHNs are required to become commissioning bodies for clinical services rather directly employing personnel to deliver services. As noted above, they will take a lead role in the Federal Government’s response to the National Review of Mental Health Programmes and Services. Additionally, mental health is one of the key priorities identified in their roles and responsibilities.

**Drug and Alcohol service provision**

*Living Well* notes the importance of better integrating mental health and drug and alcohol responses. Drug and alcohol problems, can often co-occur with mental illness.

Over the past 12 months the Commonwealth Government has had a specific focus on the growing use of ice in Australia. The use of ice has been linked to mental health issues including anxiety, depression, violent behaviour and psychosis.

In April 2015, the Commonwealth Government established a National Ice Taskforce to provide advice to Government on the impacts of ice in Australia and actions needed to address this growing problem.

On 6th December 2015, The National Ice Taskforce report was released. The report recommended that Commonwealth, state and territory governments should improve planning of alcohol and other drug specialist treatment to ensure the right mix of resources and services are provided to the areas of highest need. This must determine the national distribution of funding and planning.
responsibilities, and ensure the implementation of a robust accountability and contestability framework that evaluates government investment against outcomes. The Government’s response included an investment of almost $300 million in new funding\textsuperscript{19}.

**Mental Health Funding and Budgets**

The 2014-2015 Federal Budget announced that the hospital funding model agreed to under the National Health Reform Agreement (2011) will cease from July 2017\textsuperscript{20}. From July 2017 the Commonwealth contribution to public hospitals will be based on movement in the consumer price index and population growth rather than an activity based funding model as was agreed under the National Health Reform Agreement\textsuperscript{21}.

Other changes announced to the federal health indexation formula, which in practice will still see a growth in Commonwealth hospital funding but at a much lower rate than would have previously occurred. This places NSW mental health reform within a tight fiscal environment.

The Australian Mental Health Care Classification\textsuperscript{22}, which is the distribution system for activity based funding, continues to be developed and is likely to be used by NSW in some form after Commonwealth activity based funding ends in 2017. The Commission is aware that the current Australian Mental Health Care Classification and activity based funding model (2015-17) for mental health potentially incentivises the provision of inpatient (admitted) activities over community or residential activities.

The changes to Commonwealth funding comes at a time when NSW budget commitments to mental health under the health portfolio have been variable – from a 12.1% increase in 2013-2014 to 4% in the following year (refer the table below).

**TABLE 1: NSW Mental Health Budget Allocations 2011-2016\textsuperscript{23}**

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount ($M)</th>
<th>Variance</th>
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<tr>
<td>2011-2012</td>
<td>1,340.0</td>
<td>-</td>
</tr>
<tr>
<td>2012-2013</td>
<td>1,388.8</td>
<td>3.6%</td>
</tr>
<tr>
<td>2013-2014</td>
<td>1,558.1</td>
<td>12.1%</td>
</tr>
<tr>
<td>2014-2015</td>
<td>1,621.2</td>
<td>4.0%</td>
</tr>
<tr>
<td>2015-2016</td>
<td>1,729.3</td>
<td>6.7%</td>
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\textsuperscript{19} http://www.health.gov.au/internet/main/publishing.nsf/content/396377B005C71DD0CA257F100005FD5C/$Fi le/combat%20ICE%20glossy.pdf


\textsuperscript{21} Ibid


\textsuperscript{23} NSW Government Budget Paper 3, for the financial years 2011-12 to 2015-2016
The Federation White Paper was published in the second half of 2014 and considers roles and responsibilities across government in the areas of health, education, and housing and homelessness and financial responses.

The Federation White Paper, scheduled to be released by the end of 2015, has not yet been released. It is unclear when this will be released, or if this work will continue.

The Federation White Paper is expected to consider:

- Subsidiarity, whereby responsibility lies with the lowest level of government possible, allowing flexible approaches to improving outcomes
- Equity, efficiency and effectiveness of service delivery, including a specific focus on service delivery in the regions
- ‘National interest’ considerations, so that where it is appropriate, a national approach is adopted in preference to diversity across jurisdictions
- Accountability for performance in delivering outcomes, but without imposing unnecessary reporting burdens and overly prescriptive controls
- Durability (that is, the allocation of roles and responsibilities should be appropriate for the long-term)
- Fiscal sustainability at both Commonwealth and State levels

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24 https://federation.dpmc.gov.au/terms-reference#timing