Health Justice Partnerships in New South Wales

Position Paper
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This work was undertaken on behalf of the NSW Health Justice Partnership Community of Practice. The Mental Health Commission of New South Wales would particularly like to acknowledge the contribution of the health and legal practitioners who directly informed the position paper.
Purpose

The purpose of health justice partnerships is to support inclusive communities, which enable all members to thrive and contribute.

Health Justice Partnerships

Health justice partnerships (HJPs) are early intervention programs. Recognising the complexity of disadvantage, they occupy the space where health and social justice issues overlap. Providing integrated, person-centred services, HJPs work with individuals to overcome structural barriers that negatively impact on a person’s quality of life and to advocate for systemic change.

Although there isn’t a clear causality, the relationship between unmet legal need and adverse health outcomes is thought to be mutually reinforcing. On the one hand, chronic illness or disability can cause barriers to accessing legal assistance and can compound social disadvantage. On the other hand, unaddressed legal issues can cause stress and anxiety contributing to mental and physical ill health.

By taking a holistic approach, HJPs remove the need to draw a distinction between legal and health issues. In its evaluation report, Redfern Legal Centre describe the interrelated nature of health and legal issues for one of their clients:

“Aron was in the MERIT program. He told his counsellor that he was having difficulty in paying back his loan under a Financial Management Order. He told his counsellor that his drug use was increasing due to the stress and anxiety about the debt, which was also increasing due to default fees and other charges. He was referred to the solicitor who found that as Aron was under a Financial Management Order, legally he was unable to deal with his own finances. The loan should never have been given and as such was voided through our advocacy. He reported saying that his stress had decreased significantly, and therefore his drug use.”

By working together through an HJP the health and legal services are able to improve the negative physical and psychosocial factors which jointly impact the health of the individual, and alleviate the strain on the healthcare and legal systems.

Principles

Social determinants of health

Social determinants of health are the social and economic factors which impact on individual health outcomes. We know that disadvantaged populations experience poor health outcomes at a higher rate than the rest of the population. Research has shown that both material and psychosocial

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2 Redfern Legal Centre (2015), *Aboriginal Health Justice Partnership: evaluation of First Six Months of Operation*, Unpublished, p 8


causes contribute to these differences. Factors such as inadequate education, having insecure employment or being unemployed, poor housing conditions, trying to bring up a family in difficult circumstances and lack of transport can all negatively impact on a person’s health.

These disadvantages tend to concentrate among the same people and their effects on health accumulate during life. The longer people live in stressful economic and social circumstances, the greater the physiological wear and tear they suffer. From a public policy perspective, positive changes directed at this level can lead to significant improvements in health across the whole population.

**Social justice**

Social justice is about fairness. It is concerned with the structuring of society in such a way as to ensure the division of wealth and power allows all people to have an opportunity to participate. The basic principles of social justice are:

- Equality of access to goods and services
- Equity (overcoming unfairness caused by unequal access to economic resources and power)
- Rights (equal effective legal, industrial, political and human rights)
- Participation (expanded opportunities for real participation in the decisions which govern our lives).

**Complexity**

People who live with substantial disadvantage are more likely to be exposed to circumstances which cause legal and health problems. These issues compound, exacerbating the underlying problem, creating barriers to seeking assistance and generating new problems. This increasingly complex web of issues can appear intractable.

Legal need surveys in Australia and internationally have consistently shown that legal problems are not evenly distributed throughout society and that there is a connection between legal problems and disadvantage. The Legal Australia-Wide (LAW) Survey found that in NSW a small minority of people account for the majority of the legal problems experienced by the whole population, experiencing both higher frequency and more substantial legal problems.

Research has shown that many people who experience disadvantage do not recognise that their social or economic problems have legal remedies. And, in the case of people who are aware they have a legal problem, there can be a number of barriers to accessing legal assistance. The LAW Survey showed this is particularly the case for people who experience ill health or disability.

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6 Ibid
7 Ibid
9 Coumarelos, C, Macourt, D, People, J, MacDonald, HM, Wei, Z, Iriana, R & Ramsey, S (2012), Legal Australia-Wide Survey: legal need in Australia, Law and Justice Foundation of NSW, Sydney, p 1
10 Ibid, p 76
11 Ibid, p 77
Another very important aspect of complexity is the experience of trauma. Trauma can occur at any age and its effects can be pervasive and long lasting. Trauma can be the result of a single incident such as a natural disaster or an accident. However, as evidenced in the Royal Commission into Institutional Responses to Child Sexual Abuse, trauma can also be the result of a continuing series of incidents. The cumulative and compounding effect of multiple traumatic incidents can affect all aspects of a person’s functioning. The more severe and prolonged the trauma, the more severe the psychological and physical health consequences\textsuperscript{12}. In the context of service delivery, trauma and its effects are often unrecognised leading to a disconnection between the services available and the individual’s needs, which risks re-traumatisation leading to the escalation and entrenchment of mental and physical health issues.

Historically, services across all sectors have not responded well to this complexity. However, services are becoming more aware of the gaps in their understanding of clients and there are positive moves in NSW to address this, for example the Department of Premier and Cabinet’s service delivery reforms, discussed in Appendix Two.

**Essential elements of an HJP**

There is great diversity amongst HJPs in NSW, Australia, and across the world. This reflects the fact that HJPs are developed in response to local need and, therefore, the structure and nature of the partnership varies from community to community. However, there are some essential elements which HJPs do share and it is these characteristics which separate them from other forms of outreach or community development. The four essential elements of an HJP are

- integration
- early intervention
- systemic change
- person-centred services

**Integration**

While HJPs take many different forms, at their core they are a partnership between health and legal professionals aimed at addressing inequities for populations who experience disadvantage.

The extent of collaboration between health and legal services sits on a continuum from partnership, through co-location, to integration. While partnership is the essential minimum for a HJP, integration is the ultimate aim. However, what integration looks like will vary greatly depending on the services involved and on local need. The different stages of the continuum have been well described by Linda Gyorki in her report, *Breaking down the silos: Overcoming the practical and ethical barriers of integrating legal assistance into a healthcare setting*\textsuperscript{13}. Ms Gyorki defines integration as occurring when “the lawyer becomes part of the care team that delivers services to patients”\textsuperscript{14}.

An important aspect of integration, regardless of where the HJP sits on the continuum, is health and legal professionals working together to transform systems. Peter Noble, in his foundational work,

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\textsuperscript{12} NSW Mental Health Commission (2014), *Living Well: A Strategic Plan for Mental Health in NSW*, Sydney, NSW Mental Health Commission, p 51
\textsuperscript{13} (2014), *Winston Churchill Memorial Trust of Australia*
\textsuperscript{14} Ibid, p 37
identifies seven key elements to operating a HJP (or Medical-Legal Partnership as termed in his work)\(^\text{15}\) these are:

- Joint planning
- Priority setting
- Facilitating communication and feedback
- On-site legal services
- Healthcare training
- Evaluation/ impact planning
- Systems improvement

To achieve this level of integration, a suite of conditions, such as trust and a shared commitment to common goals, needs to exist. These conditions take time and resources to properly develop. They are discussed further below.

It is common for HJPs to include other, non-health or legal partners, for example financial counsellors, housing and other social service agencies. The relevant aspect of these collaborations is that all agencies are working together on shared goals for a common client, rather than viewing themselves as simply co-located services.

**Early intervention**

At their core HJPs are early intervention programs. The health service has the benefit of legal remedies to right those social and economic circumstances that over time lead to poor health outcomes. The legal service has the opportunity to identify and engage with people who may not characterise their issue as a legal one and to respond before the problem becomes more complex.

On another level, HJPs look beyond the immediate presenting problem and aim to equip individuals with the tools necessary to practice self-agency. Self-agency describes what individuals do to maintain good physical and mental health and to meet social and psychological needs.

Both in health and legal services there is a strong evidence base for the efficacy of intervening in an issue early to minimise its impact and to maximise the utility of service provision.

**Systemic change**

Justice Connect describes systemic change as both a core function of an HJP and a benefit that flows from the approach\(^\text{16}\). This systemic change occurs in two ways. One is through cultural change. There is consensus in the literature and among NSW HJP stakeholders that training health professionals to identify legal need and either refer patients to legal assistance or provide preliminary advocacy is one of the core activities of a HJP\(^\text{17}\). In some instances in NSW, there is now also training for legal professionals to identify and appropriately respond to health issues.

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The second way systemic change is achieved is through policy and law reform\textsuperscript{18}. The unique role of HJPs mean that they are well placed to identify patterns of unmet need and advocate for policy and law reform. As noted above, Health Justice Partnerships work with individuals to overcome the structural barriers that negatively impact on their quality of life. In so doing, HJPs inevitably also advocate for systemic change.

**Person-centred**

In both health and legal service delivery, there is a strong economic argument for person-centred service delivery. A substantial and growing body of evidence shows that person-centred services are more efficient and less expensive\textsuperscript{19}.

Person-centred service delivery has become a common principle for health and disability services. Policy and legislation in NSW has increasingly moved away from a medical model of disability that promotes a paternalistic approach to care, towards a social model in which the individual has increasingly been recognised as the expert in their own care. Spurring on this policy and legislative shift, there has also been significant cultural change. This has been driven in no small part by the advocacy of consumer groups and often expressed as ‘nothing about us, without us’. Ratification of the United Nations Convention on the Rights of Persons with a Disability (UNCRPD) has been instrumental in consolidating this approach. Central to the UNCRPD is the principle that individuals should be active participants in decisions about their lives. Person-centred service delivery in the health and disability sectors, therefore, is about equipping the individual with the tools and supports to be able to exercise the full range of their legal and human rights. An essential component of this is the planning, design and delivery of services in collaboration with the people who will use those services to ensure they meet their needs and expectations.

In legal services multiple legal needs surveys, from Australia and internationally, have shown that traditional service delivery models do not meet the needs of more vulnerable sections of society\textsuperscript{20}. Accordingly, policy has shifted towards more client-focused service delivery. This is illustrated by services that are targeted to those most in need joining up with other services that are likely to be needed, in a way that is timely and appropriate to the needs and capabilities of users\textsuperscript{21}.

HJPs combine the principles of person-centred care and client focused services to best meet the needs of clients. In NSW this has meant that partnerships are evolving in non-traditional health settings, such as health service outreach locations in the community, housing estates, and drug and alcohol facilities.

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\textsuperscript{19} NSW Mental Health Commission (2014), *Living Well: A Strategic Plan for Mental Health in NSW*, Sydney, NSW Mental Health Commission, p 47


\textsuperscript{21} Ibid
Enabling conditions

HJPs represent a relatively new way for agencies to work collaboratively to improve long term outcomes for people who experience disadvantage. To achieve the level of integration supported by the literature, a range of conditions must be in place. In NSW, many HJPs are at the partnership end of the continuum. This is the necessary starting point where agencies agree to work collaboratively and, from there, build upon their collective experience to enable closer integration. A lot of work is being done to deepen collaboration in HJPs in NSW. However, this work can only go so far without resources to support it. The conditions identified as essential to starting, maintaining and growing an HJP are listed below.

- Leadership/ champion
- Relationships
  - With the people accessing the service
  - Between professionals
- Multi-disciplinary/ generalist professionals
- Flexibility/ non-traditional approach
- Organisational commitment characterised by:
  - Authorising environment
  - Formalised agreements
  - Nominated points of contact
  - Culture of support
Appendix One

The history of Health Justice Partnerships

- Medical Legal Partnerships (MLPs) first emerged in the United States of America (USA) in the early 1990s in response to the link between legal need and health outcomes. In Boston, a paediatrician recognised that his patients had complex social and economic needs that were negatively impacting their health and impeding his capacity to make them well. He brought a solicitor into the hospital to help his patients address these issues and the Medical Legal Partnership model has grown from there. The development of this work in the USA is now supported by the National Centre for Medical Legal Partnerships and the model has grown significantly, with hundreds of partnerships operating across the country22.

- In Australia, the concept was introduced by the Health Justice Partnerships Network in 2012 through the Advocacy Health Alliance Symposium. Over the past three years there has been growing interest in this area and a number of HJPs have been set up. In September 2015, the Commonwealth Government announced the Women’s Safety Package, which included funding of $15 million over three years, in part to support the development of new HJPs. The grants were awarded to the Northern Territory, South Australia, Western Australia and Queensland23. Funding was also provided to support the existing HJP between Inner Melbourne Community Legal and the Royal Women’s Hospital. NSW did not receive HJP funding from the package.

- In Victoria, the development of HJPs has been supported by Legal Services Board Grants and a number of new partnerships have been formed in response.

- In NSW, community legal centres and Legal Aid NSW have been operating outreaches in health services for some time.

- Following the 2012 Advocacy Health Alliance Symposium in Melbourne, Legal Aid NSW hosted two MLP guest presenters, Dr Edward Paul and Elizabeth Tobin-Tyler, from the United States for a presentation in Sydney. At the event Professor Pascoe Pleasence from the Law and Justice Foundation talked about medical legal partnerships in the context of the legal needs survey which highlighted links between legal issues and health in the Australian setting.

- In 2013 Legal Aid NSW hosted the Law and Disorders forum.

- In NSW there is high level government support for innovative collaborative approaches with senior figures in both the Ministry of Health and the Department of Family and Community Services (FaCS) recognising the benefit of the approach.

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22 National Centre for Medical Legal Partnerships, available http://medical-legalpartnership.org/partnerships/
• An early form of the HJP approach in NSW has been the work development order program. This has had broad government and community support and has been a useful model for demonstrating the philosophy to potential stakeholders.
Appendix Two

The NSW context

In December 2014, the NSW Government adopted *Living Well: A Strategic Plan for Mental Health in NSW 2014 – 2024*. *Living Well* sets out a vision for improved delivery of services and support to people who experience mental illness in NSW. *Living Well* is modelled on proven principles of recovery and person centred care, which emphasise choice and autonomy and consider the personal and social dimensions of mental illness alongside its impact on people’s health. It takes a whole-of-government perspective, including housing, education, employment assistance, the justice system and family support among the spectrum of services that people may require when they experience mental illness.

In adopting *Living Well*, the government recognised that mental health and wellbeing are fundamental to a strong, functional and resilient society. Being resilient helps mitigate risk behaviours, social and economic problems, as well as the rates and severity of physical and mental illness. Therefore the benefits of resilience flow across the whole community. To achieve this we need to:

- remove structural barriers to good health and wellbeing
- shift the focus from crisis driven responses towards prevention and early intervention
- empower government agencies and community managed organisations to work together at a local level, guided by the participation of consumers, carers and families to deliver locally relevant solutions to local problems.

The directions adopted by the NSW Government in *Living Well* are closely aligned with the approach adopted by the Commonwealth government in December 2015, in its response to the National Review of Mental Health Programmes and Services. Relevantly, the Commonwealth Government identified the following elements in its platform to reform mental health funding and programs:\n
- person centred care funded on the basis of need
- a regional approach to service planning and integration
- effective early intervention across the life span, and shifting the locus of care.

For decades it has been agreed that complex social problems require an integrated service response and the traditional way of delivering services, which is fragmented and siloed, does not do this. In NSW there is currently a political appetite to experiment with innovative approaches to service collaboration to achieve the best outcomes for individuals and communities who experience disadvantage.

FaCS is trialling new ways of working which put community at the centre and promotes a co-design approach to community aspirations. This approach recognises that

"Overcoming chronic disadvantage requires long term commitment and political will. There is no evidence to suggest that immediately positive results will emerge. However, the evidence does

suggest that sustained supports, increased tolerance and community involvement will start to alleviate entrenched systemic problems and yield improved outcomes for our most vulnerable members of society”.

As part of this approach, FaCS has invested in a number of strategic planning initiatives to enable multiple agencies to plan together early and resource new projects to deliver common outcomes for mutual client groups. Examples of this approach are the work of the North Sydney Community Engagement Board and The Collective NSW. In North Sydney, FaCS’ strategic planning approach is underpinned by four key principles:

- active citizenship
- person centred and person directed
- partnership, co-design and co-production
- social and shared value.

At the same time, the Department of Premier and Cabinet is undertaking service delivery reform, giving authority to local leaders to work with their communities to identify local priorities and solutions.

The principles which underpin this approach are:

- a client centred system
- innovative service delivery, funding and governance mechanisms
- increased focus on prevention and early intervention
- local leaders have the authority to build a local system configured to meet local priorities
- multiagency collaboration and service delivery based on a share set of outcomes
- local accountability for improved outcomes through regular monitoring and reporting.

Despite this momentum, there are still problems with achieving a genuine partnership approach as agency heads grapple with entrenched issues associated with confidentiality, data sharing, common measurement and reporting frameworks and cross-agency governance. HJPs are well placed to step into this space. By their nature HJPs are small, locally based partnerships with the necessary nimbleness to navigate some of the traditional barriers to collaborative work.

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25 NSW Department of Family and Community Services, Putting Heart in Empty Spaces: A Discussion Paper, Unpublished
27 NSW Premier and Cabinet, Service Delivery Reform Overarching Framework, 4 May 2015, p 4