

Tēnā koe

Health Select Committee,

**Submission on the Mental Health (Compulsory Assessment and Treatment) Amendment Bill**

Atamira | Platform Trust (Platform) welcomes the opportunity to comment on the *Mental Health (Compulsory Assessment and Treatment) Amendment Bill* ‘the Bill’. Platform has consulted with members in the preparation of this submission as the changes proposed in the Bill will affect the people they support in the Mental Health and Addiction system including the wider health and social system.

Platform is a peak body representing 66 Mental Health and Addiction (MHA) Non-governmental organisations (NGO) and community sector organisations. Notably, some MHA NGO and community organisations include Māori, Pasifika providers, people with lived experience and whānau. Also, Platform represents a wider network of MHA NGOs approximately 166 who are not necessarily members but share the same aspiration of a MHA system and sector that is driven by the need for better and more equitable outcomes for all. Collectively, during the year 2019/20 the whole MHA NGO & community sector organisations supported over 75, 940 tangata whaiora, and their whānau, that are directly impacted by MHA.

Platform supports the proposed main amendments to the Bill. Specifically, the provisions which remove indefinite treatment orders and allow the for use of video and audio links for family/whanau and/or a person concerned with the proposed patient’s wellbeing. Although the proposed changes are immediately necessary, the Bill should be a temporary measure, with the intent of achieving the long-term goal of repealing and replacing *The Mental Health (Compulsory Assessment and Treatment) Act 1992*

(‘the Act’), as outlined in recommendation 34 and 35 of He Ara Oranga. The Government has agreed to these recommendations. We see it as necessary for the Government to confirm that these proposed changes are a temporary stepping-stone, towards an Act that better aligns itself with a recovery, human rights and wellbeing model of MHA.

Two of Platform member organisations, the Mental Health Foundation and Te Pou, have prepared their own submissions on the Bill. We acknowledge and support both organisation’s submissions.

### **Revised Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992**

Platform, including its two members Balance Aotearoa, and Changing Minds prepared a submission in 2020, on the Ministry of Health’s ‘Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992’ (the Guidelines). The submission outlined the importance of taking a human-rights approach to mental health treatment. Also, it raised concerns of the Act impeding on individual’s rights including human rights. The submission advocated for the importance of honouring Te Tiriti o Waitangi, and of culturally appropriate treatment.

Further, Platform, including its members Balance Aotearoa, and the Mental Health Foundation endorsed the changes made in *the COVID-19 Response (Further Management Measures) Legislation Act 2020*, allowing audio visual technology being used for assessments. At the time, public safety took precedence, however we wrote to Members of Parliament endorsing the inclusion of the sunset clause. This was to raise concerns given the potential errors that may arise during an audio-visual assessment, and the lack of cultural appropriateness for Māori and other ethnic groups that rely on interpersonal connectedness.

### **Repeal of indefinite compulsory treatment orders**

Platform notes that progress is being made on the Act to reflect a more human-rights approach. Although, Platform sees this as an improvement, our preference would still be that urgency and priority be placed on repealing and replacing this section.

This legislation is at an interface between medical treatment and legal intervention. Given that the Act has the power to override the rights given to people through New Zealand’s commitment the United Nation’s *Convention on the Rights of Persons with Disabilities* (CRPD) and *The New Zealand Bill of Rights Act*, it is paramount that the Bill has restrictions on its use, to minimise the period of time and how often it can be enforced.

Platform endorses the repeal of s34(4) which allows for compulsory treatment orders to be indefinitely extended after a six-month period. The new s34A replaces these indefinite orders with 12-monthly, independent reviews. Platform sees this as an



improvement over s34(4) but would like to raise the concern that this does not eliminate issues associated with long-term treatment orders.

### **Examination and hearing of application for extension of community treatment by audio-visual link**

Platform endorses clause 5 of the Bill, giving a family/whānau member or person concerned with the welfare of the proposed patient the right to be present by audio or visual link. In our previous submission about the Guidelines, we raised the importance of a person under the Act having a support person, to assist in safeguarding the rights and welfare of vulnerable people. The most common reason for a person not having family/whānau present is that it was not practical. This is a solution for family/whānau, as well as those organisations who are already involved in the person's care, to be able to be present at the hearing. It is important that family/whānau and/or concerned persons are provided with information and assistance to enable effective use of audio or visual links. Similarly, there should be adequate training provision for the mental health and addiction workforce and MHA providers to enable effective use of audio or visual links.

### **Amendments related to *COVID-19 Response (Further Management Measures) Legislation Act 2020***

Platform does not support the removal of the sunset clause for psychiatric assessment via audio-visual links. Although, we agree that this amendment would provide practical benefits for access and comfort for some proposed patients, we believe the risk of an incorrect assessment, and the need to prioritise cultural appropriateness outweighs the benefits.

Thank you for the opportunity to comment and submit on the Bill. In summary, Platform supports the proposed main amendments which remove indefinite treatment orders and allow for the use of video and audio links for family/whānau and/or a person concerned with the proposed patient's wellbeing. Whilst we support removal of indefinite treatment order, our preference is that urgency and priority be placed on repealing and replacing the Act. It is crucial that adequate provisions be put in place to ensure that family/whānau and/or concerned persons, including the MHA workforce and providers are supported to ensure effective use of video and audio links.

We do not wish to appear before the Health Select Committee to speak to our submission.

Nāku noa nā

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