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Hon Mark Butler MP

Minister for Health and Aged Care

Hon Emma McBride MP

Assistant Minister for Mental Health & Suicide Prevention

Assistant Minister for Rural and Regional Health

House of Representatives

Parliament House

Canberra ACT 2600

Via email: Minister.Butler@health.gov.au

Via email: Emma.McBride.MP@aph.gov.au

Dear Ministers,

The need for transparent reform of the National Mental Health Commission

Congratulations on your recent announcement for new consumer and carer peak bodies.¹ This announcement picks up, unfortunately, where you left off in your last term of government. We now have an opportunity to make progress after ten years of policy freeze.

I write about the other key pillar for national mental health reform, the National Mental Health Commission (**Commission**). Specifically, I am calling for a transparent process to guide its reform. This letter acknowledges the recent allegations within the Commission. It gives thought, care and solidarity with staff, while focusing more on broader questions about the Commission's future.

I understand from the 18 April announcement that there is an investigation into the Commission following the recent allegations. However, it would *also* 'inform any changes required to support the Commission's role, function and operations.'² While investigations should be conducted with the sensitivity and privacy required for affected individuals, broader reform of the Commission must be a clear, transparent, and participatory process. People with lived experience should have a prominent, visible and authoritative role to counterbalance widespread exclusion and discrimination, particularly to consumers. This letter aims to elevate the need for that process and to prompt deliberation within the Ministers' offices and the community.

The Commission was established in 2012 – as an executive agency under the *Public Services Act 1999* (Cth) rather than an independent statutory agency – to provide the Commonwealth government with policy advice on mental health and suicide prevention initiatives. It is one of several mental health commissions across the federation. While there has been hard work and some important achievements, it has not met expectations. The Commission's powers and place inside the Department of Health are no match for its complex policy environment.

Sitting within the Department but without any real levers of power, the Commission can neither *play* nor *umpire* the game. It does not have commissioning levers to directly intervene in the system.³ It also does not have own-motion inquiry powers, the ability to compel information, or the capacity to monitor and intervene to drive quality improvement in Commonwealth-funded mental health services. This is the worst of both worlds. The Commission desperately needs an independent statutory basis – as recommended by the Productivity Commission – to enhance its independence, cultural standing and authority to drive national reform.

The Commission needs much clearer and more transparent appointment processes. It remains unclear how people are appointed to commissioner roles and for what broader purpose. These appointment processes should be competitive and have ongoing guidance and oversight from consumer and carer peak bodies when established. There should be designated lived experience places for consumer and carer commissioners. A greater proportion must be provided to consumer representatives given the direct experience and engagement with mental distress, the mental health system, and the human rights limitations it often imposes on them.

More significant human rights expertise and focus are necessary within the Commission. In the last decade, the Commission has rarely elevated human rights under the *Convention on the Rights of Persons with Disabilities* to the level of importance warranted.⁴ Many aspects of the mental health system remain out-of-step with contemporary human rights standards. A future Commission must be able to create an authorising environment to shift towards system based on human rights, and rights-based practice within services. This will be even more important should the Commonwealth government seek to pass national human rights legislation in its second term.⁵

Despite hard work and good intentions, the Commission does not hold the standing it should in the mental health sector.⁶ Calls for increased funding for the mental health system are rightfully emerging. However, the Commonwealth lacks the credible infrastructure to monitor these processes, to cohere and provide leadership on national mental health policy, and to do it with clear lived experience leadership. We need a clear and transparent process to discuss these issues to equip a 21st-century Commission for an uncertain and challenging future.

I hope that the current investigation serves harmed workers' needs and addresses any unresolved accounting, accountability, and integrity issues. However, I hope broader considerations of the Commission's role, function and operation are subject to an open and transparent process. With a stressed system, distressed communities, and future investment demands, transparently reforming the Commission should be an urgent priority.

I hope that myself and others with lived experience can assist in this process.

Sincerely,
Simon Katterl

¹ Commonwealth Government of Australia (Minister for Health Mark Butler MP), 'Press Release: Elevating People with Lived Experience of Mental Ill-Health to Drive Reform', *Australian Government Department of Health and Aged Care* (text, 30 January 2023) <<https://www.health.gov.au/ministers/the-hon-mark-butler-mp/media/elevating-people-with-lived-experience-of-mental-ill-health-to-drive-reform?language=en>>.

² Mark Butler MP, Minister for Mental Health, 'National Mental Health Commission', *Australian Government Department of Health and Aged Care* (text, 18 April 2023) <<https://www.health.gov.au/ministers/the-hon-mark-butler-mp/media/national-mental-health-commission>>.

³ I do not believe that it should have this power. However, I note other states have taken this approach.

⁴ An exception may be the current National Stigma and Discrimination Reduction Strategy report: National Mental Health Commission, *National Stigma and Discrimination Reduction Strategy: Draft for Consultation* (National Mental Health Commission, November 2022) <https://ehq-production-australia.s3.ap-southeast-2.amazonaws.com/79d28bbb6068b8380e4de9c7098662ee04c1a85e/original/1667865831/2a307d5911a3d3042cbd26c2eae9doc3_Stigma_Discrimination_and_Reduction_Strategy_-_Consultation_Draft_-_November_2022.pdf?X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Credential=AKIA4KKNQAKIOR7VAOP4%2F20230131%2Fap-southeast-2%2Fs3%2Faws4_request&X-Amz-Date=20230131T051700Z&X-Amz-Expires=300&X-Amz-SignedHeaders=host&X-Amz-Signature=6b65f16840412c51b02f59910ac37f97eb5d23e7266c3663416fb023f6138170>.

⁵ Commonwealth Government of Australia, 'Inquiry into Australia's Human Rights Framework' (text) <https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework>.

⁶ Kathleen M Griffiths, John Mendoza and Bradley Carron-Arthur, 'Whereto Mental Health Reform in Australia: Is Anyone Listening to Our Independent Auditors?' (2015) 202(4) *Medical Journal of Australia* 172; Natassia Chrysanthos, 'Mental Health Commission Needs Authority to Speak Freely: Fels', *The Sydney Morning Herald* (online, 27 January 2023) <<https://www.smh.com.au/politics/federal/mental-health-commission-needs-authority-to-speak-freely-fels-20230126-p5cfmr.html>> ('Mental Health Commission Needs Authority to Speak Freely').