Submission to

The ACT Legislative Assembly Standing Committee on Health and Disability

Inquiry into the current levels of access to safe, secure and affordable housing for people with a mental illness

February 2006

While there are a range of services available in the ACT for persons with a mental health disability there remain a number of instances where gaps and shortages of services leave some of the Territory's most vulnerable citizens at risk. In noting the above, the OCA recognises that while the needs of children and young people may at times be different from adults, the overall issues and concerns remain the same and accordingly this client group will be discussed as one

Much has been written on the larger question of funding of mental health in-patient services[1] and accommodation services for people with a mental health disability. This submission focuses more specifically on the OCA experience with regard to people with a mental health disability. In March 2004, the Community Advocate wrote:

> It is certainly the case that there is a serious inadequacy of mental health services, of well-funded community-based options and forensic mental health services in the ACT. Fundamentally, the greatest need is for the provision of many more skilled and informed, well-resourced community-based support services. We need professionals within the mental health service with realistic workloads. We need easily accessible counselling, skill training and therapeutic services, and not just access to the prescribing of psychiatric drugs.[2]

Nearly two years on the situation remains much the same. The provision of community-based support services cannot be divorced from the provision of suitable accommodation for those with a mental health disability. The two must be considered and planned with the other in mind. This is the case in relation to those who live independently in the community and for those living in-group settings such as group houses or long-term rehabilitation.

The provision of community-based support services cannot be divorced from the provision of suitable accommodation for those with a mental health disability. Three different groups of people with specific accommodation needs are identified in this submission.

- those with a mental health disability involved in the criminal justice system (forensic clients);
- those with a mental health disability with unmet accommodation and support needs (mental health rehabilitation); and
- people with a mental health disability concurrent with an intellectual disability (dual-disability clients).

The role of the Office of the Community Advocate

The OCA is a statutory body with a range of functions and responsibilities identified in the *Community Advocate Act 1991* [Appendix A]. One of the

[1] Australian Institute of Health and Welfare ' Mental Health Services in Australia 2002-2003', URL http://www.aihw.gov.au/publications/index.cfm/title/10101, 29 August 2005.
[2] Heather McGregor, 'Mentally ill merit much more of a fair go from us', The Canberra Times 12 March 2004.

functions of the Community Advocate is to promote and protect the best interests of adults and children and young people with a mental health disability in a range of service settings.

The Mental Health (Treatment and Care) Act 1994, the *Guardianship and Management of Property Act 1991* and the *Children and Young People Act 1999,* proscribe other service functions of the OCA for people with a mental health disability. These roles and responsibilities with respect to people with a mental health disability can be summarised as:

- to represent the best interest of people who come before the Mental Health Tribunal as a result of an application being made for a mental health order;

- to protect the interests of people with a mental illness or dysfunction who are a risk to themselves or others and have been detained against their own wishes in a mental health facility;

- to advocate for the rights of people with a mental health disability;

- to monitor and foster the provision of mental health services to people with a mental health disability;

- to represent the interests of forensic patients; and

- to act as emergency guardian or guardian of last resort for a person with impaired decision making when so appointed by the Guardianship and Management of Property Tribunal.

The OCA has always given high priority to those clients who are subject to state intervention including involuntary detention in a mental health facility. For this reason the OCA visits these clients on a regular basis. The OCA has a statutory oversight responsibility for people with disabilities, including people with a mental health disability for whom their condition gives rise to a need for protection from abuse, exploitation and / or neglect. The OCA has contact with people with a mental health disability at the:

- Psychiatric Services Unit (PSU);
- Belconnen Remand Centre (BRC);
- Brian Hennessy Rehabilitation Centre (BHRC);
- Ward 2N at Calvary Hospital;
- Hyson Green;
- Quamby Youth Detention Centre;
- Marlow Cottage; and
- in the community.

The *Guardianship and Management of Property Act 1994* also identifies a critical role for the Community Advocate. Where there is no one consenting and / or suitable to be appointed guardian, the Community Advocate may be appointed guardian of last resort to make substitute decisions in the best interests of the protected person.

The Management Assessment Panel (MAP) within the OCA is a service to facilitate the coordination of case planning and service provision for members of the community whose complex service needs are poorly coordinated or inadequate. Representatives of service providers requested to attend MAP conferences are those who have the authority to extend the boundaries of what their service would normally provide. In doing so, MAP participants collaboratively create and commit to an appropriate care management and service delivery plan.

As a consequence of the OCA undertaking its role in the community the OCA is very aware of the need for assistance with accommodation for people with a mental health disability. Appendix B is a summary of services provided to clients with a mental health disability as published in OCA Annual Reports for the years 2003 to 2005.

The OCA's counterparts in other jurisdictions also see validity in contributing to the current debate on mental health, submissions to the Australian Senate Select Committee on Mental Health were made by the Public Advocates of Queensland, South Australia and Western Australia[3].

1. Forensic clients

The "ACT Criminal Justice Strategic Plan 2002-2005"[4] notes a role for the OCA in appropriately diverting offenders from the criminal justice system by encouraging the development of specialist programs and facilities for mentally dysfunctional and mentally ill offenders.

In 2003-2004 the OCA was involved in diverting 22 adult forensic clients from the correctional custodial system to community support and care programs. In doing so, the key issues identified in regard to forensic clients are:

- they have been predominantly male;
- between the ages of 25-35 years;
- single;
- experiencing unstable accommodation or homelessness;
- the alleged offence is linked to instability in the person's mental state;
- the charges can reflect a pattern of escalating offending behaviour; and
- This can be associated with the person's mental health disability.

[3] Australian Senate Select Committee on Mental Health http//www.aph.gov.au/senate/committee/mentalhealth-ctte/index.htm
[4] 'ACT Criminal Justice Plan 2002-2005', URL http://www.jcs.act.gov.au/eLibrary/papers/CrimJustStratPlan2002_2005.pdf, 23 August 2005.

What can be drawn from this is that this group requires intensive, ongoing across agency support to resolve their mental health and accommodation issues.

The Mobile Intensive Treatment Team, Mental Health ACT in combination with the Forensic Community Mental Health Service and the Turnaround Program currently employ this wrap-around approach. This highlights the distinct lack of accommodation options for adults that results in long and unwarranted periods in custody.

For example OCA has been involved with a man with a mental health disability who was charged with a crime involving significant harm to another person and remanded in custody at the Belconnen Remand Centre. At the time of the offence he had been residing alone in an ACT Housing property and had rejected mental health treatment and support for some time.

Subsequently he responded positively to treatment while on remand. On referral from the Magistrates Court, the Mental Health Tribunal found him fit to plead at the time of the proceeding but mentally ill at the time of the offence. He was then detained in the Extended Care Unit at Brian Hennessy Rehabilitation Centre pursuant to section 74 of the *Mental Health [Treatment and Care] Act 1994.*

He currently continues to reside at BHRC with the Mental Health Tribunal undertaking a six monthly review of his circumstances. Due to the lack of appropriate community integrated support he continues to live in a custodial setting.

The concerns this case raise are:

- BHRC is emerging as the housing option of last resort for forensic patients who are a significant risk to themselves and / or to the community;
- a distinct absence of supported community accommodation for forensic clients; and
- forensic patients are likely to serve a longer period in custody than the normal prison population.

Following from the above, the OCA is aware of many forensic clients who have been remanded in custody for unduly lengthy periods not warranted by the nature of their offence / charge as a result of the lack of suitable accommodation. At the time of this report a person has been in custody for over 12 months the last 5 being necessary pending an appropriate accommodation placement option becoming available

In considering applications for bail, the Magistrates Court has stated on occasions their refusal to grant bail on the basis of inadequate support, care and housing arrangements for forensic clients. This has occurred in circumstances where a forensic client:

- is homeless;
- has approached refuges or emergency housing providers who have been unable to offer assistance;
- has access to accommodation without sufficient support to ensure their or the community's safety; and
- has access to accommodation that is inappropriate for the purposes of release on bail.

Forensic clients who are bailed often require supervision beyond a nominal daily visit from an outreach mental health nurse or carer. For these clients, the only suitable accommodation option is admission to BHRC. The OCA is aware of clients in these circumstances who have remained on remand in BRC for extended periods awaiting admission to the BHRC.

Efforts to improve services for forensic clients have included the development of Forensic Community Outreach Service (FCOS) within Mental Health ACT. While the FCOS includes psychological and psychiatric services to forensic clients it does not provide accommodation support services.

This is in contrast with Forensicare in Victoria which provides specialist services to forensic clients in both a secure hospital setting as well as in the community.[5] Forensicare has a separate in-patient capacity for clients with acute and continuing care needs including a 100 bed secure forensic facility at Ebling Hospital.

Forensicare has recently implemented the 'Jardine Transition Program' providing short-term accommodation [up to 18 months] in self-contained flats as a graduated return to community living strategy.

Aside from the emergency refuge Samaritan House, forensic clients released from periods in custody have limited accommodation options including:

- Ainslie Village [including short-term respite at Minosa House];
- Application to ACT Housing for emergency allocation (currently a six to twelve month wait);
- Men's Accommodation Support Service [MASS]; and
- Marlow Cottage.

The absence of a targeted accommodation facility presents a significant difficulty for forensic clients and places them at high risk of re-offending. Facilities such as those offered by Forensicare would provide support within the context of medium term accommodation as a transition to community integration.

2. Mental Health Rehabilitation

[5] Forensicare, Victorian Institute of Forensic Mental Health, 'Overview and Governance', URL http://www.forensicare.vic.gov.au/website.nsf/web/Overview_frame.html, 22 August 2005.

The delivery of mental health services is based on the notion that most clients will choose to live in the community either on their own or with family as support. The OCA supports this approach where it provides the person with the necessary care, accommodation and safeguards to meet their mental health and associated needs.

In circumstances where a person is suffering a severely disabling mental health disability, the provision of care in a more supported setting may be required. Many adults and young people with mental health disabilities who require a high degree of support currently live in supported accommodation such as:

- group houses supported by non-government service providers (eg. the Richmond Fellowship); and
- Brian Hennessy Rehabilitation Centre.

Another example may assist here. The OCA has been involved with a man living in squalor conditions. He was eventually diagnosed with schizophrenia and on application to the Mental Health Tribunal made subject to a Psychiatric Treatment Order. After a period of several weeks at PSU he was transferred to Brian Hennessy Rehabilitation Centre to undergo a period of psychiatric rehabilitation.

The Guardianship and Management of Property Tribunal also appointed the Community Advocate as guardian and the Public Trustee for the ACT as financial manager. After costly repairs and cleaning the Public Trustee sold his home with the proceeds placed in trust for his future needs.

After 12 months the treating team explored the possibility of his discharge from BHRC. It was determined that he could not afford suitable accommodation of his own and he was not eligible for public housing as a result of the ACT Housing assets test. Furthermore, it has been determined that the amount of support available via HACC and SAAP funded services are insufficient in meeting his care and support needs in community accommodation. In the absence of more appropriate accommodation he still lives at the BHRC after three years. The key issues identified in regard to mental health rehabilitation are:

- a significant proportion of the residents at BHRC have lived there for many years;
- as a result there is a limited scope for others requiring this service to access BHRC;
- aside from BHRC there is no other accommodation option in the ACT with a similar degree of support for those with a mental health disability.
- people who would benefit from a period of psychiatric rehabilitation often remain at the PSU for extended periods.

When the secure unit (Extended Care Unit) at BHRC was opened in September 2001 it was seen to be establishing a secure, dedicated facility for

people with an unremitting mental illness or mental dysfunction who require containment in order to receive appropriate rehabilitation and care.

The Extended Care Unit at BHRC offers care for up to 10 people in a low to medium security setting. The two 'villas' at BHRC offer a similar rehabilitative model of care in a less secure environment.

Many clients have resided at BHRC (including the Extended Care Unit) for extended periods of time with the unit serving as their long-term home. Although generally happy with the care at BHRC, many residents report to the OCA that they would prefer to live in a setting that better promotes their independence in the general community.

The availability of group house options provided by non-government service providers such as the Richmond Fellowship is limited. The funding available means that the amount of care available at these group houses is less than that required for many with seriously disabling mental health disabilities.

Other jurisdictions in Australia including Victoria, South Australia and Western Australia have implemented co-located housing for homeless men and women, many with mental health disabilities.

The 'Wintringham hostels' in Victoria have adopted building-design innovations to provide low-cost inner city accommodation combined with care and assistance to men and women at risk of homelessness. This housing model allows an individual to enjoy their own home and convenient access to shared kitchen and living areas. Centrally located staff also provide care and support as required.

3. Dual Disability

ACT Health and the Department of Disability, Housing and Community Services have identified clients with an intellectual disability compounded with a mental illness as requiring specialist support services. There is evidence to suggest that the prevalence of mental health disability amongst those with an intellectual disability is higher than in the general population.[6]

The Dual Disability Service [DDS] provides consultation liaison and psychiatric services, primarily to clients of Mental Health ACT and Disability ACT with both an intellectual disability and mental health disability. On a case-by-case basis, DDS will also review clients who are in receipt of psychotropic medication or whose challenging or aggressive behaviour may be explained by the presence of a mental health disability.

[6] Chan, J., Hudson, C., & Vulic, C. (2004) Services for adults with intellectual disability and mental illness: are we getting it right? Australian e-Journal for the Advancement of Mental Health 3(1) www.auseinet.com/journal/vol3iss1/chanhudsonvulic.pdf

Many DDS clients are supported and assisted with the essential activities of daily living as well as community participation by Individual Support Services within Disability ACT. These services, including accommodation services are provided on a voluntary basis underpinned by the principles of choice and self-determination.

While this approach is appropriate and desirable in many instances, there are circumstances where the nature of existing accommodation options contribute to the difficulties experienced by the client.

Living with low levels of staff support in close proximity to neighbours may contribute to the issues associated with an intellectually disabled person's mental health disability. Furthermore, disability support staff are not trained or experienced in the management of chronic mental health issues.

Where an intellectually disabled person's deteriorating mental state is marked by aggressive or assaultative behaviour, the only existing available options for their interim care outside of their home are the PSU, BHRC, police cells or the BRC.

The planned Intensive Treatment and Support (ITAS) Program within Disability ACT will bridge the current gap in accommodation and support for those with a dual disability. This service will also link in with the existing psychiatric support from Dual Disability Service.

The establishment of a 'step-up' accommodation facility will allow service providers to offer appropriate responses to the needs of a person who has high and complex needs. The establishment of this facility would offer increased expert care in a secluded environment with the flexibility required.

Conclusion

The OCA supports the need to urgently address the problems of these three groups of people in particular who have unique issues of concern but lack adequate assistance or support.

The provision of community-based support services cannot be divorced from the provision of suitable accommodation for those with a mental health disability. The OCA has always given high priority to those clients who are subject to state intervention including involuntary detention in a mental health facility.

Forensic clients - this group requires intensive, ongoing across agency support to resolve their mental health and accommodation issues. The concerns raised are that they have a distinct absence of supported community accommodation and are likely to serve a longer period in custody than the normal prison population.

Aside from the emergency refuge Samaritan House, forensic clients released from periods in custody have limited accommodation options. The absence of a

targeted accommodation facility presents a significant difficulty for forensic clients and places them at high risk of re-offending. Facilities such as those offered by Forensicare would provide support within the context of medium term accommodation as a transition to community integration.

Mental Health Rehabilitation - The delivery of mental health services is based on the notion that most clients will choose to live in the community either on their own or with family as support. The OCA supports this approach where it provides the person with the necessary care, accommodation and safeguards to meet their mental health and associated needs.

Many clients have resided at BHRC (including the Extended Care Unit) for extended periods of time with the unit serving as their long-term home. Although generally happy with the care at BHRC, many residents report to the OCA that they would prefer to live in a setting that better promotes their independence in the general community.

The availability of group house options provided by non-government service providers such as the Richmond Fellowship is limited. The amount of care available at these group houses is less than that required for many with seriously disabling mental health disabilities.

Dual Disability - ACT Health and the Department of Disability, Housing and Community Services have identified clients with an intellectual disability compounded with a mental illness as requiring specialist support services. These services, including accommodation services are provided on a voluntary basis underpinned by the principles of choice and self-determination.

While this approach is appropriate and desirable in many instances, there are circumstances where the nature of existing accommodation options contribute to the difficulties experienced by the client. Living with low levels of staff support in close proximity to neighbours may contribute to the issues associated with an intellectually disabled person's mental health disability.

Furthermore, disability support staff are not trained or experienced in the management of chronic mental health issues. Where an intellectually disabled person's deteriorating mental state is marked by aggressive or assaultative behaviour, the only existing available options for their interim care outside of their home are the PSU, BHRC, police cells or the BRC.

The establishment of a 'step-up' accommodation facility will allow service providers to offer appropriate responses to the needs of a person who has high and complex needs.

Appendix A: SECTIONS 13 & 14 OF THE *COMMUNITY ADVOCATE ACT 1991*

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Section 13 Functions

13. (1) The community advocate has the following functions:

(a) to foster the provision of services and facilities for [children and young people][7];

(b) to support the establishment of organisations which support [children and young people];

(c) to encourage the development of programs that benefit [children and young people] (including advocacy programs, educational programs and programs to encourage persons to act as guardians and managers);

(d) to promote the protection of [children and young people] from abuse and exploitation;

(e) to protect the rights of [children and young people];

(f) the monitor the provision of services for [children and young people];

(g) to act as advocate for the rights of [children and young people];

(h) to represent [children and young people] at inquiries before the guardianship tribunal;

(i) to deal, on behalf of [children and young people], with persons or bodies providing services;

(j) to investigate, report and make recommendations to the Minister on any matter relating to the operation of [the *Community Advocate Act 1991*] referred to the community advocate by the Minister;

(k) to act as a guardian or manager when so appointed by the guardianship tribunal;

(l) to disseminate information concerning

(i) the functions of the community advocate;

(ii) the operation of [the *Community Advocate Act 1991*]; and

(iii) the functions of the guardianship tribunal.

(m) to represent forensic patients before the guardianship tribunal or any court;

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[7] Section 13 refers to *persons who have a disability* (which includes people not yet 18 years old), not *children and young people*. The term children and young people has been used here to more clearly reflect the role of the OCA in the context of the inquiry.

(n) the functions given to the community advocate by the *Children and Young People Act 1999*, *Guardianship and Management of Property Act 1991* and *Mental Health Treatment and Care Act 1994*;

(o) any other function assigned to the community advocate by a law of the Territory.

(2) The community advocate has power to do all things necessary or convenient to be done in connection with the performance of his or her functions.

Section 14 Powers

14. **(1)** The community advocate may investigate complaints and allegations concerning:

(a) the administration of [the *Community Advocate Act 1991*];

(b) the provision of services for the protection of [children and young people][8]; or

(c) the actions of a guardian or manager or a person acting or purporting to act under an enduring power of attorney.

(2) If requested to do so by the guardianship tribunal, the community advocate shall report to the guardianship tribunal in relation to a matter the subject of an inquiry before the guardianship tribunal.

[8] Section 14 refers to *children*, not *children and young people*. The term children and young people has been used here to more clearly reflect the role of the OCA in the context of the inquiry

Appendix B: Occasions of service for people with a mental health disability

Activity	2002-2003	2003-2004	2004-2005
Attendance at the Mental Health Tribunal (adults)	506 attendances on behalf of 314 adults	651 attendances on behalf of 354 adults	586 attendances on behalf of 459 adults
Attendance at the Mental Health Tribunal (young people)	13 attendances on behalf of 10 young people	11 attendances on behalf of 8 young people	7 attendances on behalf of 6 young people
Visits to the Psychiatric Services Unit, Canberra Hospital, or Ward 2N, Calvary Hospital (adults):			
➢ three day involuntary detention orders	306 adults visited regarding 425 orders	325 adults visited regarding 443 orders	356 adults visited regarding 468 orders
➢ seven day involuntary detention orders	171 adults visited regarding 198 orders	198 adults visited regarding 228 orders	227 adults visited regarding 252 orders
➢ applications for electro-convulsive therapy	15 adults visited regarding 20 applications	14 adults visited regarding 23 applications	22 adults visited regarding 28 applications
Visits to the Psychiatric Services Unit, Canberra Hospital, or Ward 2N, Calvary Hospital (young people)	23 young people regarding 53 orders	14 young people visited regarding 35 orders	20 young people visited regarding 30 orders
Visits to the Belconnen Remand Centre (adults)	53 adults visited	58 adults visited	53 adults visited
Visits to the Brian Hennessy Rehabilitation Centre (adults)	36	34 adults visited	52

In summary:

- during 2002-2003, the OCA provided approximately 1304 *occasions of service* to people with a mental health disability;
- during 2003-2004, the OCA provided approximately 1483 *occasions of service* to people with a mental health disability; and
- during 2004-2005, the OCA provided approximately 1476 *occasions of service* to people with a mental health disability.