



15 April 2011

M30
RB; rp

The Honourable John Hill MP
Minister for Mental Health and Substance Abuse
DX 243
ADELAIDE SA

Dear Minister

The Society, through its Justice Access Committee (the Committee) made a number of submissions in relation to the review of the SA mental health legislation and in respect of the *Mental Health Bill* and took an active interest during the progress of the Bill through the Parliament.

The Society is aware that the Government is currently in the process of establishing the Community Visitor Scheme (the Scheme) under the *Mental Health Act 2009*.

We are concerned at the proposal that the Scheme be located within the Health Department.

It is our understanding that the preferred location for the Scheme has always been either the Health and Community Services Complaints Commissioner or the Office of the Public Advocate. We are not aware of any prior discussion regarding location of the Scheme in the Health Department.

In our view the Scheme should not be located within the Health Department for the following reasons:

- Conflict of interest

In order to be effective the Scheme must be actually and perceived to be independent of the service provider. For this reason the Society raised no objection to the proposal that the Scheme be located within the Office of the Public Advocate or the Health and Community Services Complaints Commissioner. We note with interest that unlike the Victorian legislation (where the Scheme is located within the Office of the Public Advocate), the South Australian legislation does not provide that community visitors must not hold any appointment nor employment with or have a direct interest in any contract with the service provider. It is assumed that the absence of this provision from the SA legislation is because it was always assumed that the Scheme would be located in an independent statutory authority.

- Community Confidence

The purpose of the Scheme is to provide a service for vulnerable and often very ill people. These people will generally be fearful that if they speak out their treatment and their relationship with the people upon whom they depend in case their care is compromised. In addition, the visitors will also be able to hear the views of staff. Clearly these people need to be able to

Speak openly and frankly without compromise. The independence, whether real or actual, and the ability to take effective action should be basic criteria for the Scheme.

- Avoidance of confusion

The Chief Psychiatrist has a technical and regulatory role which requires visits to mental health services. This is different to the rights based advocacy role of the Scheme. There is potential for the two roles to become confused in the minds of consumers and staff if both are located in the one authority. It may also put the Chief Psychiatrist in a position of conflict.

- Drawing issues to the attention of the public and the media

The communication needs of the Scheme would be better served by working with an office which is proactive and raises matters of concern rather than one which is reactive and responds to matters of concern.

- Future expansion of the scheme

It has always been anticipated that the Scheme will expand to areas outside the purview of the Minister for Mental Health and Substance Abuse.

We note that in the Northern Territory the Scheme sits with the Anti Discrimination Commissioner. In NSW the scheme sits under the funding umbrella of the Department of Health and in recent years has moved to be totally structurally independent of the Department of Health being co located with, but also totally independent of, the Mental Health Tribunal. In Queensland the Scheme sits with the office of the Adult Guardian and in Victoria with the office of the Public Advocate. In WA the Scheme is in the process of transitioning from the Health Department to an independent statutory body.

The Society is aware that the Public Advocate has raised a number of concerns with the Department and fully endorses his submissions.

Yours faithfully



Ralph Bönig
PRESIDENT