

WHY DO WE HAVE A MENTAL HEALTH ACT?

THE PRESENTERS

Dr Yega Muthu - Adjunct Fellow, School of Law, Western Sydney University

Yega has been teaching Mental Health Law since 2004 at the University Technology of Sydney and currently from Western Sydney University. He held a judicial appointment as a member of the Mental Health Review Tribunal from 2008-2012 and runs a criminal and mental health law practice, where he views his role in protecting vulnerable people in the community from exploitation.

Dr Leanne Craze, AM - Director, Craze Lateral Solutions

Leanne has over 30 years' experience in a broad range of fields including mental health, health, community services, housing and homelessness, disability and criminal justice. She runs a mental health and social policy consultancy and was part-time member of the NSW Mental Health Review Tribunal for many years. In June 2017, Leanne was honoured as a Member in the General Division of the Order of Australia (AM) for her contribution to mental health service development and reform.

VIDEO TRANSCRIPT

Why a Mental Health Act?


Yega Muthu: The Mental Health Act is necessary to protect the rights of individuals who are not able to look after themselves because of their mental health problem. The main reason we need a Mental Health Act is to ensure that a person who's mentally ill or mentally disordered in a mental health facility do not languish in the background of some psychiatric facility.

Being an involuntary patient in a psychiatric facility, one may not understand "what am I doing here?" It's important to educate the person. So it's important that with time, with treatment, things will get better.

The Act itself provides care and treatment given to a person in a least restrictive sense, consistent with safe and effective care. To do so in a respectful way and to ensure that their human rights are recognised as well.

The Act's Objects

Leanne Craze: What would happen if we didn't have an Act? I think, what would happen is that there would be uncertainty about who can do what and when to someone with a mental illness or mental disorder.



What the Act does is it provides a legal framework of parameters around the right of the State and the right of people authorised by the State to intervene and to do something to someone who is thought to have a mental illness and mental disorder.

By setting the parameters, it sets the limits of interfering with someone's life.

We've seen the implications of when there isn't mental health legislation and in those instances we see that people with mental illness are treated like criminals or they can just be locked away.

Having a Mental Health Act actually says "Right - this is what is authorised and importantly this is how we want you to provide care and treatment. These are the objects and these are the principles."

The Act's Principles

Leanne Craze: The principles of the Act do build on the purpose of the Act because they set out the "how", the quality of the interaction. We know that the principles are now focused around supporting a person's recovery, supporting their involvement in the decision-making process irrespective of whether it's involuntary or voluntary, irrespective of how unwell someone is or how long they have had an illness for.

Capacity and consent

Leanne Craze: The principles clearly state the Parliament in NSW wants mental health practitioners to involve a person, support their decision-making and also support their capacity to make decisions.

Am I involving the person? Could they be involved more? What capacity do they have? Am I respecting that capacity? Am I supporting? Am I helping them to increase their capacity?

And then, just not going through that thinking process the first time a mental health professional meets the person, but with every interaction. Because people will recover, their mental health will improve and so that questioning needs to be continuous.