Section 56 Review of the Queensland Mental Health Commission Act 2013: Survey Questionnaire

Background

The Queensland Mental Health Commission Act 2013 (the Act) contains two sections, section 55 and section 56, that require the Minister for Health and Minister for Ambulance Services undertake two separate reviews.

Under section 55(1) of the Act, the Minister must arrange an independent review of the performance by the Queensland Mental Health Commission (the Commission) of its functions by 30 June 2016.

The section 55(1) review was completed by the Public Service Commission (PSC), and a report provided to the Minister. The report has since been published. Links to the report and the Commission’s response are at https://www.qmhc.qld.gov.au/about-us/our-performance/qmhc-effectiveness-review/

This survey questionnaire relates to the review required under section 56 of the Act.

Under section 56 the Minister must also review the effectiveness of the Act as soon as practicable after the end of 3 years after the commencement of the Act – that is after 30 June 2016.

As soon as practicable after finishing the review, the Minister must table a report about its outcome in the Legislative Assembly.

Review of Queensland Mental Health Commission Act 2013

The Minister for Health and Minister for Ambulance Services has approved a review process of the Act as required under the legislation.

The review will be overseen by a steering committee which is supported by the Office of Health Statutory Agencies (OHSA). Membership of the steering committee includes representatives from the Department of Health; Queensland Mental Health Commission; Mental Health and Drug Advisory Council and the Department of the Premier and Cabinet.

Feedback from key stakeholders during the consultation phase of the review of the effectiveness of the Queensland Mental Health Commission, as well as issues identified by the Queensland Mental Health Commissioner, are being taken into consideration where appropriate, as part of the Act review.

A survey is also being sent to you/your organisation as a key stakeholders as part of the Act review (attached) to identify any other issues for consideration.

Scope

As prescribed by section 56 of the Act, the scope of the review is limited to determining whether the provisions of the Act are operating effectively.
Feedback previously provided in other forums

It is acknowledged that many stakeholders have already contributed valuable feedback in relation to matters relevant to the operation and effectiveness of the Act through a number of different forums.

Stakeholders are not expected to restate feedback that has been raised in other forums and which is relevant to this review of the effectiveness of the Act. This includes feedback that was provided or has been captured by:

- stakeholders feedback during the consultation phase of the section 55 review of the Commission conducted by the PSC;
- the Queensland Mental Health Commissioner’s submission to the PSC as part of the section 55 review of the performance of the Commission, are summarised below;
- the Commission’s annual performance survey conducted on its behalf by Paxton Partners.


Issues to be considered:

**Commissioner**

1. Whether to extend the Appointment term for the Commissioner to four or five years.
2. The Commissioner should be a person with a lived experience of mental health, drug or alcohol misuse.
3. Include a statement which provides greater clarity about the Commission’s role.

**Advocacy**

4. Consider including in section 11(2) other higher order functions such as systemic advocacy.
5. Adopt a provision under the New Zealand *Mental Health Commission Act 1998*, for the QMHC to ‘act as an advocate for the interests of people with mental illness and their families’, and ‘to work independently and with others’.

**Other issues**

6. Section 14: remove reference to the Commission including staff.
7. Section 30 requires the Minister to table ordinary reports “as soon as practicable after receiving it”. Consideration should be given to setting a timeframe (ie. Health Ombudsman Act 2013 requires tabling within 14 days, and the Public Advocate reports must be tabled by the Minister within 5 days).
8. Have members of the Queensland Mental Health and Drug Advisory Council appointed directly by the Commissioner as they are under the *Family and Child Commission Act 2014*.
9. Title of the Queensland Mental Health and Drug Advisory Council should include reference to alcohol.
10. Section 38 of the Act stipulates that the Council’s functions are to provide advice to the commission, or at the request of the commission, including in relation to the functions of the commission. This may be clearer if the advice was to the commissioner, or at the request of the commissioner.

11. The Act (s29) includes specific provisions around the preparation of ordinary reports, including provision to make recommendations for tabling in Parliament. There is no definition of what constitutes an ordinary report.

12. There is no mention of suicide prevention in the Act, however it could be considered to be included within the broader mental health responsibilities.

Issues identified which are **out of scope** for the Act review:

13. The Commissioner should not be under the direction of the Minister, and report to a Parliamentary Committee instead (like the Health Ombudsman). The Commission should be more independent of Government.

14. Any change to the role and functions of the Queensland Mental Health Commissioner.


16. Commission administering funding for mental health, drug and alcohol services.

17. Commission structure could include Deputy Commissioners.

18. Appoint a consumer and carer Commissioner.

19. The Commission could oversee community visitors, a requirement under the Mental Health Act 2016, which is currently with the Department of Justice and Attorney-General.

20. Provide the Commission with powers to hold health and non-health government departments accountable to the Queensland Mental Health, Drug and Alcohol Strategic Plan 2014-19 and action plans.

21. Some stakeholders would like the Commission to have a stronger role in promotion, prevention and early intervention.

**Survey**

The attached survey questions seek your views as key stakeholders, on the effectiveness of the Act.
Queensland Mental Health Commission Act 2013
Survey Questions

Part 1 (sections 1-7) of the Act details the object and guiding principles as well as an interpretation section providing the meaning of the whole-of-government strategic plan.

- Do the objects and guiding principles adequately and accurately reflect the way in which the objects are mainly achieved?
- Are the mandatory matters in the whole-of-government strategic plan appropriate?
- Are there any additional matters that should be incorporated into the whole-of-government strategic plan?
- Are there any other legislative refinements that could be made to improve the operation and application of Part 1 of the Act?

Part 2 (sections 8-24) of the Act details the establishment, functions and powers of the Queensland Mental Health Commission.

- Do the provisions describing the functions, powers and staff of the Queensland Mental Health Commission (with the exception of those of the Commissioner which is being considered in a separate process and is therefore out of scope) enable the Commission to meet the objects of the Act?
- Are there any other refinements that could be made to improve the operation and application of Part 2 of the Act?

Part 3 (sections 25-33) of the Act provides for a whole-of-government strategic plan and reporting by the Commission.

- Noting that the whole-of-government strategic plan has been published, are there any amendments required to Part 3 of the Act which covers the development, implementation and review of the strategic plan?
- Part 3 outlines the process for preparing, consulting on and delivering special reports and ordinary reports. Are these provisions operating effectively, having regard to the objects of the Act?
- Are there any other refinements that could be made to improve the operation and application of Part 3 of the Act?

Part 4 (sections 34-36) of the Act provides for cooperation between the Commission, and public sector and publicly-funded agencies.

- Are the provisions requiring cooperation between the Commission and relevant agencies sufficient and effective in driving the implementation of the whole-of-government strategic plan across the Queensland Government?
- Are there any other refinements that could be made to improve the operation and application of Part 4 of the Act with respect to the requirements to cooperate and to provide information?
Part 5 (sections 37 – 47) of the Act outlines the functions, membership and conduct of business relating to the Queensland Mental Health and Drug Advisory Council.

- Are the functions of the Council sufficient to assist the Commission in meeting its objectives?
- Are the membership and governance arrangements of the Council appropriate to support the Commission in meeting its objectives under the Act?
- Are there any other refinements that could be made to improve the operation and application of Part 5 of the Act?

Part 6 (sections 48 – 51) of the Act outlines cooperation between the Queensland Mental Health Commission and the Queensland Mental Health and Drug Advisory Council.

- Are the provisions requiring cooperation sufficient and effective to give effect to the legislative functions of each body?
- Are there any other refinements that could be made to improve the operation and application of Part 6 of the Act?

Part 7 (sections 52 – 57) of the Act provides for miscellaneous issues including delegations; protecting officials from liability; commission’s guidelines; review of the commission; review of the Act; and regulation-making power.

- Are the Commissioner’s powers of delegation operating effectively?
- Are there any limitations that should be placed upon the Commissioner’s power of delegation?
- In addition to commission guidelines, are there any other resources that the Commission can create in relation to the operation of the Act that should be included?
- Are there any other refinements that could be made to improve the operation and application of Part 7 of the Act?