



MHCV 2025-26
ACT BUDGET SUBMISSION

March 2025

About Carers ACT

Carers ACT is the leading body for carers in the ACT. We work to ensure that carers enjoy improved outcomes in health, wellbeing, resilience, and financial security. We also work to ensure that caring is acknowledged and recognised as a shared responsibility of family, community, and government.

Our purpose is to support, connect and empower carers to maintain their caring role and personal wellbeing. *The Carers Recognition Act 2021 (ACT)* recognises the value of carers and the care relationship and defines carers in the following way:

“A person is in a care relationship with another person if the first person (the carer) provides care to the other person for 1 or more of the following reasons:

(a) the other person has a disability;

(b) the other person has a mental disorder or mental illness;

(c) the other person has an ongoing medical condition;

(d) the other person is aged and frail;

(e) the other person is a child or young person, and the carer is a kinship carer or a foster carer for the child or young person.”

Carers include family members, friends, relatives, siblings or neighbours.

In the ACT more than 50,000 people provide care. Carers provide an important role in the family and in the broader community, supporting the quality of life of the person they care for. A carer's role can include help with daily living activities such as housework, transport, health care, shopping and meals, reading and writing, emotional and mental support, and personal care.

About Mental Health Carers Voice

Mental Health Carers Voice (MHCV) is the Peak Body for Mental Health Carers in the ACT and sits under the auspice of Carers ACT. MHCV actively engages with mental health carers to have their voice heard and create positive change in the sector through systemic advocacy. The MHCV Advocacy and Policy Advisory Group (APAG) provides a guiding voice for our Peak Body work. APAG is made up of mental health carers and provides MHCV with significant input, regularly consulting to understand current problems and major concerns within the community.

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Executive Summary

In our 2024-25 budget submission, we raised the importance of undertaking a comprehensive review of the *Mental Health Act 2015* (the Act). Over the past 12 months, the ACT's mental health legislative provisions have been under increasing scrutiny, as gaps in support systems for individuals undergoing mental health crises, particularly those leaving involuntary orders, have come into the spotlight. We have witnessed other jurisdictions successfully reform areas of their mental health systems through amending their mental health legislation to be less mental illness based, and more mental health focused. Given the profound positive impact that a modernised Mental Health Act could have on Canberra's mental health system and all those who interact with it, a comprehensive review of the Act will feature as our primary recommendation for the 2025-26 ACT Budget.

A comprehensive review of the *Mental Health Act 2015*

The [Mental Health Act 2015](#) is the legislative framework that governs how mental health services are delivered in the ACT, particularly for individuals experiencing acute mental health conditions. It sets out the processes for voluntary and involuntary treatment, the rights of individuals receiving care, and the responsibilities of service providers in ensuring appropriate support. A well-functioning Mental Health Act is critical not only for those directly accessing services but also for their carers, families, and the broader community. When mental health laws are designed to facilitate continuity of care, supported decision-making, and early intervention, they can help reduce hospital readmissions, ease pressure on emergency and crisis services, and improve long-term wellbeing outcomes for all Canberrans.

This proposal seeks to initiate a comprehensive review of the *Mental Health Act 2015* with an aim to modernise the legislation and address existing gaps in support systems for individuals undergoing mental health crises, particularly those leaving involuntary orders. By aligning legislative provisions with contemporary best practices, we can modernise privacy safeguards, facilitate greater carer inclusion, and ensure the provision of holistic aftercare support that promotes mental wellbeing.

Need for carer inclusion

Carer inclusion in mental health legislation is vital. As of December 2022, 29% of individuals receiving care from a primary carer had a psychological or psychiatric primary medical condition.¹ Unfortunately, Canberra's carers have consistently reported that the risk-averse system, underpinned by obstructive legal frameworks, often denies them access to even basic information needed to effectively support those they care for. This disempowering approach does not align with the ACT's *Carers Recognition Act 2021*, actively hinders recovery, exacerbates difficult situations, and isolates carers.

We have heard that carers and consumers feel abandoned or disengaged with the fragmentation between health, crisis, and social support systems, particularly after periods of acute distress or involuntary treatment. Current legal frameworks have also been reported to inhibit the continuity of care between different systems, limit information-sharing and exclude carers from decision making.²

Legislative reform is essential to break down these barriers, ensuring carers are empowered to contribute to positive outcomes, reduce the need for emergency interventions, and support better long-term recovery. By adequately recognising carers in mental health legislation, we can enhance the overall mental health system and improve the well-being of both consumers and their carers.

Cost effective and community supported

A full review of the ACT's Mental Health Act is the most cost effective and strategic path to an improved mental health system. The last review of this legislation occurred in 2019 and was limited in scope to the select provisions stated under 271A (1), with another review scheduled this year of select provisions. The current approach of reviewing only isolated sections is leading to ongoing, fragmented changes that are consuming resources without delivering lasting impact. A single, coordinated review will allow the ACT Government to modernise the entire Act efficiently, avoiding the higher costs and inefficiencies of repeated amendments and disjointed changes.

We are confident that a full review would also have strong support from Canberra's Peak Advocacy Bodies, ensuring broad sector engagement and genuine buy-in. We know that small piecemeal reviews often fail to capture interest or meaningful feedback from carers and consumers. With a sunset review of the Act scheduled for 2025, now is an opportune time to expand the scope of the legislative review to encompass the entire Act.

Urgency highlighted by recent critical incidents

Recent critical incidents and media coverage have exposed serious flaws in the existing legislation. Breaches of privacy and inadequate aftercare services have been highlighted, most notably in the aftermath of the Australian National University (ANU) incident. These recent real-life examples underscore the pressing need for substantive legislative reforms to ensure that consumers and carers receive the protection and person-centred care they deserve. The recent review of the *Reform of Care, Treatment and Support Provided to People Found Not Guilty Because of Mental Impairment and Released from Custody into the Care of Mental Health Services* has outlined several recommendations that require changes to the Act.³

Learning from success

Victoria's successful mental health reforms provide a clear model to improve mental health outcomes through legislation. Following Recommendation 42 of the *Royal Commission into Victoria's Mental Health System*, the *Mental Health and Wellbeing Act 2022 (Vic)* was introduced.⁴ The Act has strengthened human rights protections, embedded supported decision-making, and prioritised holistic, person-centred care in Victoria. These reforms have improved service coordination, increased accountability, and fostered greater involvement of individuals and carers in treatment decisions, resulting in a more responsive and compassionate mental health system. The ACT has the same opportunity to create lasting reform through a full review of its own Act.

Adopting best practices from other jurisdictions can further strengthen this reform. For example, the UK's *Mental Health Act 1983* mandates enforceable aftercare provisions (Section 117), ensuring coordinated support for individuals transitioning from hospital to community.⁵ Implementing

similar measures in the ACT would improve continuity of care and prevent service gaps. Additionally, the New South Wales effective information-sharing protocols between service providers, carers, and consumers offer a valuable model for enhancing communication and delivering more responsive, person-centred care.⁶ Integrating these proven approaches into a modernised Act would create a more supportive and connected Canberra mental health system.

An Act for the future

Modernisation is urgent, as the current legislation focuses narrowly on mental illness rather than on mental health and wellbeing, which will not integrate effectively with the strengths-based focus of Foundational Supports and broader psychosocial support reform through the National Disability Insurance Scheme (NDIS). A contemporary framework is essential in preventing the ACT from working in circles as we begin budgeting for and delivering psychosocial Foundational Supports. Moving forward on Foundational Supports and disability system reform with outdated mental health legislation means future policies will be misaligned, making it impossible to design effective services or determine appropriate funding. A contemporary framework is essential for a system that promotes both mental health recovery and overall wellbeing.

Investment in a comprehensive review and subsequent reform of Act is also likely to deliver significant long-term benefits, as identified by the *Productivity Commission* See Figure 25.1).⁷ Legislative reform that strengthens mental health systems can lead to improved health outcomes, greater social participation, and economic gains through reduced service demand and increased workforce participation.

Figure 25.1 **How mental health reforms benefit the whole community**



Alignment with ACT Legislation

A comprehensive review provides a critical opportunity to better align the Act with other key ACT legislation, ensuring a more integrated and rights-based approach to mental health. This alignment should include the [Carers Recognition Act 2021](#) (ACT) to better support carers, particularly by addressing gaps in carer involvement and information-sharing within the mental health system. There is also an opportunity to address recent community concern related to involuntary treatment and detention by better aligning our mental health legislation with the [Human Rights Act 2004](#) (ACT). In addition, stronger alignment with the recently ratified

[Disability Inclusion Act 2024](#) (ACT) is also vital to ensure that people with mental health conditions who also experience disability are adequately supported, particularly in accessing services that meet both their mental health and disability needs. The current Act requires a comprehensive review to promote a more cohesive, person-centred system that aligns with other updated ACT legislation.

ACT Wellbeing Framework

A comprehensive review of the Act also provides an opportunity to better align the territory's mental health system with the [ACT Wellbeing Framework](#). Modernising the Act would create a more inclusive, recovery-focused system that actively involves carers and supports key wellbeing domains, including *Access and Connectivity, Education and Life-long Learning, Housing and Home, Identity and Belonging, Living Standards, Social Connection, and Health*. Embedding these principles into mental health legislation will create a more integrated, person-centred system that addresses the social determinants of mental and leads to better recovery outcomes for individuals and their carers.

Conclusion

A comprehensive review of the *Mental Health Act 2015* is not just a policy priority, it is an essential step toward building a responsive, inclusive, and effective mental health system in the ACT. The current legislation is no longer fit for purpose, leaving critical gaps in aftercare, carer inclusion, and system integration. Incremental changes cannot deliver the lasting reform that Canberra needs.




By undertaking a full review, the ACT Government can modernise the Act to reflect contemporary best practices, empower carers, and better support individuals transitioning through mental health crises. This is a cost-effective, strategic investment with the backing of many of Canberra's Peak Advocacy Bodies and is aligned with the ACT Wellbeing Framework.

Other jurisdictions have shown the transformative impact of comprehensive reform. The ACT now has the same opportunity to lead with legislation that strengthens the foundation of our mental health system and delivers long-term social and economic benefits for the entire community.

References

- ¹ Australian Institute of Health and Welfare. (2022). *Informal carers*. AIHW. Retrieved from <https://www.aihw.gov.au/reports/australias-welfare/informal-carers>
- ² See for example, Deep End Canberra, "A New Approach to ACT Mental Health Care Services System Reform: Phase 1 Report Recommendations Revised and Prioritised v240131," (Canberra: AMA ACT Branch and Capital Health Network), 4, <https://www.ama.com.au/sites/default/files/2024-03/A%20New%20Approach%20to%20ACT%20Mental%20Health%20Care%20Services%20System%20Reform%20Phase%201%20Recommendations%20v4F.pdf>.
- ³ Dr Dinesh Arya, "Recommendations for reform of care, treatment and support provided to people found not guilty because of mental impairment and released from custody into the care of mental health services," (Canberra: ACT Government), [Chief Psychiatrist's Report.pdf \(act.gov.au\)](#).
- ⁴ State of Victoria, Royal Commission into Victoria's Mental Health System, *Final Report, Volume 4: The fundamentals for enduring reform*, Parliamentary Paper No. 202, Session 2018–21 (document 5 of 6), 13 – 15, [Final Report – Volume 4: The fundamentals for enduring reform \(content.vic.gov.au\)](#).
- ⁵ *Mental Health Act 1983* (UK); see generally, "Leaving Hospital," *Mind UK*, publication July 2020, accessed March 2024, [Section 117 aftercare - Mind](#).
- ⁶ See *Mental Health Act 2007* (NSW) s 68(j); s71 – 79.
- ⁷ Australian Government, Productivity Commission, *Mental Health, Inquiry Report*, Report no. 95 (Canberra), 1252, [Volume 3 - Inquiry report - Mental Health \(pc.gov.au\)](#).

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