

# Mental Health Bill

**December 2024**



New Zealand Council Of  
Christian Social Services

## Tirohanga Whānui | Overview

The New Zealand Council of Christian Social Services (NZCCSS) welcomes the opportunity to provide feedback on The Mental Health Bill. We support the kaupapa to repeal and replace the Mental Health (Compulsory Assessment and Treatment) Act 1992 with legislation that is holistic, and patient centred. We applaud the level of consultation that has been undertaken in the design of this new legislation and support its foundation in evidence-based practice, however we express a number of concerns including the lack of consideration for social determinants of health, the continued issues around funding, and the implications for children's Rights.

Our main points are:

### **Item One**

We tautoko the extent of consultation in the development of this bill.

### **Item Two**

Additional funding is urgently needed in the health sector to ensure that the improvements to the Mental Health Bill have the intended outcomes.

### **Item Three**

More proactive cross-approaches to improve mental health and wellbeing are needed.

### **Item Four**

Strengthen the rights of children and young people through greater integration of children's rights under the UNCRC.

### **Item Five**

Continued consultation with tangata whenua is needed to help to address the inequities in mental health.

### **Item Six**

Raising concerns regarding limitations on compulsory treatment practices when all other avenues have been exhausted

## Taunakitanga | Recommendations

We raise the following points and recommendations for consideration:

### **Item One**

We welcome an update to the Mental Health Act and tautoko the extent of discussion and collaboration that has occurred in the design of this Bill. This is a significant piece of legislation, and it is refreshing to see cross-party support. Additionally, we wish to express our support for the extensive stakeholder consultations that include people who have lived experiences and groups who are disproportionately represented in the statistics, specifically Māori and tangata whaikaha | disabled people.

## Item Two

Without a substantial increase in funding to cover staffing and facility upgrades, the ability for the sector to implement proposed changes will be significantly impacted.

Reports of understaffing are common in mental health wards throughout Aotearoa, with some, such as the Tane Whakapiripiri ward in Waitematā, reporting operating understaffed for more than 90% of shifts (99.45% for Tane Whakapiripiri) in 2023 (NSNO, 2024). Approaches to reduce the impact of this understaffing include having staff work overtime, with many reporting large numbers of their staff working overtime:

*“This is all being made worse by Te Whatu Ora refusing to hire staff because of the current recruitment pause. We know in some areas 90% of staff are doing overtime. That is just not sustainable, for them, and not good for those they care for” (PSA, 2024).*

Such use of overtime is not only unsustainable in the long run, but research also indicates that working sustained overtime in the mental health sector can have a significant, negative impact on the quality of care that patients receive (Luther et al, 2017). Given the current recruitment freeze there is currently no clear indication regarding when the burden on staffing will be lessened.

In addition to greater funding for staffing, there is a further need to increase funding for mental health facilities. Current reports indicate acute mental facilities are often at capacity, limiting people’s ability to access services when they are needed:

*“Currently to admit one patient into these units means that one must be discharged. We already see patients being discharged who are not ready. This puts a huge strain in the Community Mental Health Services which must look after and manage acute patients in the community” (PSA, 2024).*

Current underfunding in other areas of health also must be addressed to reduce the burden faced by Mental Health Services. An example of this is the inadequate funding for psycho-geriatric care facilities. This was highlighted in the recent report by the Health and Disability Commissioner (2024) which reported that in the past 2 years 66 psychogeriatric care beds have been closed and have left a hole in available services which must be filled by treating these individuals in other Mental Health facilities.

Although the changes proposed by this bill are a welcome step towards a more holistic approach to mental health treatment in Aotearoa, without the adequate resources to support these, it is impossible to see that improvements will be achieved. Additional funding for the Health sector as a whole is urgently needed.

**Recommendation 1:** We suggest a need for further funding in the health sector is urgently needed to ensure that the improvements in this bill are able to be achieved.

## Item Three

There has been a number of recent proposed changes in legislation that relate to mental health, including the [Suicide Prevention Action Plan](#), which appear to have been considered in isolation. These workstreams are undeniably interlinked and with mental health as a key component, there is an increasing need to not just continue our historically reactive approach. Aotearoa’s shameful statistics regarding mental health and mental health outcomes highlight an urgent need for innovative and proactive approaches to improve mental health. Although it is certain that changes in legislation are needed, they do not go far enough to make this meaningful change. Work is needed to gain further understanding on the social determinants of mental health, embed them in policy, and formulate a more proactive approach to tackling these problems to help reduce the incidence of people requiring

the kind of care addressed by this legislation. Legislation should be a proactive agent of prevention, not simply a reaction to existing issues.

**Recommendation 2:** We urge the Select Committee to highlight a need for further proactive approaches to improve mental health and wellbeing

#### Item Four

Greater focus on the mental health needs of children and young people is required to address concerning statistics among this population. It is encouraging to see the introduction of the [‘The Child and Youth Mental Health and Addiction Prevalence Survey’](#) and a focus on how to improve outcomes for this population through the findings of the [Auditor General’s report](#) earlier this year. We note that the recent refresh of the [Child & Youth Wellbeing Strategy](#) does not include mental wellbeing as a core strategy priority, instead deferring this to [Kia Manawanui Aotearoa](#), the overall Mental Health Strategy. It will be important to see children and young people and their whānau a priority in the actions resulting from this strategy. We expect to see a focus on strengthening support for specific populations of children and young people that are overrepresented in poor mental health outcomes and for tamariki, rangatahi and their whānau during stages of development or transitions during the lifespan that may increase one’s likelihood of poor mental health.

NZCCSS suggests that the rights of children and young people could be strengthened in this Bill through greater integration of children’s rights under the [United Nations Convention on the Rights of the Child](#) (UNCRC). This aligns with the United Nations recommendation to New Zealand in its [Concluding Observations](#) (2023) to incorporate UNCRC into domestic law to support the enforceability of rights for children and young people.

This would include explicit reference to young people’s rights under Article 37 to maintain “*connection to their family, whānau, hapū and iwi through correspondence, visits and video conferencing*” and “*access to appropriate therapeutic and recreational activities, educational needs and alternative specialist care*” (Ministry of Health, 2020, pg.7). It could also incorporate specific reference to children and young people’s rights to be free from discrimination (Article 2) and, as identified as a priority by the Auditor-General, for greater participation and inclusion of youth voice in the shaping of services and delivery (Article 12) (Controller & Auditor General, 2024).

**Recommendation 3:** Strengthen the rights of children and young people through greater integration of children’s rights under the UNCRC.

#### Item Five

It is paramount given the inequities faced by Māori in mental health, both in presentation of poor mental health as well as treatment outcomes, that culturally appropriate approaches to mental health remain at the forefront of any changes to legislation. Māori have been disproportionately represented in the number of people treated or assessed under the existing Mental Health Act:

*“In 2021/22, Māori were more likely to be assessed or treated under the Mental Health Act than other ethnicities:*

- *Māori represented around 36% of those subject to compulsory assessment, and around 40% of those subject to a compulsory treatment order*

*In 2021/22, there were 466 people, under the age of 18, subject to the Mental Health Act:*

- *of those, 42% were Māori”* (Ministry of Health, 2024)

We tautoko the attempts to include Māori in the drafting of this legislation and strongly advocate for their inclusion in the future review of the legislation that has been promised within the next 5 years. It is essential to ensure that these legislative changes actually work as intended and that observed outcomes are equitable.

**Recommendation 4:** We urge continued consultation with tangata whenua through the introduction and review of this legislation to ensure treatment approaches are culturally appropriate and equitable outcomes are achieved.

#### Item Six

We strongly support the kaupapa to move away from the use of more extreme compulsory treatment practices such as restraint, sedation and seclusion. However, although these practices have been misused in the past, there will still be instances when all other options have been exhausted where these practices may still be the only suitable option. Concerns regarding the change in legislation negatively impacting practitioners' ability to provide restraint when individuals are a danger to themselves, to other patients, or to staff have been raised. As such, we strongly encourage a stringent review of the legislation with a particular focus on incidences where these practices have been used or were unable to be used to ensure that impacts to individuals receiving treatment have not been detrimentally affected by these changes, with consideration for amendments or the introduction of secondary legislation should this be needed.

**Recommendation 5:** We suggest ensuring that any future review of the legislation considers all extreme cases and how treatment alternatives were managed.

#### Ngā Tohutoro | References

Committee on the Rights of the Child. (2023). *Concluding observations on the sixth periodic report of New Zealand*.

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsrXsj3pRx9xOCak0Ed1mLEloXL0waqCpbMqLXDM8ANSIqFi10Ib7MdJ28qk2vNDsJAwfglt7YYQjTaqPwMD07eAvgpgPked85FcECdkMec56>

Controller and Auditor General. (2024). *Meeting the mental health needs of young New Zealanders*.

<https://www.oag.parliament.nz/2024/youth-mental-health/docs/youth-mental-health.pdf>

Health and Disability Commissioner | Te Toihau Hauora, Hauātanga. (2024). *Amplifying the voices of older people across Aotearoa New Zealand / report by the Aged Care Commissioner*.

[New Zealand]: Health & Disability Commissioner Te Toihau Hauora, Hauātanga, 2024.

Luther, L., Gearhart, T., Fukui, S., Morse, G., Rollins, A. L., & Salyers, M. P. (2017). Working overtime in community mental health: Associations with clinician burnout and perceived quality of care. *Psychiatric Rehabilitation Journal*, 40(2), 252–259. <https://doi.org/10.1037/prj0000234>

Ministry of Health. (2020). *Human Rights and the Mental Health (Compulsory Assessment and Treatment) Act 1992*. Wellington: Ministry of Health.

Ministry of Health. (2024). *Mental Health Bill: Briefing notes to support introduction & first reading of the Bill*. Retrieved from: <https://www.health.govt.nz/information-releases/advice-to-minister-for-mental-health-mental-health-bill-briefing-notes-to-support-introduction-and>

New Zealand Nurses Organisation (NZNO). (2024, May 8). *Official nurse unsafe staffing figures genuinely alarming* [Media release]. Retrieved from:

[https://www.nzno.org.nz/about\\_us/media\\_releases/artmid/4731/articleid/6776/official-nurse%20unsafe-staffing-figures-genuinely-alarming](https://www.nzno.org.nz/about_us/media_releases/artmid/4731/articleid/6776/official-nurse%20unsafe-staffing-figures-genuinely-alarming)

Public Services Association (PSA). 2024, July 4). Mental health targets welcome, but acute staff shortages mean action needed now [Media release]. Retrieved from:  
<https://www.psa.org.nz/our-voice/mental-health-targets-welcome-but-acute-staff-shortages-mean-action-needed-now/>

### **Ko wai tātou | Who we are**

NZCCSS has six foundation members; the Anglican Care Network, Baptist Churches of New Zealand, Catholic Social Services, Presbyterian Support and the Methodist and Salvation Army Churches.

Through this membership, NZCCSS represents over 230 organisations providing a range of social support services across Aotearoa. Our mission is to call forth a just and compassionate society for Aotearoa, through our commitment to our faith and Te Tiriti o Waitangi.

Further details on NZCCSS can be found on our website - [www.nzccss.org.nz](http://www.nzccss.org.nz).

### **Ingoa whakapā | Contact Name**

**Rachel Mackay** [eo@nzccss.org.nz](mailto:eo@nzccss.org.nz)

Dr Katie Schraders

Melanie Wilson