HAYMARKET FOUNDATION LIMITED
ABN 24 001 397 986 CARING FOR HOMELESS AND DISADVANTAGED PEOPLE

Submission to the Social Issues Committee of the Legislative Council on its Inquiry into the operation and functions of the Inebriates Act, 1912 and related matters

We thank the Social Issues .Committee of the Legislative Council for the opportunity to make a submission to its inquiry into the operation of the Inebriates Act, 1912.

We have carefully considered the Act and also have had the chance to consider a Discussion Paper prepared by a Government sponsored Review Committee, completed in 1996, and chaired by Professor James Rankin. The Paper gives a useful summary of the history of the Act and the views extant at that time. We have sought to present our views based on twenty five years experience in the field against the perusal of these two documents.

It is interesting to note in that Discussion Paper comments dating back to 1912, Dr. Sinclair, which echo similar sentiments that effected community members express today referring to strong wish of the families of alcoholics that the government provide appropriate treatment facilities.

Wisely the original Act did not include psychiatric hospitals as appropriate institutions; however, the decision to use the prison system as an alternative could hardly be applauded.

The establishment and demise of the Shaftesbury Institute set up as dedicated facility has a familiar ring. It is a shame greater effort was not made to pursue the concept of a dedicated facility but given the lack of understanding of the problem at that time this is perhaps not surprising. The gazettal in 1929 of mental hospitals as the State Institutions for the reception, control and treatment of inebriates was a retrograde step.

We note also in the Discussion Paper the observation of MacAvoy and Flaherty that this decision was not made because of a purposeful capacity to provide suitable treatment 'but merely by default'. Even in 1929 the then New South Wales Inspector-General of Mental Hospitals pointed out its undesirability and stated the provision of a special institution for inebriates was essential.

Head Office
165b Palmer Street
East Sydney NSW 2010
Tel (02) 9331 1969
Fax (02) 9361 5417
hmkfdn@ozemail.com.au

Haymarket Foundation Clinic
Primary health care and welfare service for inner city homeless
Tel (02) 9331 1969
Fax (02) 9361 5417

Bourke Street Project
Residential drug & alcohol rehabilitation program
Tel (02) 9380 8043
Tel (02) 9380 6793
Fax (02) 9361 5417

Albion Street Lodge
Overnight crisis accommodation for substance abusers
Tel (02) 9211 2833
Fax (02) 9211 0331

The observation of J.G. Rankin in 1969 that the legislation only caught the vagrant, homeless, unemployed chronic alcoholic sets the scene for the circumstances that led to the establishment of the Haymarket Foundation in 1976. The Haymarket Foundation, through its clinic, has substantially changed, for the better, the lifestyle of these people.

Given that of all the deaths attributed to substance abuse alcohol accounts for approximately 23% (tobacco 74%, illicit drugs 3%) alcohol abuse remains a significant threat to our community outside the group described as "vagrant, homeless, unemployed chronic alcoholics".

This strengthens the call, identified as far back as 1912 for some interventionist approach to help the person suffering from alcohol abuse and/or addiction as well as their families and the community with whom they interact.

It is also interesting to note that as far back as 1927 the Police Department called upon the Government to create separate initiatives for inebriates which would 'not have the stigma of gaol'.

Alcohol abuse is a health problem not a law and order problem and no matter how difficult it seems on the surface to provide treatment through a medical model this must be done.

In fact within its necessary limitations the Haymarket Foundation through its medical clinic has shown that this can be done with appropriate facilities and resources. It has also demonstrated the economic benefits of its treatment philosophy over the traditional approach.

The Health Commission in its mid-1970s review reacted in a typically conservative, judgmental and inappropriate way. Its findings reflect the lack of understanding common amongst medical people at that time of the true nature of the problem and its collective desire to shun any direct involvement.

It states incorrectly that inebriates do not pose an immediate danger to themselves or others.

It states incorrectly that alternative methods and resources for the management of these persons are now available

It states incorrectly that the physical health needs of chronic alcoholics can be more effectively provided for through the resources now accessible through the Community Health programmes than through confinement in psychiatric institutions. While the latter statement may have been correct the programmes and accompanying resources were not there as time and experience has shown this to be the case.

It states incorrectly that the 'continued use of health resources for this purpose (that is, the treatment of alcoholism) is inappropriate and undesirable. It relegation of the problem as simply a matter of social welfare has now been exposed for the appalling misunderstanding it was.

It even misrepresented the proper nature of the condition by stating by stating 'The possibility of ultimate rehabilitation is diminished rather than enhanced by compulsory removal from the community to which the person must return'. Some separation from the community in which the inebriate moves is often desirable. It is the way in which the person is case managed that is critical to ultimate outcomes.

It is true that general hospitals can only provide medical attention, food and shelter and that heavily inebriated patients presenting at Accident and Emergency facilities or in general wards are often seen as a considerable nuisance, with due reason. The realization that this style of treatment was neither effective in terms of health outcomes or cost efficient for public hospitals also triggered the creation of the Haymarket Foundation by our founder Dr. Charles Blower, then Deputy Director of Medical Services at Sydney Hospital. Even less satisfactory attention was or could be given in psychiatric hospitals.

Dr. Blower fitted into the category of those persons of extraordinary compassion who understood the problem and provided a high degree of professional specialty. He drew around him a medical team of like-minded professionals which later expanded to include welfare assistance in the non-medical areas but still predicated on a health outcome basis. Again, with its limited resources the Haymarket Foundation has made a major contribution to a viable alternative

The Discussion Paper highlighted a number of failures, for example,

a) "The provisions for recognizance, the seven day custody for more careful medical examination, the appointment of a guardian, and those provisions relating to 'inebriates' convicted of certain offences, seem to be overlooked in the determination of care and control."
b) The lack of provision of institutions as outlined in Section 13
c) The lack of jurisdictional cover by visiting Magistrates and Official Visitors, a provision that could and should have been addressed long ago.
d) The lack of specialist medical and nursing staff to operate a supported accommodation program, fundamental to any chance of success.
e) The failure to recognize the inappropriateness of psychiatric hospitals as treatment providers.
f) The poor communication between the Court and the Hospital.
g) The apparent inability to make Regulations to empower clinical management.
h) Inflexibility of current Orders.
i) Observations by Magistrates of the "apparent inability or unwillingness of the Health services to take responsibility...where the inebriate is unwilling to help himself and is a danger to himself and others."

These examples, and there are others, together with comments made at the recent Summit highlight the continuing failure of government agencies to address the problem in a meaningful way. Surely that cannot be allowed to continue.

<u>It would seem that the Inebriates Act has not so much failed the people as the relevant Government Departments have failed the Act.</u>

Inebriates are often difficult to handle but nowhere near as difficult as psychiatric patients. The Haymarket Foundation has again demonstrated that they can be

handled sympathetically but positively with good results. The Haymarket Foundation has long campaigned for funds to provide additional services and has had some modest success, however, current services still fall well short of the raft of necessary measures required to provide a total package.

It is clear that measures enacted in 1912 are not necessarily appropriate by today's standards. This is a matter, however, of legislative adjustment rather than abandonment of necessary government initiatives that fall directly within the broad goals of the New South Wales Drug Strategy and the specific measures being considered in the development of the Adult Alcohol Strategy under consideration at the time of the release of the Discussion Paper as well as the Drug and Alcohol Strategy being currently pursued.

The Review Committee along with most other commentators and including the most recent comments have all stressed that in the event of the repeal of the Inebriates Act there must be appropriate safeguards and protections provided for in other Acts.

Despite community demands and professional advice dating as far back as the early part of the last century little has been done to address a problem which has not dissipated with time indeed has probably got worse. The emerging recognition of the problems of co-morbidity and the need for dual diagnosis treatment strategies has even more firmly placed the treatment of inebriates in the medical field.

There must be places where people who are really ill, whether through addiction, mental illness or other medical problems and whose condition is compounded by excessive drinking can be appropriately treated.

The Act has simply not kept pace with change; however, this is not the fault of the Act per se but those with the charge to administer it.

In our opinion there are a number of directions which should not be pursued.

a) While there should be the necessary linkages with mental health teams to provide assistance as and when appropriate the care of chronic alcoholics should not be under the mantle of the Mental Health Act. The analysis of admissions in 1989/90 and 1990/91 simply demonstrate the Act is not adequate to address the problems, supporting J. G. Rankin's comments referred to earlier.
b) The Guardianship Act has no place in any appropriate treatment module. Created for an entirely different circumstance its purpose and methods cannot and should not be applied here. The administration of Guardianship laws have been the subject of recent criticism by a parliamentary committee and leave much to be desired. To extend its jurisdiction into this area would create a minefield of difficulty.

Any legislative proposals must be developed against a framework of strong and effective consultation with service providers. The unsatisfactory process under which the Intoxicated Persons Act was amended is an object lesson in how not to amend or introduce legislation in this highly specialized field.

The Haymarket Foundation supports the principles of Equity, Rights (both of the individual and those with whom they have interaction), Access and Participation. They are the principles upheld by the Haymarket Foundation in all its endeavours.

Conclusion

The Haymarket Foundation supports the need for change but does not support the repeal of the Inebriates Act, 1912 until there is an appropriate legislative framework to take its place.

There is currently research being undertaken by the National Drug and Alcohol Research Centre and the Law and Justice Foundation which would be useful in exploring a good solution. There is no doubt other research being undertaken of which we are not aware.

We believe your Committee should recommend a period of intensive consolidation of existing research with a view to identifying any gaps that made need to be followed up.

We believe there are strategies that can be developed; however, they will need resourcing. Your Committee should also consider making recommendations regarding the proper and effective resourcing of any new initiatives.

The Haymarket Foundation believes it can contribute to this work by drawing on the extensive experience it has acquired over twenty five years in the operation of its three programs, the Haymarket Clinic, the Albion Street Lodge Intoxicated Persons Unit and the Bourke Street Houses Rehabilitation Project.

We look forward to members of the Committee visiting the Albion Street Lodge and offer our support in seeking solutions to a problem that has existed for centuries and for which in New South Wales there has been some recognition of the need for government involvement for over a century.

Given the wide range of issues canvassed in the Terms of Reference, particularly No. 5, the options for improving or replacing the Act with a focus on saving the lives of persons with severe alcohol and/or drug dependence and those close to them, we therefore also request the opportunity to give evidence before the Committee on our experiences in dealing with chronic alcoholics and to present suggestions for a way forward.

Kevin Rozzoli
Chairperson
5/12/2003