



05 June 2020

Dr Adam Tomison  
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Dear Dr Tomison

**Re: Criminal Law (Mental Impairment) Bill 2020 (WA) – Consultation Draft**

Thank you for providing the Western Australian Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP WA Branch) the opportunity to provide feedback regarding the *Criminal Law (Mental Impairment) Bill 2020 (WA) – Consultation Draft* (the Bill).

The RANZCP WA Branch has over 500 members including almost 400 qualified psychiatrists and around 120 members who are training to qualify as psychiatrists. Psychiatrists are clinical leaders in the provision of mental health care in the community and use a range of evidence-based treatments to support a person in their journey of recovery.

The RANZCP WA Branch has long been concerned that WA's *Mentally Impaired Accused Act 1996* contravenes human rights principles, results in unjust outcomes for people who are subject to it and presents significant barriers to ensuring people with serious mental disorders get the treatment they need. The development of the CLMIB is a welcome and long overdue step in addressing the significant flaws in the current Act that have resulted in the indefinite incarceration of people with serious mental illness, and incarceration without trial.

The RANZCP WA Branch strongly supports the intent of the reforms; to ensure that people with mental impairment have support to become fit to stand trial, have fair process to test the evidence against them in the case that they do not become fit to stand trial and to impose limits on custodial sentences imposed on people with mental impairment so that they are of equitable duration with those imposed on people without mental impairment. The strengthening of access to mental health advocacy services is also an important step forward in protecting the rights of people under this Act.

The RANZCP WA Branch has developed a detailed response to the discussion paper outlining a number of concerns regarding the Bill (attached). The recommendations contained within this submission are based on consultation with the RANZCP WA Branch Committee, and the Faculty of Forensic Psychiatry (FFP). Our members have extensive experience in providing clinical services within the context of the *Mental Health Act 2014 (WA)*, with members of the FFP having direct clinical experience in forensic psychiatry and the use of the current *Criminal Law (Mentally Impaired Accused) Act 1996 (WA)* (CLMIA Act).

Our overarching recommendations are;

1. prioritise reform and take all necessary steps to resolve governance and resourcing issues that may delay reforming the current inequitable legislation

2. improve treatment and treatment governance
3. restrict electronic monitoring
4. enable systemic reform.

If you would like to discuss any of the issues raised in the submission, please contact Zoe Carter, WA Branch Policy and Advocacy Officer via [zoe.carter@ranzcp.org](mailto:zoe.carter@ranzcp.org).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Megan Galbally', written in a cursive style.

Professor Megan Galbally  
**RANZCP Western Australian Branch Chair**