

## **SUBMISSION TO**

### *Mental Health and Wellbeing Bill 2025*

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Submission authorised by

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#### ***Acknowledgement of Country***

*COTA SA acknowledges and respects Aboriginal people as the traditional custodians of the land of South Australia. We honour Aboriginal peoples' continuing connection to Country and recognise that their sovereignty was never ceded. We pay our respects to First Nations Elders past, present and emerging and extend that respect to all Aboriginal people.*

#### **Introduction**

COTA SA welcomes the opportunity to provide a submission to the Mental Health and Wellbeing Bill 2025.

COTA SA represents the rights, interests and futures of around 700,000 older South Australians. We engage widely with older South Australians across the state and the lived experiences of the diverse community of older South Australians shape and inform COTA SA's policy and advocacy work.

We strongly support the extensive consultation process that has underpinned the review and development of the Bill and are pleased to have contributed to it. We particularly welcome the human-rights approach that forms the foundation of this reform, and the commitment to lived experience and codesign.

As the South Australian population continues to age, it is critical that the voices and experiences of older people are clearly and deliberately included throughout the implementation of the Bill. Older people can experience the mental health system in distinct ways — as consumers, as carers, and as family members — and they may hold preferences for how they communicate, access services, and make decisions that differ from younger generations.

In our submission, we have focused on areas where we can meaningfully contribute to improving mental health outcomes for older South Australians, with particular attention to: supported decision-making, restrictive practices, the dementia/mental health interface, and service integration.

We support and work closely with the Aged Rights Advocacy Service (ARAS), Dementia Australia, and other sector partners, and broadly endorse their submissions, including ARAS' recommendation to include a principle recognising the distinct experiences of older people within the mental health system.

We note, too, that people living with mental health conditions may also be experiencing cognitive decline or dementia, frailty and sensory impairments. There must be clear definitions and distinctions between dementia and mental health conditions, and how these conditions may intersect to ensure responsive, person-centred care.

## **Response to Key Sections of the Discussion Paper**

### **1. Objectives and Principles of the Bill**

COTA SA supports the strong human rights-based orientation of the Bill. The principles articulate important values of dignity, autonomy, recovery, and cultural safety.

Recommendations:

- Include a dedicated principle recognising the rights and needs of older people as a large and growing cohort within the system, whose experiences may differ based on age, health conditions, communication styles, and social supports.
- Ensure principles reflect intersectional experiences – including the ways ageing interacts with gender, culture, disability, LGBTI+ identity and regionality.

### **2. Rights and Supported Decision-Making**

We support the presumption of decision-making capacity and the formalisation of Statements of Preferences. In practice, we are aware that older people with progressive cognitive conditions such as dementia often face assumptions of incapacity and are excluded from decisions they could meaningfully participate in.

Dementia and other conditions can cause fluctuating or partial capacity and systems must be designed to uphold rights, not default to substitute decision-making.

Recommendations:

- Mandatory training for practitioners in dementia-inclusive supported decision-making.
- Decision-specific assessments that account for fluctuation and communication preferences.
- Co-designed templates and guidance for Statements of Preferences, including options to nominate chosen supporters.
- Respect for Statements of Preferences and Advance Care Directives in all settings.
- Provide clear guidance for supporters and treatment teams on their roles and responsibilities.
- Ensure older people with lived experience are represented on the Statutory Committee overseeing the Bill's implementation.

### **3. Detention, Assessment and Compulsory Treatment**

COTA SA is concerned about the inappropriate use of compulsory treatment and detention for older people, particularly those with dementia, in the absence of suitable aged care supports.

Inspector-General of Aged Care, Natalie Siegel-Brown, noted recently a series of key focus points, including: 'Eliminate restrictive practices that undermine autonomy and crush the dignity of those we claim to support'.<sup>1</sup> We have heard directly from COTA SA community members about older people with dementia who died in psychiatric wards due to lack of aged care options, subjected to distressing restraint and inadequate end-of-life care.

Recommendations:

- Define and limit restrictive practices in dementia-related contexts.
- Mandate exhaustion of person-centred de-escalation strategies.
- Require external oversight and age-disaggregated public reporting on restrictive practices, as applied through the NDIS.
- Ensure practices align with the Aged Care Quality Standards, Charter of Aged Care Rights and Quality of Care Principles.

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<sup>1</sup> [Progress Report reveals wins but more to be done - Sector Support](#)

#### 4. Community Treatment and Support

Older people interact with the mental health system both as consumers and as family members. Many also live in regional areas, where access to services is more limited, and where transport options for older people can be difficult to access. COTA SA supports the Bill's intention to ensure that people are able to remain in their communities where possible.

Recommendations:

- Ensure regional mental health service models are age-friendly, culturally responsive, and community-based.
- Recognise that older people may have different communication preferences or support networks.

#### 5. Advocacy and Lived Experience

We strongly support the emphasis on lived experience and the role of advocacy. Co-design processes must deliberately include older people, including those from LGBTI+, CALD and regional backgrounds.

Recommendations:

- Ensure older people are involved in co-design of Statements of Preferences, advocacy tools, and service access pathways.
- Recognise diverse understandings of "family", especially within the LGBTI+ community.
- Develop communication strategies that are inclusive of older people's needs and preferences.

#### Conclusion

COTA SA supports the thoughtful and progressive reforms proposed in the Mental Health and Wellbeing Bill 2025 and commends the work of the Office of the Chief Psychiatrist. We endorse the transparent consultation process and the emphasis on human rights, lived experience, and cultural safety.

As noted above, COTA SA supports the submissions from ARAS and Dementia Australia, noting that conditions more common in older people, such as cognitive decline, frailty and sensory impairment warrant specific attention to ensure the best person-centred care.

We welcome the opportunity to be part of the continuing co-design and reform process.

### **For Further Information and Discussion**

COTA SA looks forward to participating in the ongoing development of the Mental Health and Wellbeing Bill 2025. We would be pleased to meet with the Department for Health and Wellbeing to discuss this submission. Please contact Miranda Starke in the first instance.