

Severe Substance Dependence Treatment Act (2010) Review Response

The following is the substantive content of UnitingCare ReGen's submission to the review of the Victorian Severe Substance Dependence Treatment Act. ReGen's response is to the key questions included in the review documentation.

1. What has been your experience with the Act?

UnitingCare ReGen (ReGen) has been responsible for the admission of one of its consumers into treatment under the Act. ReGen staff have spoken with a range of other service providers about their experience of applying for their own consumers to be admitted under the Act or their response to the Act's provisions and administration.

2. What is your opinion on whether the Act has achieved its objectives of:

(a) enabling the detention and treatment of persons with a severe substance dependence where this is necessary as a matter of urgency to save the person's life or prevent serious damage to the person's health; and

ReGen does not believe the Act (in its current form) is achieving its objectives. The process of applying under the Act is too bureaucratic and time-consuming. The benchmark for admission under the Act is too high and prevents interventions by service providers at a point in the progression of an individual's dependence where sustainable change (and improvements to their safety) is possible.

In ReGen's experience, the people who are potentially eligible for treatment under the Act typically present with an extremely complex array of physical and mental health concerns (in addition to their AOD dependence) and living in chronically unsafe circumstances, posing immediate and ongoing risk to themselves and others.

The absence of longer-term treatment options under the Act (or other appropriate permanent care options) currently result in people simply being returned to unsafe conditions once being discharged from their brief mandated treatment. Without the capacity to support longer-term treatment or supervision of people at significant ongoing risk, the Act does not provide opportunities to prevent serious damage to their health or safety.

(b) enhancing the capacity of persons detained and treated to make decisions about their substance use and personal health, welfare and safety?

As it currently stands, the Act only provides the capacity to admit people to brief treatment well after they have lost the capacity to make informed choices about their care or be responsible for their own safety. ReGen believes that it is unrealistic to expect that the Act (in its current form) can contribute to enhancing decision-making capacity with this group.

On what facts/evidence do you base that opinion?

ReGen secured the admission of one person to treatment under the Act (at a second attempt). Upon discharge from a two week withdrawal, he was returned to his previous living arrangements, where he did not engage with his appointed case manager. Treatment under the Act provided no improvement to his safety (other than the ongoing supervision during his withdrawal) and he died a few weeks later after sustaining a head injury while intoxicated.

The complexity of the application process meant that each attempt to have the person admitted required approximately one week of a ReGen staff member's time to research the process, complete the necessary paperwork, recruit and co-ordinate other relevant service providers (e.g. police, ambulance officers and CAT team members). The first application was rejected for administrative (not clinical) reasons, as ReGen staff were unable to meet process requirements.

Discussions with other service providers reflect similar concerns about the difficulty for service providers to make successful applications under the Act and the capacity of treatment under the Act to have any significant impact on people's health, welfare or safety.

3. What is your opinion about whether:

(a) Detention and treatment has been implemented as a last resort?

Detention and treatment is clearly being used as a last resort but, as such, comes at a point at which there is little that can be done to improve people's health, welfare and safety other than placing them in permanent care.

(b) Any limitations on the human rights and any interference with the dignity and self-respect of a person who is the subject of any actions authorised under the Act have been kept to the minimum necessary to achieve the objectives specified in subsection?

The physical and mental health condition of people potentially eligible for treatment under the Act is typically such that they have limited capacity to consider (or maintain) their dignity and self-respect. This does not mean that these factors are unimportant and don't need to be preserved, but that keeping this cohort in their current circumstances poses a greater threat to their dignity and self-respect than admitting them to treatment or other care options.

On what facts/evidence do you base that opinion?

In the case of the ReGen consumer admitted under the Act, he had no capacity to control his alcohol and other drug use or maintain engagement with treatment or other support services, was unable to meet essential health and safety requirements at home and had lost the capacity to manage all but the most basic of daily functions.

This person's situation is anecdotally consistent with those of other people, on whose cases other service providers have consulted with ReGen staff in relation to possible application for treatment under the Act.

4. Do you have an opinion on whether the objectives of the Act remain appropriate? Why or why not?

ReGen believes that the objectives of the Act are appropriate but that its provisions and implementation (as they currently stand) are obstructing the achievement of those objectives.

5. Do you think the Act is effective? Why or why not?

No.

It is not meeting the treatment needs of that group of people whose AOD use (in combination with other factors) places them at extreme immediate and ongoing risk. For this group, their AOD use has contributed to a significant reduction in cognitive functioning and their capacity to change behaviour. A brief residential withdrawal will have little-to-no impact on the ongoing threat to their health and safety. There is a clear need for a greater capacity within the Act to provide extended intensive interventions, along with a capacity to intervene at an earlier stage in people's AOD use, to create realistic opportunities to reduce risk and support changed behaviour.

The abovementioned difficulties for service providers (and family members) to undertake the application process under the act are a significant barrier to the Act's effectiveness. It is currently too difficult to have people admitted to treatment under the Act and the number of possible admissions per year is too low.

6. Are you aware of any unintended consequences of the Act? If so, what are they?

While it is important that the provisions of the Act are available only for those persons at extreme risk, the process barriers for people seeking to gain application of those provisions are so high that they effectively discourage applications in cases where detention and treatment is appropriate.

A consequence of the various abovementioned issues is that the Act creates an unrealistic expectation of what can be achieved under its provisions. The extent of intervention possible under the Act is disproportionate to the level of safeguards in place and, ultimately, severely limiting of the Act's effectiveness in reducing any but the most immediate of risks.

7. Do you think the Act needs to be amended? Why or why not, and if so, how?

Yes.

Key changes would include:

- Reducing administrative barriers to a person's admission under the act. While it is important to protect people's rights, ReGen believes that the Act as it is currently administered prioritises their rights at the expense of their safety and wellbeing.

- Expanding eligibility criteria to enable earlier interventions with people identified as being at extreme risk.
- Create capacity for increased number of admissions under the Act.
- Increased resourcing to enable more extended (including the option of residential) interventions, of an appropriate intensity to reduce ongoing risk to people's safety and wellbeing.

8. Do you think the operation and/or implementation of the Act could be improved by other means? If so, how?

- Improved education of magistrates in the Acts provisions. In ReGen's experience (and from anecdotal accounts from other service providers seeking admissions under the Act), current lack of understanding has been a significant cause of delays in the application process.