

# Revolution, Prevention, and Destigmatisation of Mental Health Bill 2023

Lead Sponsor:	The Hon Lachlan Miranda, Member for Coogee <i>Shadow Minister for Mental Health</i>
Sponsors:	The Hon Tahlia Moses, Member for Strathfield The Hon Fulin Yan, Member for Parramatta The Hon Dexter Bradley, Member for Newcastle The Hon Blaire Johnson, Member for Northern Tablelands
Lead Refuter:	The Hon Ara Kotsis, Member for East Hills <i>Minister for Mental health</i>
Refuters:	The Hon Nikita Sherbakov, Member for Drummoyne The Hon Lily Nicotra, Member for Wakehurst The Hon Ben Buenen, Member for Hawkesbury The Hon Jayden Huynh, Member for Penrith

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# Revolution, Prevention, and Destigmatisation of Mental Health Bill 2023

Act no. \_\_\_\_\_, 2023

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## **A Bill for**

An Act to destigmatise mental health and mental illness in communities to revolutionise the provision of mental health services, to facilitate the prevention of suicide and prevention of the occurrence of mental illness; and for other purposes.

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## Second Reading Speech

### **Mr LACHLAN MIRANDA (Coogee—Shadow Minister for Mental Health):**

Mental health is an issue that many people, often unknowingly, battle with every single day. It costs the state many lives and billions of dollars each year, however, it is an issue that often goes unnoticed in the political scene of our state. This reiterates the scale of this issue as many NSW citizens feel as though this goes overlooked by the government. This paired with the recent pandemic and other issues such as nuanced addiction in aspects like social media addiction and vaping, reinforces the crisis that this committee is tasked to address particularly for young people. By implementing legislation in areas of education, workplace and state government initiatives the NSW government will be able to better the lives of many individuals.

Our Bill will address these demographics by re-defining mental health in legislation that has already been implemented as this will create more inclusive and encompassing laws where more people can feel represented.

Another aspect that has already been implemented by the state government — but is severely lacking — is the Mental Health Commission which was enacted in 2012. Not only is this commission severely outdated but also has an extremely reduced scope which further limits the people who can benefit from this initiative. Our Bill will not only give this commission the capacity to advise the government on mental health adversaries affecting the public but to also create initiatives to support at-risk demographics such as veterans, widows, orphans, and the elderly to name a few.

This Bill will also implement earlier, age-appropriate education for primary school students on mental health and how it may affect them and their peers, as well as strategies to mitigate the damages of this issue.

This Bill will also mandate mental health first aid for adults who are in an occupation where physical first aid is compulsory; this will see an increased appreciation and awareness for this issue as well as a further understanding for older generations who may have not grown up in a time or an environment where mental health was something freely acknowledged.

This committee will further destigmatise mental health by providing vouchers funded by the NSW government for young and expecting parents to claim as part of a new parents package where they are able to undertake mental health first aid and education on how to support their child mentally through their development.

All these intervention initiatives will not only allow for the workplace to become a safer more inclusive place, but this education on mental health will cascade onto younger generations creating a safer home environment for all by destigmatising mental health and demonstrating the gravitas of this pressing issue.

I commend the Bill to the House.

## **Explanatory Notes**

### **Background Details on Mental Health Status in NSW**

When addressing the stigmatisation of mental health, we have to constantly be aware that it is inextricably linked to the hundreds of Australians who take their life and the ones still fighting their mental health battles. It is with this empathy at the forefront of our agenda that the de-stigmatisation of mental health cannot use the approaches that aren't focusing on the individual needs of the diverse demographics at risk.

### **Current Legislation Around NSW Advisory Body for Mental Health**

The Mental Health Commission Act 2012 is severely limited in scope and cannot provide concrete solutions or mechanisms to address key issues. Its major flaw lies in the fact that it gives far too much ministerial control and oversight. The Act in its current form does not have any qualifications necessary to become a Commissioner or a Deputy Commissioner except those that are deemed necessary by the Governor or the Minister. Moreover, there is a lack of specificity in the scope of review and inadequate functions of the commission in general. The commission needs power to make delegated legislation in order to ensure that actual expert advice is being given rather than by bureaucrats. The Act lacks the ability to make substantive recommendations directly to the legislature and is not accountable to the legislature which needs to have the ability to independently refer matters to the commission. Still, there is a lack of transparency in the research and findings, as the minister alone has the power to decide when to publicise the results of the commission's work. Finally, the commission lacks the necessary resources for interdepartmental collaboration, which can be essential in addressing certain mental health issues.

### **Importance and a Need of a Codified Code for Mental Health Practices**

In New South Wales, mental health issues affect more than just a small group of people. They are experienced by an estimated one in five each year, and two in five will experience a mental health issue at some point during their lifetime. Mental health is more than just psychiatric help. Issues can be just as severe but less noticeable than largely characterised mental health disorders. Establishing a code of mental health will assist in the de-stigmatisation of mental health issues first in legislation, and as a result, more broadly in our society. De-stigmatising mental health issues will allow for a more open and honest discussion on how we can more effectively deal with this crisis. Section 274 of the Work Health and Safety Act 2011 (WHS Act) establishes a code of practice for managing “psychosocial hazards.” This wording is quite extreme and could do with a change to more accurately reflect how mental health should be discussed, such as a change to “mental health risks”. By inserting a code of conduct into the Mental Health Act 2007 No 8 (NSW), we would steer New South Wales away from characterising mental health as only problems to be dealt with in psychiatric institutions, and rather problems faced by everyday citizens that can be dealt with in a variety of ways with a more holistic mental health system.

### **Importance for and Current Lack of Ability of Early Intervention Practices in Adult Population**

The stigma around mental health and seeking assistance for any difficulties individuals face is extremely prevalent today. In fact, it is the leading cause of why more than 80% of young people who experience mental health difficulties never seek or obtain access and receive appropriate treatment. This stigma is a result of many stereotypes present in previous generations. Thus, immediate and significant change with regard to mental health in the workplace where this stigma is circulated is absolutely essential.

Mental health in the workplace has both detrimental impacts on employees and businesses at large. According to the Australian Institute for Health and Welfare, one in five Australians experience mental illness each year. This has a harmful effect on many Australians, not just the many that experience mental health adversaries.

However, mental health affects more than individuals, it is extremely influential on business and productivity around our nation. Untreated mental health conditions cost Australian workplaces nearly 11 billion dollars per year according to a PwC and Beyond Blue report on mental health in the workplace. For reference that is roughly the same amount of money that the current government is investing to fund a pay rise for aged care workers. This issue is affecting the everyday Australian but is also affecting many businesses and the Australian economy as a whole. Whilst this is a national issue, NSW should be leading the charge and making significant change in this area considering that only 26% of NSW businesses are taking proactive action to prevent mental health issues in the workplace.

By implementing areas of this Bill, all NSW businesses will be taking action and be equipped with the resources necessary to address mental health adversaries in the workplace which will holistically benefit all individuals across this state, and the economy of NSW as a whole.

By re-educating older individuals on the impact and importance of one's mental health, mental health will be destigmatised, and this will also dramatically increase the quality of life for many young people in NSW and set a precedent on the national stage positively influencing the nation.

#### **Importance for and Current Lack of Ability of Early Intervention Practices in Schools**

The National Mental Health Survey 2021 revealed that the annual prevalence of mental health issues in the 16–24 age bracket had surged from 26% in 2007 to 40% in 2020-2021—an unprecedented increase of 50% in 15 years. When combined with mental health stigmatisation, these bad attitudes and ideals related to mental health issues could make it tough for individuals who are searching for help and aid, leading to extended social isolation, depression, and even suicide. With this alarming rise, it is now more crucial than ever that schools are equipped with the right tools and resources to help young people understand and manage their mental health both within social contexts and when faced with the classroom. In order to address mental health stigma and provide effective mental health education, it is important to implement the policies and practices of the NSW Mental Health commission alongside the Department of Education's curriculum. Early intervention practices and school-based prevention is key in this quest.

By instructing young children about intellectual health and promoting effective attitudes toward mental health, we are able to assist in creating a supportive environment that encourages open talk and decreases the negative connotation associated with mental health troubles. Introducing mental health education in early schooling and primary schools can also help kids develop emotional resilience and coping techniques that can assist them in navigating the stressful situations they may face as they get older.

With the adjusting of school curriculums for primary aged students between the years of 1-6, we will be able to set solid foundations for children to understand their emotions, allowing for them to grow and develop healthy relationships with their mental health as they continue into junior and senior high school. In this plan we are set to include more wellbeing programs within schools for students across a



wide range of age demographics as well as improve the curriculum to better suit the needs of NSW youth today.

One issue that this Bill will also seek to address is the problem surrounding research about the effectiveness of external wellbeing and mental health programs that are brought in to teach at schools. With a severe lack of concluded studies into the effectiveness of programs such as: Adolescent Depression Awareness Program and Aussie Optimism Programme — Positive Thinking Skills, many schools are relying on outsourced mental health courses to educate their students, leaving it to a gamble whether or not the information proves useful to the students over the course of their lives. By starting early, we will construct a foundation of consciousness, compassion, and develop the skills to be able to advantage children all through their lives.

#### **Mental Health in Regional Area; Telehealth and E-Health for Mental Health Services**

The current NSW plan of procedure for regional telehealth called the Virtual Care Strategy (also known as telehealth) is a health service providing communication between health professionals and the patient using telephone or a video call using Skype. This service is only available for health issues regarding the physical state of a patient and does not allow for people to seek mental aid in. Certified psychologists and therapists do not operate on the current government telehealth plan leaving vulnerable communities of rural NSW in risk of unassisted mental health issues. With the Far West Local Health District reporting that 20.3% of adults are facing high levels of mental distress while the local health district of metropolitan Sydney reports a 14.9% figure. An upgrade in rural mental health infrastructure aims to connect disadvantaged individuals to be able to see professional help which may not be initially available to them due to various cost, convenience and health reasons.



**The Youth Legislature of New South Wales enacts—**

## **Part 1 Preliminary**

### **1 Name of Act**

This Act is the *Revolution, Prevention, and Destigmatisation of Mental Health Act 2023*.

### **2 Commencement**

- (1) The Act commences on the date of assent to this Act, except as provided by subsection (2) and (3).
- (2) Schedule 1 commences on a day or days to be appointed by proclamation, not before 1 July 2024 but before 1 January 2026.
- (3) Schedule 2 commences on a day or days to be appointed by proclamation, not before 1 July 2024 but before 1 January 2026.

### **3 Relationship with other Acts and laws**

This Act prevails to the extent of an inconsistency with another Act or law.

### **4 Objects**

The objects of this act are to—

- (1) strengthen and empower the Mental Health Commission and any advisory councils,
- (2) address these demographics by re-defining mental health in legislation that has already been implemented,
- (3) implement earlier, age-appropriate education for primary school students on mental health and how it may affect them and their peers,
- (4) mandate mental health first aid for adults who are in an occupation where physical first aid is compulsory,
- (5) further destigmatise mental health by providing vouchers funded by the NSW government for young and expecting parents to claim as part of a new parents' package where they are able to undertake mental health first aid and education on how to support their child mentally through their development.

### **5 Definitions**

The dictionary in Schedule 3 defines words used in this Bill.

**Note—** The *Interpretation Act 1987* also contains definitions and other provisions that affect the interpretation of this Bill.

## **Part 3 Mental Health Commission and Advisory Councils**

### **6 Amendment of Mental Health Commission Act 2012 No 13**

Amend as in Schedule 1.

## **Part 4 Mental Health Code of Conduct**

### **7 Amendment of Mental Health Act 2007 No 8**

Amend as in Schedule 2.

## **Part 5 Early Intervention in the Adult Population**

### **Division 1 Mental Health First Aid**

#### **8 Mandate mental health first aid in conjunction with physical first aid**

- (1) Where physical first aid is a requirement of employment, there shall be the requirement to obtain mental health first aid training from a licensed organisation.
- (2) This requirement shall only apply to individuals who are at least 18 years of age.
- (3) This mandate shall be subsidised by the NSW Government until 1 January 2030.

### **Division 2 Mental Health Education to Parents**

#### **9 Mental health education for new and expecting parents**

- (1) The NSW Government will offer new and expecting parents vouchers to educate them on how to foster and protect their child's mental health and create an inclusive and open relationship.
- (2) This shall apply to all parents with children ranging from eight to ten years of age.
- (3) This educational course will be presented in the form of a voucher, similar to those distributed to certain demographics during the COVID-19 Pandemic.
- (4) These vouchers will be applicable to certain organisations determined by the Minister that provides this service.
- (5) This voucher system will be in place until 1 January 2030 when it will be evaluated and deemed successful or unsuccessful.

#### **10 Amendments to Mental Health Education Vouchers**

At the conclusion of the voucher system, the Mental Health Commission shall review its success, and determine if the program shall be renewed.

## **Part 6 Mental Health in the Workplace**

#### **11 Including mental health leave in sick leave for all workplaces**

- (1) Mental health leave shall be recognised as a legitimate form of sick leave in all NSW workplaces.
- (2) This section applies to an individual who is at least 18 years of age and over working in a part of full-time occupation.

#### **12 Consequential amendments to sick leave entitlements**

Any two days of sick leave used consecutively shall not require the disclosure or evidence of the reason for the use of sick leave.

## **Part 7 Education Reform**

### **Division 1 Early Education and Primary School**

#### **13 Implementation of early mental health intervention**

- (1) There shall be mental health intervention classes for primary aged students as well as helping in social development thus assisting in social based mental health issues.
- (2) A schooling curriculum will be devised by NESAs and youth health specialists to ensure it is age appropriate.

#### **14 Who can participate in classes**

- (1) The curriculum will be implemented for students between the years of kindergarten and grade 6.
- (2) The wellbeing course will be mandatory for all students unless their guardian petitions, in writing of their withdrawal.

#### **15 What the classes will entail**

The classes will address mental health stigma in early education and primary schools so a culture of acceptance will be promoted.

#### **16 Training and collaboration for classes**

- (1) Teachers will receive training for this program will be given to resources to deliver lessons to students.
- (2) There shall be collaboration between schools, parents, caregivers and mental health professionals to ensure feedback regarding the mental health program.

#### **17 Review period for classes**

This program will be eligible for review after twelve months of implementation in the first instance, and then every two years further to that.

### **Division 2 External wellbeing and mental health programs within schools**

#### **18 Initiatives that can be introduced**

Wellbeing and mental health programs brought in externally for school workshops will require extensive research and investigation into the effectiveness of said programs on students.

#### **19 Funding relating to external workshops**

- (1) The Minister shall increase funding for individual schools to introduce external programs.
- (2) The Minister shall increase funding for individual schools to research the effectiveness of programs.

#### **20 Allowable program content**

All program curriculums must be written and/or approved by a mental health professional.

## **Division 3 School-based Mental Health Practitioner**

### **21 School-based requirements**

- (1) Every school should have access to a youth mental health practitioner with the specifications of the specific school.
- (2) This can include, but not limited to, religion, LGBTQIA+ or ethnicity.
- (3) There shall also be a network of mental health services to support that practitioner for youth with special needs.
- (4) This can include, but not limited to sexual assault survivors, LGBTQIA+ individuals, domestic violence, or depression.

### **22 Powers of mental health practitioners**

- (1) Mental health practitioners should have oversight into school operations and act as a student advocate where school practices are detrimentally impacting on mental health and wellbeing.
- (2) This service will be funding to a maximum of three sessions per calendar year referred by the school mental health practitioner, with more being available via a Mental Health Care Plan under Medicare.
- (3) Mental health practitioners will have the power in consultation with principal and union representatives to require additional training for a teacher if necessary.
- (4) Within the Department of Education, all curriculums and teacher training will be reviewed by an education mental health practitioner.

## **Division 4 Mental Health Commission Review**

### **23 Review by the Mental Health Commission**

The NSW Mental Health Commission shall review the policies in practices within the Department of Education's curriculum.

### **24 Terms of Reference for Review**

- (1) The policies and practices developed by the Mental Health Commission will be specific and leave no room for ambiguity and must clearly outline desired outcomes of the mental health curriculum formatted by the Department of Education.
- (2) The review must involve mental health professionals, parents and students to review the curriculum to seek a more diverse perspective when implementing this approach.
- (3) It must ensure that the new mental curriculum aligns with the current standards of education to easily integrate mental health education into the overall education system.
- (4) The Mental Health Commission must do this consistently to ensure that it remains relevant and responsive to current needs.
- (5) It must also provide well thought out comprehensive training to teachers for them to effectively deliver the new Mental Health Commission.

## **Division 4 Additional Support for Regional and Rural Schools**

### **25 Increase in funding**

On top of the increase funding and research as prescribed in section (20), regional and rural schools will receive additional funding towards mental health services, to account for the lack of mental health accessibility within their area, in comparison to metropolitan areas.

### **26 What schools can invest in**

(1) Rural and regional schools will be given more funding towards their wellbeing and mental health facilities depending on their relativeness to metropolitan areas.

(2) This may be spent on higher wages for counsellors within their schools, to have more of an incentive to support regional and rural schools.

## **Part 8 Telehealth**

### **Division 1 VirtualCare Expansion**

#### **27 Services to expand to mental health**

(1) There shall be a mental health sector added to program with qualified professionals in charge.

(2) To assist with this, there shall also be meaningful recruitment of mental health professionals in the VirtualCare program.

### **Division 2 Technology Rebates**

#### **28 Government rebates for VirtualCare**

Government coupons must be deployed to those of rural status to be used on items such as satellite communication devices and computers to gain internet access.

## **Schedule 1      Amendment of Mental Health Commission Act 2012 No 13**

### **[1]      Section 5(4)**

Omit the subsection. Insert instead—

(4) The functions of the Commission are exercisable by the Commissioner, and any act, matter or thing done in the name of, or on behalf of, the Commission by the Commissioner, or with the authority of the Commissioner, is taken to have been done by the Commission shall be only conducted—

- (a) By advice of an expert advisory and community advisory councils; and
- (b) Ministerial approval without limiting subclause (a).

### **[2]      Section 6(1)**

Omit the subsection. Insert instead—

(1) The Government may appoint a Mental Health Commissioner—

- (a) based on advice of expert advisory and community advisory councils; and
- (b) ministerial recommendations, without limiting subsection (1)(a).

### **[3]      Section 7(1)**

Omit the subsection. Insert instead—

(1) The Governor may appoint one or more Deputy Mental Health Commissioners -

- (a) based on advice of expert advisory and community advisory councils; and
- (b) ministerial recommendations without limiting subclause (1)(a).

### **[4]      Section 8**

Omit the section. Insert instead—

(1) The Commissioner or at least one Deputy Commissioner must be a person who is living with or has had a mental illness; and

- (a) without limiting the clause, the Commission or at least one Deputy Commissioner must have experience of practice in psychology, or
- (b) without limiting the clause, the Commission or at least one Deputy Commissioner must have experience of practice, or
- (c) without limiting subclause (a) and subclause (b), be a carer of a person of mental illness.



**[5] Section 9**

Omit the section. Insert instead—

The Commission is subject to the review and advice of the Minister, where appropriate, except in relation to the preparation and contents of any plan or report prepared by the Commission.

**[6] Section 10(3-9)**

Omit the subsections. Insert instead—

- (3) The Council is to consist of the Commissioner and such persons as are appointed by the Commissioner (the appointed members).
- (4) The Minister must ensure that the composition of the Council reflects the diversity of the community and includes representatives of the following groups:
  - (a) people who are living with a mental illness, and their families and carers,
  - (b) people living in regional and remote New South Wales,
  - (c) culturally and linguistically diverse communities, and
  - (d) First Nations people.
- (5) An appointed member is to be appointed to the Council for a period of 3 years or less.
- (6) One of the appointed members of the Council is, by the member's instrument of appointment or a further instrument signed by the Minister, to be appointed as the chairperson of the Council.
- (7) The procedure for the calling of meetings of the Council and for the conduct of those meetings is to be determined by a digital ballot of the appointed members.
- (8) An appointed member of the Council is entitled to be paid such fees and allowances (if any) as the Commissioner may from time to time determine for the member.
- (9) The Minister may remove an appointed member from the Council at any time for—
  - (a) crimes constituting sentences greater than 6 months;
  - (b) sexual misconduct;
  - (c) financial misconduct;
  - (d) adverse finding from an integrity agency; or
  - (e) without limiting subclause (a) to (d), any high crimes and misdemeanours deemed necessary of removing by the Minister.

**[7] Section 10A**

Insert after section 10—

**10A Mental Health Expert Advisory Council**

- (1) There is to be a Mental Health Expert Advisory Council.
- (2) The function of the Council is to advise the Commission on any mental health issue it considers appropriate or that is referred to it by the Commission.
- (3) The Council is to consist of the Commissioner and such persons as are appointed by the Commissioner (the appointed members).
- (4) Qualifications of the council shall be mental health professionals as deemed by the definitions.
- (5) The Minister must ensure that the composition of the Council reflects the diversity of the community and includes representatives of the following groups—
  - (a) people who are living with a mental illness and their families and carers,
  - (b) people living in regional and remote New South Wales,
  - (c) culturally and linguistically diverse communities, and
  - (d) First Nations persons.
- (6) An appointed member is to be appointed to the Council for a period of 3 years or less.
- (7) One of the appointed members of the Council is, by the member's instrument of appointment or a further instrument signed by the Minister, to be appointed as the chairperson of the Council.
- (8) The procedure for the calling of meetings of the Council and for the conduct of those meetings is to be determined by a digital ballot of the appointed members.
- (9) An appointed member of the Council is entitled to be paid such fees and allowances (if any) as the Commissioner may from time to time determine for the member.
- (10) The Minister may remove an appointed member from the Council at any time for—
  - (a) crimes constituting sentences greater than 6 months;
  - (b) sexual misconduct;
  - (c) financial misconduct;
  - (d) adverse finding from an integrity agency;

- (e) without limiting subclause (a) to (d), any high crimes and misdemeanours deemed appropriate of removing by the Minister

**[8] Section 12(1)(f-i)**

Omit the subsections. Insert instead—

- (f) to provide legislation to promote the general health and well-being of people who are living with a mental illness and their families and carers,
- (g) to educate the community about mental health issues, including for the purpose of reducing the stigma associated with mental illness and discrimination against people who are living with a mental illness,
- (h) to legislate for and promote the prevention of mental health issues and early intervention strategies for mental health,
- (i) without limiting all other subclauses of this clause, the commission shall have power of delegated legislation in respect of clause 1, subclause (a) to (h) of this section, and
- (j) such other functions relating to mental health as may be prescribed by the regulations.

**[9] Section 13(1)**

Omit the subsection. Insert instead—

- (1) The Minister, or either house of the legislature, may direct the Commission to prepare a special report on any significant systemic issue affecting people who are living with a mental illness (not being an issue that relates only to a particular specialist mental health service).

## **Schedule 2      Amendments to the Mental Health Act 2007 No 8**

### **[1]      Section 3**

Insert after subsection (e)—

- (f) to destigmatize mental health and mental health issues, as well to establish a legislated mental health code of conduct.

### **[2]      Section 4**

Insert in alphabetical order—

*mental health* refers to a person’s condition with regard to their psychological and emotional well-being.

### **[3]      Chapter 10**

Insert after Chapter 9—

## **Chapter 10      Code of Practice of Mental health**

### **204      Implementation of a Mental Health Code of Practice**

The SafeWork NSW “Code of Practice: Managing psychosocial hazards at work” shall be apply and be enforced in all workplaces within New South Wales

### **205      Implementation of a Mental Health Code of Practice**

The title of the document referred to in section 204 shall be amended to “Code of Practice: Managing mental health risks at work.”

### **205      Amendment to Mental Health Code of Practice**

All mentions of the term “psychosocial hazards” mentioned in section 204, shall be amended to read “mental health risks”.

## Schedule 3      Dictionary

### section 5

***destigmatisation*** is mindfully transcending omnipresent biases, navigating verbosely through multitudinous sociocultural stimuli in an odyssey advantaged by assiduous accounting informed by a multiplicity of revelation domains.

***mental health*** is the physical, spiritual, mental and emotional wellbeing of an individual, affecting the quality of their life as a whole.

***Mental Health Professionals*** are persons of necessary qualification such as but not limited to –

- (a) practising psychiatrists;
- (b) practising psychologists;
- (c) psychotherapists;
- (d) clinical researchers of psychology;
- (e) clinical researchers of psychiatrist;
- (f) clinical psychological support workers;
- (g) community-based mental health workers;
- (h) social workers;
- (i) persons with counselling degrees; and
- (j) any other individuals deemed with necessary qualifications by the Minister by proclamation.

***mental illness*** is a condition whereby a person experiences feelings, thoughts, and behaviours which deviate from what may be considered socially, educationally, and developmentally agreeable; typically resulting in distress and/or impairments of daily functioning, and at times requiring specialist mental health services or interventions.

***qualifications*** are the attributes of an individual, corresponding to the subject of matter, with regards to the necessity of the performance of the duties.

***stigma*** is the cultural and societal imposition of a negative mark or designation to an individual, group, or trait deemed to deviate from the norm as perceived by dominant consensus, leading to assignment of reduced status, discrimination, and segregation and enforcement of stereotypes that limit opportunities, enforce prejudice and irrational fear or contempt from the so-labelled groups.

