

South Australian Mental Health and Wellbeing Bill 2025

Dementia Australia Submission, February 2026

Dementia Australia is grateful for the opportunity to participate in the consultation for the SA Mental Health and Wellbeing Bill 2025.

We have been encouraged by the Office of the Chief Psychiatrist's open and genuine engagement with a wide range of stakeholders during the consultation process. Dementia Australia commends your commitment to a contemporary, rights-based mental health system which promotes autonomy, presumption of capacity, supported decision-making and least restrictive care.

Our submission will focus on three key areas for your consideration:

- Distinguishing dementia symptoms from mental illness and establishing appropriate care pathways.
- Decision-making which accords with an individual's will and preferences.
- Inclusion of an older person's mental health principle.

Dementia in South Australia

In 2026, there are an estimated 35,800 people of all ages living with dementia in South Australia. While dementia mainly affects older people, there are an estimated 2,100 people living with dementia under the age of 65 in the state (1).

Dementia symptoms and mental illness

As well as impacting on thought, memory, perception and mood, dementia can be comorbid with mental health conditions such as depression and anxiety, or with pre-existing mental illness or disability. Depression is also one of 14 modifiable risk factors for dementia.

People living with dementia may also experience severe psychological symptoms such as hallucinations or delusions. Other psychological symptoms of dementia frequently include apathy, confusion, sleep disturbance and agitation (2).

There are many diseases that cause dementia, and each has distinct neurological impacts affecting the symptoms experienced. Hallucinations are most common among people with

Lewy Body Dementia and Parkinson's disease dementia and can also occur with Alzheimer's Disease (3).

To ensure that treatment pathways in the health system are appropriate, it is essential that patient assessment can identify the underlying causes of psychological and behavioural symptoms, including whether symptoms are resulting from dementia. For people living with dementia, it is critical to understand why symptoms have escalated including whether there are underlying pain or medical needs or whether changes in behaviour are an expression of unmet need.

Dementia Australia is concerned that the currently proposed definition of mental illness is so broad that it would capture dementia and potentially trigger inappropriate treatment pathways including restrictive care in the mental health system.

The definition of mental illness given in the draft Bill under Section 5 (1) "a medical condition that is characterised by a significant disturbance of thought, mood, perception or memory" could easily be interpreted as including dementia and mean that people living with dementia inadvertently fall under the scope of the legislation. This lack of clarity could be resolved with the inclusion of an exemption under Section 5 (2) which clarifies that symptoms arising solely from dementia and unmet dementia care needs are not within the scope of the legislation.

In addition to this exemption, it is essential that first responders, emergency and acute care staff are skilled in recognising and assessing dementia-related symptoms and initiating an appropriate care pathway.

Additional training may be required for staff, and the initial assessment process and clinical guidelines need to contain clear trigger points to identify where a dementia care pathway within the SA Health system is required, in alignment with the national clinical practice guidelines. There should also be clinical guidelines for SA Health staff in situations where a person living with dementia has comorbid mental illness and requires coordinated and integrated care.

Protection of interests versus dignity of risk

While the draft Bill has a strong upfront commitment to supported decision-making and a rights basis for care, there are sections of the legislation where these principles have not been given full effect. Section 15 of the Bill outlines that the best interests of people with a mental illness are to be upheld and effected, but the individual's current and previously expressed views and preferences only form one point of consideration for decision-making.

Contemporary models of rights-based and supported decision-making in disability, ageing and other fields have moved away from a "best interests" approach. Instead, attention is given to ensuring that decisions are made in a way that is consistent with the will and preferences of the person, despite whether stakeholders believe the outcome will be in the person's best interests. This allows decision-making models to actualise dignity of risk and focuses care and treatment choices on what the person actually wants for their own life.

This modernised will and preferences approach to decision-making has been enshrined in South Australian advanced care legislation, positioning SA as a leader in this field. Dementia Australia recommends this section give more emphasis on the primary approach being the will and preferences of the person, to maximise their autonomy and protect their right to make their own decisions.

Section 15 also requires that views of parents, guardians, carers or family members of the person be considered in making decisions. While involvement of family members is often appropriate, for older people and people living with dementia there must also be safeguards against coercion, elder abuse and financial abuse.

Elder abuse dynamics are complex and people living with dementia are at higher risk. Intimate partners, adult children, partners of adult children and grandchildren are common perpetrators (4). Risk of abuse also extends to younger people with dementia. There may be financial or other motives for decisions which undermine a person living with dementia's rights and wishes.

To enable good decision-making practice under the new legislation, clear guidelines and staff training will need to be established. Training should be mandatory and prepare clinical staff to apply supported decision-making in complex situations. It is especially important to ensure consistent understanding of capacity assessment, including how capacity can fluctuate for people living with dementia or other cognitive impairment, and how environmental factors can influence capacity.

There should also be a positive duty on health entities to provide conditions which maximise the opportunities for supported decision-making.

Older people's mental health

Older people are a significant group accessing mental health services and the legislation should recognise this. This system should recognise and responds to the specific needs of older people and facilitate access to appropriate care pathways. There are specific mental health risks for older people and in some cases, complexities related to cognitive impairment or dementia that require specific models of care.

An enabling factor to facilitate older people's mental health would be inclusion of age as an attribute in the diversity principle in Section 14 (1) (b). This recognition would support person-centred models of assessment, diagnosis, care, treatment and psychosocial support for older people.

Dementia Australia supports the recommendation of the Aged Rights Advocacy Service for inclusion of a guiding principle recognising older people.

Powers for care outside the mental health system

Dementia Australia notes SA Health's intention to undertake work to address the legislative gap for people with impaired decision-making capacity who do not have a mental illness. We look forward to ongoing collaboration with SA Health on this matter and would be pleased to facilitate involvement of people with lived experience of dementia.

Conclusion

Dementia Australia welcomes the South Australian Government's commitment to modernising the mental health legislative framework and appreciates the opportunity to contribute to the development of Bill. With dementia prevalence in South Australia continuing to grow, it is essential that the legislation clearly distinguishes dementia from mental illness and provides appropriate, safe and rights-based care pathways for older people and those living with cognitive impairment or dementia.

By refining the definition of mental illness, strengthening a will and preferences approach to decision-making, and explicitly recognising age as a diversity attribute, the Bill can better uphold autonomy, dignity and person-centred care for all South Australians. -

Strengthening assessment frameworks, workforce capability and clinical guidance will further ensure that people living with dementia receive the care and support most suited to their needs, including pathways outside the mental health system where appropriate.

Dementia Australia looks forward to continued engagement with SA Health to support a contemporary, compassionate and inclusive mental health system that enables all South Australians, including older people and those living with dementia, to live with dignity, safety and choice.

For more information, please contact the Dementia Australia Policy and Advocacy team on [**policyteam@dementia.org.au**](mailto:policyteam@dementia.org.au)

References

1. Dementia Australia. Facts and Figures 2026 [Available from: [**https://www.dementia.org.au/about-dementia/dementia-facts-and-figures**](https://www.dementia.org.au/about-dementia/dementia-facts-and-figures)].
2. Dementia Australia. Mood and behaviour changes 2026 [updated 2026-02-10. Available from: [**https://www.dementia.org.au/living-dementia/mood-and-behaviour-changes**](https://www.dementia.org.au/living-dementia/mood-and-behaviour-changes)].
3. Alzheimer's Society UK. Hallucinations and dementia 2026 [updated 2026-02-10. Available from: [**https://www.alzheimers.org.uk/about-dementia/stages-and-symptoms/hallucinations**](https://www.alzheimers.org.uk/about-dementia/stages-and-symptoms/hallucinations)].
4. Compass. Who commits elder abuse? 2026 [updated 2026-02-10. Available from: [**https://www.compass.info/elder-abuse/understanding/who-commits-elder-abuse/#perpetrators-and-types-of-elder-abuse**](https://www.compass.info/elder-abuse/understanding/who-commits-elder-abuse/#perpetrators-and-types-of-elder-abuse)].