

# WHAT WORKS

POSITIVE EXPERIENCES  
IN OPEN EMPLOYMENT OF  
MENTAL HEALTH SERVICE  
USERS

Sarah Gordon | Debbie Peterson  
Mental Health Foundation Research Report 2015



**Mental Health Foundation of New Zealand**

PO Box 10051, Dominion Road, Auckland 1446  
Units 109-110, Zone 23, 23 Edwin Street, Mount Eden, Auckland  
**T** (09) 623 4810 **F** (09) 623 4811

Information Service **T** (09) 623 4812 **E** [info@mentalhealth.org.nz](mailto:info@mentalhealth.org.nz)

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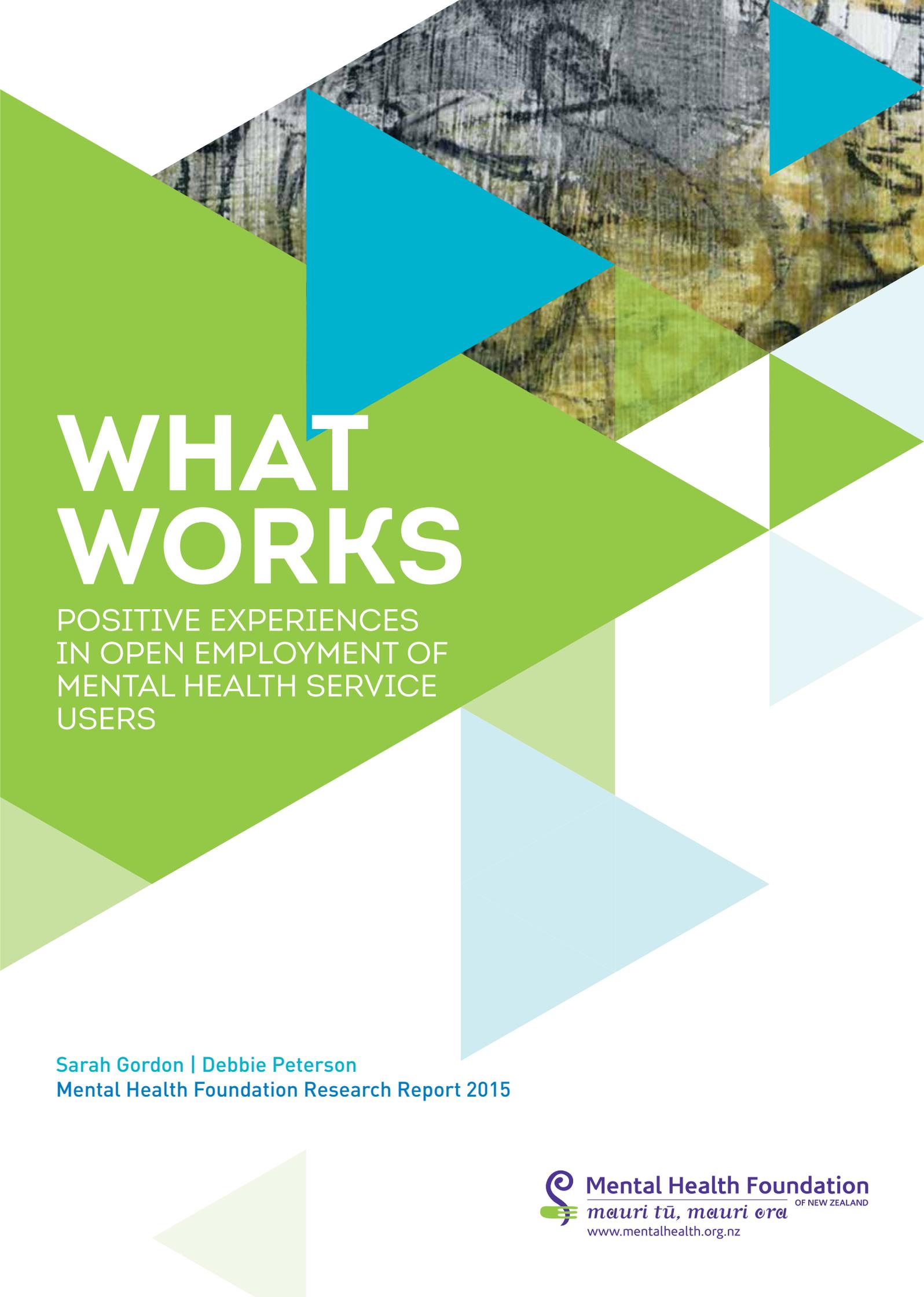
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# ACKNOWLEDGEMENTS

**He aha te mea nui o te ao?**

**He tangata, he tangata, he tangata.**

What is the most important thing in the world?

It is the people, it is the people, it is the people.

Various people contributed in important ways to this research. First and foremost, we would like to thank all those employees and employers who put themselves forward and gave so generously, by way of relaying their stories through the interviews. We hope we have accurately captured and interpreted the experiences you shared and that, like us, you feel this report reflects the significant value of your contribution.

Thank you to the project's advisory group for their guidance and wise counsel: Hugh Norriss, Tane Rangihuna, Professor Pete Ellis, Andrea Bates, Dr Jenny Neale, Michael Quigg and Paul Gibson. We would also like to acknowledge Kites for hosting our meetings.

Thank you also to Tane Rangihuna and Nandika Currey who supported our interviews with Māori and Pacific Island participants respectively.

Finally, thanks to Judi Clements, Chief Executive of the Mental Health Foundation of New Zealand who conceptualised the research idea, and the Ministry of Health, which approved funding to support the research as part of the Like Minds, Like Mine programme.



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# PREFACE

It has been a real treat for Debbie and me to come back into the Like Minds, Like Mine fold, in order to undertake this work. What's more, the positive focus of the research, in contrast to most of our other investigations into the experience of mental illness, has been refreshing. Such a positive focus is of course key in terms of the recovery paradigm, which involves moving away from a focus solely on treating illness and towards promoting wellbeing, by supporting individuals to develop a positive identity and valued social roles and relationships. To quote Sigmund Freud: "Love and work are the cornerstones of our humanness".

In terms of my own work, I consider it a privilege and a pleasure to have the opportunity to meet fellow service users and be privy to their personal stories. Of course, that also comes with considerable responsibility, particularly in terms of ensuring those stories are presented and interpreted with respect and fidelity.

I think the matter of disclosure at pre-employment is fraught with dilemmas and tensions. Prior to this research, I 'sat on the fence' whenever I was asked whether a person should disclose their experience of mental illness when applying, or being interviewed for, a new job. However, this research has clarified my thinking on that issue.

Regardless of rules and regulations, I would now advise that people should disclose. This is primarily because, if an organisation is not going to be receptive and accommodating to a person's disclosure, then its workplace is unlikely to be good for their mental wellbeing. I acknowledge, however, that many people are not in a position to be choosy about whom they work for.

For employers, I think the main message this research conveys is that, if you are not willing to consider and accommodate the employment of mental health service users, then you are precluding a group of people who may not only bring expertise and experience specific to the role, but who can also provide insights, based on their own experiences with mental distress

and recovery, that can be of value to your workplace. What's more, the measures required to accommodate such people are generally not a big issue for employers.

This research is timely and much needed. Recent figures, accessed during the research, showed that 23,545 people who receive a Jobseeker Support benefit do so as a result of experiencing a psychological or psychiatric condition. This figure represents 42 per cent of the total number of people who receive this benefit due to a health condition or disability.

For the next five years, one of the primary focuses of the Like Minds, Like Mine programme will be on fostering workplace policies, structures and cultures that are more inclusive and supportive of people with experience of mental illness. The present research provides the knowledge to support that focus. As a result, we should see more and more people with experience of mental illness engaged in positive and successful employment, which will benefit us all.

## Sarah Gordon



Dr Debbie Peterson, PhD, MA (applied), BA, Victoria University of Wellington



# EXECUTIVE SUMMARY

Workplaces that include and support people with experience of mental illness have multiple benefits for individuals, organisations and society in general. This report identifies critical factors that enable, and more particularly sustain, open employment of mental health service users, from both the employees' and the employers' perspectives.

'Open' was defined as mainstream employment. It specifically precluded supported employment, or employment within mental health services as a peer, consumer advisor or lived experience practitioner. Mental health service users included people who were using primary or secondary mental health services, whether continually or intermittently. There was an emphasis on those whose lived experience was vital, but whose identity had moved beyond that of service user.

The research used a case study approach. Each case study involved an employee (who identified as a mental health service user) and their employer, who were interviewed individually, but consecutively. The 15 pairs of employees and employers who participated represented a range of employment types: self-employed, permanent (full- or part-time) and contracted. They had varying levels of organisational responsibility within small and large private sector firms, government and non-government organisations, in both urban and rural environments.

The case study sample had some limitations. In particular, the lack of younger (under 23), older (over 65), and Māori participants is a serious limitation, given that those people may face multi-faceted barriers in their pursuit of employment. In addition, all of the employee participants had a post-secondary school qualification of some sort, although not necessarily one that was directly relevant to their current employment. These limitations coupled with the small size of the sample mean that although valuable the findings and observations of the research are indicative rather than conclusive.

This report includes a literature review on such employment; an overview of the relevant New Zealand legal framework; key elements from each interview; a summary of common themes in the employees' interviews, the employers' interviews, and the employees' and employers' interviews in relation to each other; and recommendations.

Key findings include the positive benefits of disclosure, and the limited negative effects that mental illness has on employees' work and productivity. Where special arrangements had been put in place, employers generally considered these to be no different to those made for other employees. An open, honest working environment, where employees felt valued and cared for, was seen as important by both employees and employers.

Non disclosure in pre-employment documents may be a disadvantage in any subsequent employment dispute.

Key recommendations for employees with experience of mental illness are to:

- be aware – of the benefits of working; and of your value, obligations and rights as an employee
- be proactive – have a plan for achieving your employment goals
- be considered – have a plan for sharing your experience of mental illness
- be positive – maintain a positive attitude and work ethic
- be relationship-focused – keep the lines of communication open with your employer
- be persistent – find the right job fit
- be informed – keep up to date with resources to help you find and maintain work.

Key recommendations for employers are:

- be aware – that people with experience of mental illness can be highly valued employees; and of your obligations as an employer

- be reflective – on your attitudes towards people with experience of mental illness, and how you are directly or subtly creating barriers to their employment
- be relationship-focused – maintain an open door policy (they work well)
- be a good employer – exercise your rights and responsibilities with respect, integrity, and flexibility
- be informed – about how to best support people with experience of mental illness in employment.

Our research shows that employment of people with experience of mental illness can be a win-win for all involved. Employees and employers each have an important part to play in making this situation a reality for many more people.

The study's small size means caution is needed in drawing broader conclusions from its findings. However, it provides indications that open employment of mental health service users can be a positive experience for everyone involved.

One area from the research that stands out as warranting further inquiry is disclosure. Disclosure may be voluntary or obligatory, and there is little discussion in the literature as to the effect this difference has on the ongoing careers of people with experience of mental illness. The discourse surrounding disclosure, which is possibly perpetuating a form of self-stigma, and the ongoing effects of how it is done, are both worthy of further research.



# INTRODUCTION

The Like Minds, Like Mine programme to counter stigma and discrimination associated with mental illness was established by the Ministry of Health in response to the 1996 Mason report (Mason, Johnston, & Crowe, 1996), which reported the findings of a government inquiry into certain mental health services.

Since Like Minds, Like Mine's inception, there have been a number of research projects relating to it (Barnett & Barnes, 2010; Lennan & Wyllie, 2005; Peterson 2007; Peterson, Barnes, & Duncan, 2008; Peterson, Pere, Sheehan, & Surgenor, 2004). These have identified themes in the discrimination people experience as a result of their mental health status, and strategies and tactics to reduce and mitigate the effects of this discrimination and promote social inclusion. Interestingly, New Zealand consumer and tāngata whai ora advisors, advocates, peer support workers and kaiawhina have recently rated these areas as priority areas for mental health research (Gordon, Banfield, Lampshire, & Russell, 2014).

To date, research in relation to mental health and employment has tended to focus on people's experiences of discrimination in being recruited for and retaining jobs; on supported employment or individual placement and support; and on barriers to employment. The current research focuses on mental health service users' positive and successful experiences in open employment.

## RESEARCH QUESTION AND DEFINITIONS

The research question for this study was: What are the critical factors that have enabled, and more particularly sustained, open employment of mental health service users from the perspectives of both employees and employers?

'Open' was defined as mainstream employment. It specifically precluded supported employment, or employment within mental health services as a peer, consumer advisor or lived experience practitioner.

Mental health service users included people who were using primary or secondary mental health services, whether continually or intermittently. There was an emphasis on those whose lived experience was vital, but whose identity had moved beyond that of service user.

## PREVIOUS LIKE MINDS, LIKE MINE RESEARCH

### I HAVEN'T TOLD THEM, THEY HAVEN'T ASKED (PETERSON, 2007)

Twenty-two people with experience of mental illness from the Wellington region were interviewed about their employment experiences for another study (Peterson, 2007). Most of the participants reported that employment was a positive experience for them. It provided financial and social benefits, and a focus in their lives. The negative aspects they reported, apart from discrimination, were similar to those of most people's working lives.

Mental illness affected the confidence of participants when applying for jobs, but the main effect was on people's concentration in their day-to-day work. Most participants had become unwell at some stage while in employment, and many had left their jobs because of this. Some had been unable to negotiate accommodations with their employer. One person was dismissed from her job because of her mental illness. Others returned to work successfully.

Most people said their employer was aware of their experience of mental illness. Almost all of the participants said that they had been asked questions about their health in the process of finding work. Some disclosed their experience of mental illness in response to this; others did not. The employers' reactions were mixed, with some being very supportive, others not. Fewer people had told their colleagues, fearing repercussions.

Several people recounted their experiences of discrimination, both in applying for jobs, and from employers and colleagues. This discrimination included not being offered

employment, being teased by colleagues, and being treated differently compared with workers without experience of mental illness. This type of discrimination was also experienced by some participants while working in the mental health sector. Other participants reported being discriminated against for different reasons, such as gender and ethnicity.

Despite these accounts of discrimination, it was rare for participants to lay official complaints. When asked if they would advise others to disclose their experience of mental illness, there was a mixed response.

A variety of support mechanisms were used by people with experience of mental illness when applying for jobs. These included supported employment agencies, mental health organisations, training courses, and help from Work and Income and friends and family. Mostly, people found supported employment agencies useful, although some participants sensed that agencies were reluctant to work with people with experience of mental illness. People reported that mental health services were generally supportive of them working.

Participants reported a variety of accommodations that they had negotiated with their employers, including flexible hours and sick leave. This meant that, for some, they were able to continue working. For others, though, they were unable to negotiate the accommodations they needed, and ended up leaving their employment because of this.

### **EMPLOYER ATTITUDES AND BEHAVIOURS RELATING TO MENTAL ILLNESS (LENNAN & WYLLIE, 2005)**

Another piece of Like Minds, Like Mine research focused on employers' perceptions, attitudes and behaviours relating to mental illness in the workplace (Lennan & Wyllie, 2005). Twenty-five employers were interviewed for this study.

Employers expressed several concerns about hiring people with experience of mental illness. These included fear of mental illness, based on

a lack of understanding and not knowing what a person with experience of mental illness might do; worry that such a person may not fit into the organisation; safety issues; and fear that they may affect the organisation's productivity.

Many of the employers interviewed had experience of employing a staff member with experience of mental illness. The majority reported positively handling times when the staff member was unwell, supporting them through the period of being unwell, and good outcomes.

Some reported a less positive outcome, however, with the person concerned not returning to work. Employers reported being frustrated at the lack of support that people in these situations received from caregivers or mental health services. The employers indicated that they would have continued to employ the person had their mental health issues been resolved.

The research reported an apparent inconsistency. Although employers were often reluctant to employ someone who disclosed experience of mental illness in an interview, they made considerable accommodations for people who became unwell at work, particularly when an individual was considered a valuable employee.

## **GOVERNMENT POLICY**

In 2013, the government reformed New Zealand's welfare system with an active, work-based approach, starting with the belief that most people can and will work (New Zealand Government, 2013). The new Jobseeker Support benefit replaced a number of previous benefit types, including the sickness benefit. At the end of March 2014, the most significant disability experienced by the 56,045 people receiving a Jobseeker Support benefit due to a health condition or disability was a psychological or psychiatric condition, which was experienced by 23,545 (42 per cent) of these people (Ministry of Social Development, 2014). These figures include people who

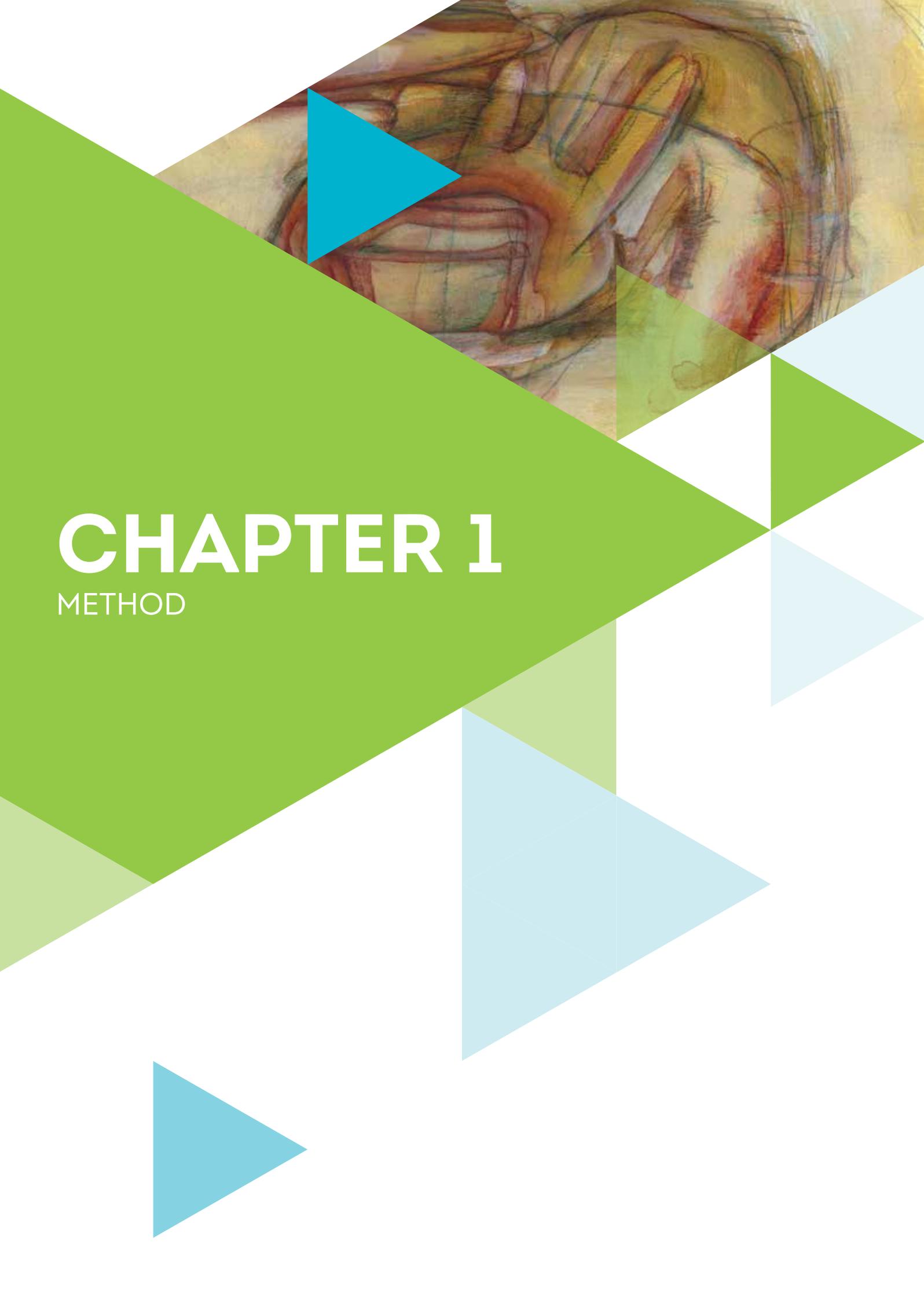
had received this (or any other government benefit) for any length of time (both short and longer term).

### LIKE MINDS, LIKE MINE NATIONAL PLAN 2014-2019

*The Like Minds, Like Mine National Plan 2014-2019* (Ministry of Health and Health Promotion Agency, 2014) states that one of the primary focuses of the Like Minds, Like Mine programme over the next five years will be on enabling workplace policies, structures

and cultures that are more inclusive and supportive of people with experience of mental illness. The plan recognises the significant barriers that people with experience of mental illness face in seeking, getting and maintaining employment. It also recognises the multiple benefits, for individuals and society in general, that come from socially inclusive workplaces, which are free from stigma and discrimination towards people with mental illness.



The background features a textured, painterly style illustration of a human face, rendered in warm tones of brown, red, and yellow. This artwork is partially obscured by large, overlapping geometric shapes in shades of green and light blue. A prominent green triangle points towards the right, while several other triangles in various shades of green and blue are scattered across the page, creating a dynamic, abstract composition.

# CHAPTER 1

METHOD

# METHOD

## ADVISORY GROUP

An advisory group was established at the outset of the project. Members of this group included people in positions, and with the experience, expertise and perspectives, to provide specialist legal, human rights and cultural advice, and social science and employment perspectives. The advisory group met three times during the course of the research to consider, monitor and advise on the process for undertaking the work and the material generated through the work.

## ETHICS

Ethical approval for the study was sought and obtained from the University of Otago Human Ethics Committee.

## LITERATURE REVIEW

The research included a literature review, with a particular focus on identifying critical factors that enable or sustain open employment of mental health service users. The review was limited to studies published since 2007 (the date of the previous review). The main databases accessed were Medline and the Ebsco family of databases. The major search terms used were 'mental illness' and 'employment'. Another search was undertaken, using INNZ and Google, to look specifically for New Zealand material, using the same terms. Members of the advisory group also made suggestions on relevant literature. Articles that specifically focused on supported employment programmes, or the effects of unemployment on mental illness, were excluded from the review, except where they provided general context.

## OVERVIEW OF THE LEGAL FRAMEWORK

The research also included an overview of the legal framework surrounding the research question. The overview focussed on aspects of the legal framework that are intended to enable or sustain open employment of mental

health service users. It included New Zealand legislation and case law pertaining to people with mental illness and disabilities specifically (including the recent *Cook v Allied Investments Ltd* judgment) and to employment generally (including the 90 day trial period). Human rights were also considered, in light of NZ having signed and ratified the Convention on the Rights of Persons with Disabilities.

## QUALITATIVE INVESTIGATION AND ANALYSIS

### METHODOLOGICAL APPROACH

The research used a case study methodology. Each case involved an employee and their employer.

### DEVELOPMENT OF SEMI-STRUCTURED INTERVIEW SCHEDULES

Two semi-structured interview schedules (one to guide interviews with employees and one to guide interviews with employers) were developed, based on the results of the literature review and the overview of the legal framework (see Appendix 1).

### RECRUITMENT

Employees were recruited first. Recruitment primarily involved information about, and invitations to participate in, the study being published in community newspapers and disseminated through mental health service user and disability information channels and networks. This included forums and organisations that provide information, news, resources, and support to people with experience of mental illness. Personal invitations to participate were also extended to individuals who the investigators and members of the advisory group knew fit the inclusion criteria and might be interested in taking part.

Participation was sought from people employed in a range of employment types (full- and part-time, permanent and contracted), with varying levels of organisational responsibility, and in various settings (small and large private, government and non-government organisations in urban and rural environments).

Tane Rangihuna was engaged to support the project's inclusiveness and responsiveness to Māori. Tane extended personal invitations to participate to Māori individuals he knew, and to Māori networks that included people who were likely to fit the inclusion criteria and might be interested in taking part. Māori leaders known to Tane, the investigators and members of the advisory group were contacted and asked to send the invitation to participate and information sheet out through their networks. The information sheet stated that Tane Rangihuna and Nandika Currey would support interviews with Māori and Pacific Island participants respectively.

Employees who expressed interest in participating were sent an information sheet. If they met the criteria of being a mental health service user in open employment and wished to pursue participation, they were asked to provide consent for the researchers to approach their employer and invite him or her to participate. Where such consent was given, the employer was then sent a personal invitation to participate and an information sheet. If the employer also agreed to participate, the employee and employer constituted a 'case'.

Twenty-seven employees, including four who identified as Māori, express an interest in participating. Five of them, including one who identified as Māori, did not meet the criteria for participation or chose not to pursue participation. The other 22 consented to their employers being contacted and invited to participate.

Seven of the employers contacted, including three of employees who identified as Māori, were either unable or unwilling to participate. All others agreed to take part, resulting in a total of 15 employee/employer cases.

### THE INTERVIEWS

Participating employees and employers were interviewed separately, but consecutively, by either Dr Sarah Gordon or Dr Debbie Peterson. Interviews were conducted at a place, usually the workplace, and time of their convenience.

For 10 of the cases, interviews were conducted face-to-face; for the other five, the interviews were conducted by phone. Participants were asked to provide written consent, including consent for the interview to be recorded, before the interview commenced.

The interviews were all semi-structured, based on the interview schedules developed. They occurred between 14 March and 2 May 2014, and were between 15 and 50 minutes in length. Audiotapes of the interviews were fully transcribed. Participants were then sent the transcription to check, make any changes they considered necessary, and sign off as correct.

### PSEUDONYMS

In this report, 11 of the cases do not personally identify the participants or the workplace (through the use of pseudonyms). In the remaining four cases, both the employees and the employers agreed to their data being presented in an identifiable form. Where participants were considering allowing their data to be presented in an identifiable form, we provided and discussed with them a *Thinking about Disclosure* fact sheet (see Appendix 3), to help them make a fully informed decision.

### ANALYSIS

Transcripts of the interviews were analysed using NVivo software. Themes were identified for: the employees' interviews; the employers' interviews; and the employees' and employers' interviews in relation to each other.

### METHODOLOGICAL LIMITATIONS

We acknowledge that there was potential bias in the methodology, due to individuals who were known to the investigators, advisory group and their networks being one source of research participants. However, in the end only one of the interviewees was personally known to the research team.

The lack of Māori participants raises questions about whether our processes adequately supported Māori engagement. While a number of employees who identified as Māori responded and wished to participate, the

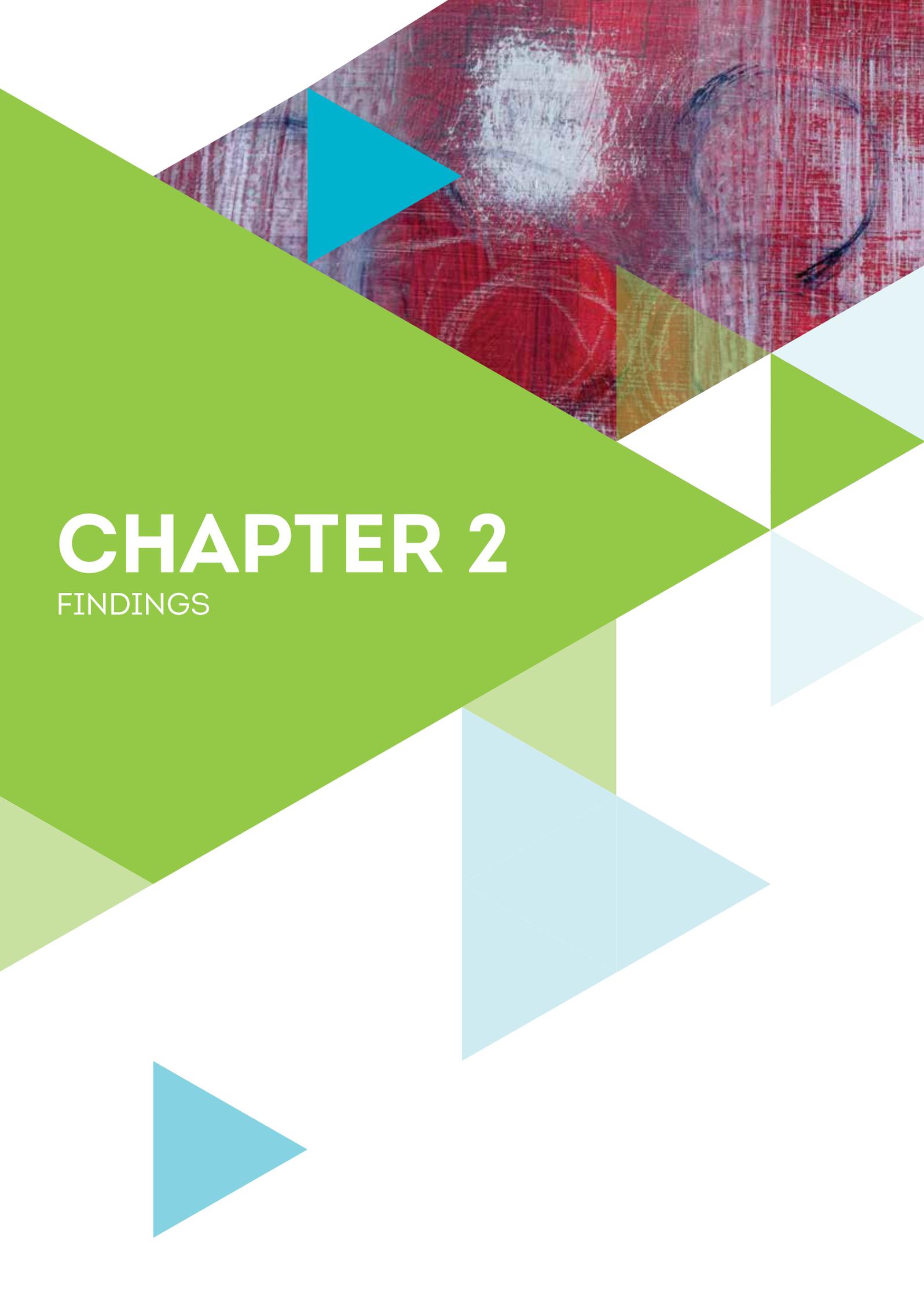


case study methodology, which required their employers to also agree to participate, precluded them all from taking part. Some of those employers identified as Māori and some did not.

Other limitations included the lack of younger (under 23) and older (over 65) participants, and that all of the employee participants had a post-secondary school qualification of some sort, although not necessarily one that was directly relevant to their current employment.

The small size of the study sample means caution is needed in drawing broader conclusions from its findings.



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# CHAPTER 2

FINDINGS

# FINDINGS

The following five sections outline the research findings. The first contains the literature review, the second provides a legal overview and the third a demographic profile of the employee participants (including their employment particulars). In the fourth section, we present the cases and extracts from the interviews. In the fifth section, we provide our analysis of the themes from the cases.

## LITERATURE REVIEW

### INTRODUCTION

The starting point for this literature review is the 2007 review undertaken for the Mental Health Foundation's previous employment research (Duncan & Peterson, 2007). That review found most people with experience of mental illness enjoy working and that work is important for social inclusion, mental health and recovery. Employment leads to improvement in self-esteem, self-respect and confidence for people with experience of mental illness. In addition, those who are working are more likely to be socially integrated, married and living in independent housing.

However, the review also found that people with experience of mental illness experience high levels of unemployment, may be less educated, may pursue low-paid or part-time jobs, and may be discouraged from seeking work due to past failures and self-stigma. Employers and colleagues sometimes responded positively to people becoming unwell, but the majority of those who became unwell at work were treated with hostility and unfairness.

In terms of disclosure, the review suggested that people needed to develop a strategy for disclosing their mental illness, as they could be exposed to discrimination if they disclosed. On the positive side, disclosure provided a basis for better relationships with employers, more open communication, accommodations and informed employers who could more appropriately respond to their employees' needs.

The previous review also noted attitudes of employers. Employers thought people with experience of mental illness could only work with other people with similar experiences, were unable to cope with work stress, needed excessive time off, and put the workplace under extra strain. They thought that people with experience of mental illness were all the same, were dangerous and different from other employees.

### PURPOSE

Previous Like Minds, Like Mine research (Duncan & Peterson, 2007; Peterson, 2007) has investigated issues that affect people with experience of mental illness in employment. The current research focuses specifically on the critical factors that enable or sustain open employment of mental health service users. This literature review covers the period since the 2007 study, provides context for the current research and proposes ideas for where employment research can usefully go in the future.

### WHO ARE WE TALKING ABOUT?

The literature has tended to focus on the experiences of two groups of people. The main focus has been on those with severe mental illness, of whom only 10 to 20 per cent are in paid employment (Harvey, Henderson, Lelliott, & Hotopf, 2009). Research for this group has focused on their ability to gain or maintain employment with the help of vocational services, rather than employment quality. The other group on whom researchers tend to focus are people with symptoms of common mental illnesses, who may experience temporary employment disruption (Harvey et al., 2009), and their quest to return to work. These two groups have different needs, and although both are affected by stigma and discrimination, much less is known about those in the latter group and their needs (Harvey et al., 2009).

However, there is another group of people with experience of mental illness that is almost missing from the literature – people who experience severe mental illness, but maintain

their high-level employment with little or no input from vocational services. One rare example is Ellison, Russinova, Lyass and Rogers' (2008) study of participants who experienced a mental illness of substantial severity and were in competitive employment in a variety of jobs "cutting across all major professional fields" (p. 186). Our current study may help address the lack of corresponding New Zealand research and contribute to the knowledge base pertaining to this group in general.

### THE FINDINGS

An estimated five per cent of the New Zealand population (242,000 people) are living with long-term limitations in their daily activities, as a result of the effects of psychological or psychiatric impairments (Statistics New Zealand, 2014).

### EMPLOYMENT

With respect to employment, although the numbers and percentages differ between countries, some generalisations can be made. People with experience of mental illness have higher unemployment rates than the general population (Abraham & Stein, 2009; Dunn, Wewiorski, & Rogers, 2010; Levinson et al., 2010; Giugiaro et al., 2011; Heffernan & Pilkington, 2011; Nordt et al., 2012; Morgan, 2013; Harris, Matthews, Penrose-Wall, Alam, & Jaworski, 2014). They have very low employment rates and participation in the labour force (Jackson, Kelland, Cosco, McNeil, & Reddon, 2009; Krupa, Kirsh, Cockburn, & Gewurtz, 2009; Leufstadius, Eklund, & Erlansson, 2009; Levinson et al., 2010; Arbesman & Logsdon, 2011; Schofield, Shrestha, Percival, Kelly, Passey, & Callander, 2011; Gruhl, Kauppi, Montgomery, & James, 2012; Villotti, Corbiere, Zaniboni, & Fraccaroli, 2012; Harvey, Modini, Christensen, & Glozier, 2013; Lockett & Bensemman, 2013; Matthews, Harris, Jaworski, Alam, & Bozdag, 2013; Morgan, 2013; Viering et al., 2013; Harris et al., 2014). Employment rates are estimated to be as low as 10 to 20 per cent for those diagnosed with schizophrenia (Catty et al., 2008; Erickson, Jaafari, & Lysaker, 2011).

For those who are employed, under-employment (e.g. working part-time when desiring to work full-time) is a big problem (Dunn, Wewiorski, & Rogers, 2008; Dunn et al., 2010; Levinson et al., 2010), as is low wages (Gruhl et al., 2012; Harris et al., 2014). A high percentage of people with experience of mental illness receive government income support (Harvey et al., 2009; Heffernan & Pilkington, 2011). Mental illness is also a substantial contributor to absence from work (Lauber & Bowen, 2010; Levinson et al., 2010; Swales, 2012; Henderson, Williams, Little, & Thornicroft, 2013).

In New Zealand in 2006, people with psychiatric or psychological disabilities were two or three times more likely than those with other disabilities to be unemployed, and had the highest needs for workplace modification or support, mainly modified hours (Statistics New Zealand, 2008).

### UNEMPLOYMENT

People with experience of mental illness are at greater risk of unemployment, and unemployment and job loss are associated with a greater risk of developing mental illness, particularly depression (Burns et al., 2008; Bergmans et al., 2009; Jackson et al., 2009; Swanson, Langfitt-Reese, & Bond, 2012). Unemployment leads to uncertainty, and a loss of identity and self-esteem (Bergmans et al., 2009). It also leads to a loss of structure and purpose (Jackson et al., 2009), and deprives people of the social and psychological functions of work (Nordt et al., 2012). All this can lead to poverty (Nordt et al., 2012), a loss of meaning and a sense of self (Sutton, Hocking, & Smythe, 2012), isolation, substance use (Swanson et al., 2012) and even suicide (Bergmans et al., 2009). The impact of experiencing mental illness and unemployment can be cumulative:

*Alongside being told one has a mental illness, being removed from the workforce can be equally as devastating adding to the cumulative effects of having one's life dramatically altered (Bergmans et al., 2009, p. 390).*



### POTENTIAL NEGATIVES FROM EMPLOYMENT

Rinaldi and colleagues (2010) state that there is almost no evidence in the literature that assisting people with experience of mental illness to gain employment “increases the likelihood of clinical deterioration, relapse or hospitalisation” (p. 156).

Nevertheless, researchers do cite some negatives. Leufstadius and colleagues (2009) note that some people with experience of mental illness find work too stressful or demanding, while Nordt and colleagues (2012) mention the risk of people falling into a ‘benefit trap’, where they lose disability payments when they return to work. This may be made worse if a person can only find low-paid or part-time employment. Those already in employment when they experience mental illness may be at higher risk of suicide if they are hospitalised, due to the associated stress of being absent from work (Bergmans et al., 2009).

### MENTAL HEALTH PROFESSIONALS

Mental health professionals are criticised in the literature for not being supportive enough of people’s desire to work (Abraham & Stein, 2009; Rinaldi et al., 2010; Waynor & Pratt, 2011; Viering et al., 2013), yet their support is seen as a major factor in helping people with experience of mental illness gain and stay in employment.

*Mental health professionals need to challenge the myths, assumptions and low expectations and actively foster positive hope for the future to support young people to get on with their lives* (Rinaldi et al., 2010, p. 157).

Education for mental health professionals about the benefits of employment for people with experience of mental illness is seen as necessary in order to improve positive outcomes (Hatchard, Henderson, & Stanton, 2012); mental health professionals “frequently discourage patients from applying for competitive employment” (Viering et al., 2013, p. 1), due to a perception that increased stress may destabilise them. Other researchers have made similar findings (Abraham & Stein, 2009; Harvey et al., 2009; Waynor & Pratt, 2011),

including that mental health professionals have low employment expectations of their clients, even if their clients do not share these low expectations (Abraham & Stein, 2009). As Rinaldi and colleagues (2010) suggest, however, mental health professionals and people with experience of mental illness need to work together to manage any risks and maximise the chances of success. In doing so:

*Both parties place themselves in the best position to make the best decisions and help service users to make the most of their lives and pursue their ambitions* (Rinaldi et al., 2010, p. 156).

For many people, their mental health care is provided by their GP, rather than specialist mental health services. In New Zealand, for example, only the most severe three per cent of the population with mental illness tend to be using specialist mental health care (Ministry of Health, 2012), with general practice expected to provide for the rest.

For people with experience of mental illness, general practice can be the “lynchpin for a successful return to work” (Mental Health Strategic Partnership, n.d.). This is due its role in treating different types of health problems (both physical and mental), being able to pick up on these problems at an early stage, and being able to refer to other service providers, such as psychologists.

### INTERVENTIONS

Research has identified numerous interventions that may help people with experience of mental illness obtain, maintain or return to work. These interventions can be sorted according to their main initiator: service providers (health and employment), employers, and people with experience of mental illness.

### SERVICE PROVIDERS

Lal and Mercier (2009) call for formalised collaboration between social enterprises and health services to create supported work opportunities. Others say there needs to be better linkages between health and employment services (Anonymous, 2011). More training for

health professionals about employment issues and the importance of work is also needed, as is education for employers about the barriers that people with experience of mental illness face (Anonymous, 2011).

Employment specialists need to visit worksites to provide support to service users, while maintaining flexibility and having a positive attitude and good communication skills (Corbiere & Lanctot, 2011).

The mere presence of vocational programmes does not mean they are effective or efficient (Gruhl et al., 2012), although there is evidence that some programmes are successful for some individuals (Harvey et al., 2013). However, there seems to be little evidence of the effectiveness of interventions for people with common mental health problems (Lauber & Bowen, 2010).

Krupa (2007) has identified interventions that services can undertake to help improve employment outcomes for people with experience of mental illness. These include: early identification, diagnosis and treatment; assessment and planning; self-awareness counselling; coping skills training; work hardening; reasonable job accommodation; and social network development (Krupa, 2007, pp. 341-342).

Waynor and Pratt (2011) suggest that if mental health staff consistently engage with service users about employment and its potential benefits, this may encourage more people to want to return to work. Another intervention proposed is to replace sick notes with electronic 'fit' notes. These would allow doctors to say what work people were able to do, as well as what they cannot (Steemson, 2009).

## **EMPLOYERS**

There is a focus in the literature on providing practical advice to employers about what to do, and what not to do, when employing someone believed to have experience of mental illness. For example, one author stresses that employers should take legal advice before referring someone to

counselling or a medical exam (Anonymous, 2013). Another offers advice on what to do when someone at work is causing problems for colleagues.

*If a co-worker is a problem, it's best to take suspicions to a supervisor rather than confronting the co-worker directly ... If a subordinate is the cause of the workplace disturbance, deal with it directly, but with sensitivity. Be observational in a non-confrontational way ... If the employee acknowledges that there is a problem, help him or her make a plan for recovery and/or symptom management ... If it's a really difficult supervisor employees are working with, they may need to consider all their options, up to and including transferring, changing positions or leaving the company entirely (Jaurequi, 2013, p. 20).*

An English publication (Mental Health First Aid England, 2013) provides information for managers on how to support people with experience of mental illness, within the context of supporting the wellbeing of all employees in the workplace.

Employers can also create positive work environments to reduce the risk of depression and stress in the workplace, thereby promoting mental wellbeing for everyone (Norriss, 2013). Guides have been produced to help employers do this, for example by the National Institute for Health and Clinical Excellence (2009).

## **PEOPLE WITH EXPERIENCE OF MENTAL ILLNESS**

There is a growing body of research that suggests that the best way for people with experience of mental illness to gain their desired employment outcomes is to take charge of their own goals, or at least work in collaboration with health and employment services.

Michon, Weeghel, Kroon and Schene (2011) argue for self-management. This requires a range of skills: timing; self-reflection; communications; and insight into one's own strengths and problems. Also vital for successful self-management is acceptance

and support, and a trusting relationships with colleagues or a supervisor (Michon et al., 2011).

Interventions that allow for people to develop proactive coping strategies may also help reduce work interruptions (Ruscinova, Bloch, & Lyass, 2007). Rinaldi and colleagues (2010) argue that the most helpful interventions include: support from friends and family; an accurate diagnosis; the right levels of medication; support from employers; and other people who believe in the person's ability.

Working in collaboration with health and employment services, where the service users' needs and goals are the priority and used to develop a personalised 'model of care', is also suggested as a way of facilitating "better outcomes and improved recovery rates for people with psychosis" (Morgan, 2013, p. 487). At the very least, service users should be "involved in assessing their own vocational readiness" (Goldberg et al., 2008, p. 249).

### DESIRE TO WORK

The literature consistently reports that people with experience of mental illness want to work (Leufstadius et al., 2009; Rinaldi et al., 2010; Waynor & Pratt, 2011; Villotti et al., 2012; Harvey et al., 2013; Morgan, 2013).

Essen (2012) reports that the willingness of people with experience of mental illness to engage with employment is often tied up with prevailing social and familial expectations. Other motivations for working, apart from financial, include work being meaningful (Leufstadius et al., 2009); work as a 'yardstick to recovery' (Rinaldi et al., 2010); having a job being part of a search for meaning and identity (Rinaldi et al., 2010); and work providing a major purpose in life (Villotti et al., 2012).

### STIGMA AND DISCRIMINATION

It is widely accepted that people with experience of mental illness are often discriminated against when it comes to seeking and maintaining employment, possibly more than any other disability group (Henderson et al., 2012; Shankar, Barlow, & Khalema, 2011).

According to Swales (2012), for some people this discrimination is more of a burden than their experience of mental illness.

Employment discrimination associated with mental illness is a complex construct (Cummings, Lucas, & Druss, 2013), which manifests itself directly (for example, through people with experience of mental illness not being hired or losing their employment), or in more subtle ways (for example in employers' attitudes, as measured by differentials in wages (Krupa et al., 2009), or in hypothetical rankings of the suitability of job applicants (Harvey et al., 2013)).

Stigma and discrimination are hard to measure. People with experience of mental illness may be seen as included in the workforce, but still feel as if they are excluded (Kantartzis et al., 2011). Stigma and discrimination can lead to unemployment and precarious employment for people with experience of mental illness, resulting in a workforce that lacks power and collective might (Kirsh et al., 2009).

Workers with experience of mental illness may be discouraged from taking on certain projects, avoided by colleagues, passed over for promotion (Steemson, 2009), or excluded or alienated at work (Swales, 2012). People may not complain, because they do not want to be labelled as having a mental illness (Cummings et al., 2013). They may feel socially marginalised (Shankar et al., 2011). Those looking for work may fear discrimination, and self-stigma can stop people from seeking employment (Viering et al., 2013). Reacting to this threat of stigma and discrimination, by trying to over-protect people with experience of mental illness, may lead to exclusion from employment, which is also a form of stigma (Niekerk, 2009). Yet, despite all of this, Corrigan, Powell and Rüsck (2012) report that there is no evidence that stigma and discrimination negatively affect the work goals of people with experience of mental illness.

The beliefs that employers act on when they discriminate seem to be based on notions that a person with experience of mental illness is incompetent or socially inadequate, has

extensive needs, is different to others or will cause a loss of productivity (Kirsh et al., 2009). Other attributes assigned to people with experience of mental illness are that they are unskilled, unproductive, unreliable, violent and unable to handle pressure (Kirsh et al., 2009). People with experience of mental illness may also be perceived as dangerous, strange or at risk of relapse (Tsang et al., 2007).

Some employers have suggested mental illness in the workplace is seen as a license for avoiding work responsibilities and receiving special treatment or privileges (Kirsh et al., 2009). Employment can be perceived as not healthy for service users, and providing employment for people with experience of mental illness as an act of charity (Kirsh et al., 2009). Employers' attitudes towards people with experience of mental illness influence their hiring practices, with those who have previous experience of hiring people with experience of mental illness being more likely to hire them (Tsang et al., 2007).

The research provides few solutions, specific to the stigma and discrimination associated with mental illness and employment, except to encourage people with experience of mental illness to work.

*The social relations that occur in the work setting appear to have many of the features considered fundamental to reducing stigma through interpersonal contact, such as the potential for equal status, interactions requiring cooperation, and opportunities to encounter individuals with mental illness fulfilling positive social roles ... However, there is a lack of systematic research evaluating the influence of workplace relations on stigma processes, or how the workplace itself influences these relations. (Krupa et al., 2009, p. 414)*

Viering and colleagues (2013) suggest that re-entering the workforce after a period of absence due to mental illness, may lead to less stigma, an increased perception of social inclusion, less discrimination, and less stigma-related stress.

## DECISION TO DISCLOSE

Disclosure of mental illness to employers, potential employers or work colleagues is a "personal, multi-layered and potentially difficult decision" (Henderson et al., 2012, p. 2). It involves careful planning, with the main risk to the person with experience of mental illness being a potentially stigmatising reaction (Bergmans et al., 2009). This fear of discrimination, together with legal, practical and moral pressures, creates an ongoing tension between workplace disclosure and non-disclosure of mental illness (Peterson, Currey, & Collins, 2011). The benefits of disclosure, however, are that, if necessary, appropriate accommodations can then be arranged in the workplace (Corbiere & Lanctot, 2011; King, Cleary, Harris, Lloyd, & Waghorn, 2011). As Niekerk (2009) reports, disclosure has a "remarkably positive impact on resolving experiences of otherness" (p. 463).

Non disclosure in pre-employment documentation may also work to disadvantage the employee in any subsequent employment dispute.

Employers prefer potential employees to disclose their experience of mental illness prior to recruitment (Henderson et al., 2013), although not all employers feel comfortable discussing mental health issues with job applicants (Henderson et al., 2013). However, many people with experience of mental illness chose not to disclose until after a job offer, fearing discrimination (Henderson et al., 2012).

Giugiaro and colleagues (2011) note that in order for people to disclose their 'disabilities' to a potential employer, people with experience of mental illness need to understand and acknowledge their disability.

## ELEMENTS FOR EMPLOYMENT SUCCESS

Employment success can be measured by success in gaining or maintaining employment. Some researchers say the most important predictor of employment success for people with experience of mental illness is previous employment (Catty et al., 2008; Campbell, Bond, Drake, McHugo, & Xie, 2010; Twamley et al., 2012).

*People with more recent work histories had better work outcomes, possibly reflecting better work skills and functioning or better chances of getting hired with more recent job experience (Twamley et al., 2012, p. 104)*

However, Tsang and colleagues (2007) argue that while skills and qualifications are important, “social competence is the most significant predictor of vocational success among people with psychotic disorder” (p. 730).

A positive attitude to work and their mental illness seems to be the key to success for Waynor and Pratt’s (2011) participants.

*Consumers who were successful at gaining and maintaining employment tended to view their illness as something to learn to cope with, but not as their identity. Additionally they tended to view work as a necessary part of their recovery process and bad days as temporary occurrences that would soon pass. (p. 73)*

Other factors that are seen to lead to employment success include: interpersonal factors such as family or professional support (Blank, Peters, Pickvance, Wilford, & MacDonald, 2008; Abraham & Stein, 2009); employee self-care and self-awareness (Bergmans et al., 2009); good cognitive function (Blank et al., 2008); age, with those who are younger being more likely to quit (Blank et al., 2008); education (Bush, Drake, Xie, McHugo, & Haslett, 2009); positive workplace relationships (Corbiere & Lanctot, 2011); availability of accommodations (Corbiere & Lanctot, 2011); gender, with males being more likely to succeed (Dunn et al., 2010); and insight (Erickson et al., 2011; Giugiaro et al., 2011).

Disputed factors are diagnosis and the severity of mental illness symptoms. Some researchers indicate that those with affective disorders are more likely to succeed in employment, than those diagnosed with schizophrenia (Bush et al., 2009; Dunn et al., 2010), while other researchers state that diagnosis and symptom severity make no difference (Catty et al., 2008; Kirsh et al., 2009; Niekerk, 2009; Corrigan et al., 2012).

When one moves beyond measuring success in terms of job gain or tenure, and focuses instead on job satisfaction, job fit is seen as a more important predictor of success (Kirsh et al., 2009; Leufstadius et al., 2009). It then becomes clearer that people with experience of mental illness require the same things from a job as most employees. People with experience of mental illness “value a friendly, respectful, communicative work environment with a culture of flexibility and inclusion” (Villotti et al., 2012, p. 34). Villotti and colleagues (2012) go on to state that job satisfaction is more related to the workplace environment (e.g. accommodations, support from co-workers, occupational self-efficacy) than to external variables (e.g. family support).

### **BENEFITS OF WORKING**

Work brings greater stability and structure to people’s lives (Sutton et al., 2012), along with a sense of belonging and purpose (Jackson et al., 2009; Sutton et al., 2012). Employing people with experience of mental illness has positive benefits for workplace culture as well – a workplace that reduces stigma and allows employees to seek help for mental health problems, benefits the organisation (Douglas, 2013).

There appear to be no detrimental clinical effects from people with experience of mental illness working (Burns et al., 2008; Nordt et al., 2012). Kukla and colleagues (2012) issue a note of caution, however, likening the assertion of the non-vocational benefits of work for people with experience of mental illness with the “‘moral therapy’ notion of the 19th century, in which work as a structured activity was believed to carry therapeutic value” (Kukla, Bond, & Xie, 2012, p. 214).

Notwithstanding, there are many reasons why people with experience of mental illness work. Work appears to promote the recovery of people with experience of mental illness (Dunn et al., 2008; Rinaldi et al., 2010; Shankar et al., 2011; McHugo, Drake, Xie, & Bond, 2012), as well as fostering social inclusion (Rinaldi et al., 2010; Matthews et al., 2013) and financial independence (Dunn et al., 2008; Leufstadius

et al., 2009; McGurk, Mueser, DeRosa, & Wolfe, 2009; Niekerk, 2009; Rinaldi et al., 2010; Shankar et al., 2011; McHugo et al., 2012; Morgan, 2013).

*Work enables people who have experienced mental health conditions to take on a stigma free social role that in most societies is associated with positive identity, status as an employed person and a contributing member of society.* (Rinaldi et al., 2010, p. 148)

Not only does the employee benefit from working, employers report benefits to their businesses as well from employing people with experience of mental illness and disabled people in general. Benefits include improvements in workplace culture and the business's reputation, a 'feel good' effect for employees and customers, and greater employee loyalty and commitment (Panel on Labour Market Opportunities for Persons with Disabilities, 2013). Other benefits to employers from employing disabled people include reduced health and safety incidents, and less absenteeism (Graffam, Smith, Shinkfield, & Polzin, 2002).

## **BARRIERS TO EMPLOYMENT**

The barriers that people with experience of mental illness face in terms of gaining, maintaining or returning to employment are many. Researchers have focused their attention on four key areas.

The first area is the nature of mental illness. The cyclic, episodic nature of much mental illness and its associated symptoms may affect a person's confidence, cognitive capacity, mood, motivation and problem-solving ability (Shankar et al., 2011). These effects can interfere with people's employment (Russinova et al., 2007; Chatterji, Alegria, & Takeuchi, 2011; Matthews et al., 2013).

The second area is stigma and discrimination (as has been discussed in its own section), which is seen as a major barrier to employment for people with experience of mental illness (Dunn et al., 2010; Chatterji et al., 2011; Swanson et al., 2012). Employers' attitudes are particularly important in this area. Harvey

and colleagues (2013) found that 50 per cent of employers would not hire someone if they knew that person had experience of mental illness. Chatterji and colleagues (2011) report that many employers are unwilling to make reasonable accommodations in the workplace. It is not only actual discrimination that forms a barrier, but also anticipated discrimination (Henderson et al., 2012).

The third area, as has also been discussed in its own section, is the lack of support from mental health professionals in helping clients to gain and stay in employment (Abraham & Stein, 2009; Essen, 2012; Harris et al., 2014). Mental health professionals' low expectations can affect service users' motivation to seek employment, and impact on employment outcomes and employers' beliefs about the employability of people with experience of mental illness (Corbiere & Lanctot, 2011), thereby setting up a cycle. The belief that it is not appropriate for people to work unless they are 100 per cent fit and healthy needs to be challenged (Harvey et al., 2009).

The last major barrier discussed in the literature is financial. Many people with experience of mental illness rely on income support in one form or other, and abatement regimes usually kick in when that person becomes employed. Fear of losing an income, or having to go through the process of re-applying for benefits, is a barrier for some seeking employment (King et al., 2011; Shankar et al., 2011; Waynor & Pratt, 2011; Essen, 2012; Harris et al., 2014).

## **WORKPLACE ACCOMMODATIONS**

Kirsh et al (2009) define accommodations as "changes that are made in a particular workplace environment or in the way things are usually done that make it possible for a person with a disability to do the job" (p. 396).

Accommodations are associated with job satisfaction, the ability to cope with illness and maintain employment, and increased workplace productivity (Villotti et al., 2012). According to Shankar and colleagues (2011), people with experience of mental illness

may need support in assessing the kinds of accommodations they need, and help in negotiating these with their employer. Implications of accommodations may need to be explained to a person's colleagues, to avoid resentment (Krupa et al., 2009; Swales, 2012).

Employers do not have to provide accommodations, if they do not know or could not be expected to know about a person's disability (Henderson et al., 2012). This means that in order to arrange for workplace accommodations, a person must disclose their mental illness to their employer, risking discrimination.

## NEW ZEALAND MATERIAL

### RESEARCH

Cooper (2008) found that mental health discrimination is a common experience for New Zealanders with bipolar disorder who are job seeking or in employment. This discrimination may be overt or subtle. Participants in Cooper's study recommended that job-seekers do not disclose their experience of mental illness until after they had established themselves in their employment.

*Overall, people were cautious about disclosure, but hopeful that attitudes were changing about mental illness and the possibility of recovery.* (Cooper, 2008, p. 1)

Cooper (2008) also identified four factors as important to a supportive work environment. These are: the quality of interactions between colleagues; the availability of reasonable accommodations; external employment support; and workplace conditions and culture.

A study focusing on the impact of the New Zealand Like Minds, Like Mine programme (Thornicroft, Wyllie, Thornicroft, & Mehta, 2014) involved surveying 1135 New Zealanders who had used mental health services. The researchers reported that 33 per cent of those surveyed had stopped themselves applying for work for fear of discrimination, while 22 per cent had been discriminated against in finding work and 19 per cent in keeping work (Thornicroft et al., 2014).

### RESOURCES

Introduced recently into New Zealand, the Option Grid (Kongs-Taylor et al., 2014) is an evidence-based resource aimed at helping people with experience of mental illness make a decision to find or return to employment. While aimed at people with experience of mental illness, it is likely to also encourage health professionals and others who distribute and use the grid to recognise the benefits of employment for this group.

*One in five* (Working Women's Resource Centre, n.d.) is a resource for those representing and supporting workers with experience of mental illness. It looks at the issues that these workers face, identifies how they can be supported and addresses how attitudes can be changed in the workplace.

*Supporting volunteers with experience of mental illness* (Green, 2012) is a literature review aimed at the New Zealand volunteer sector. Volunteers with experience of mental illness share many of the same issues as those in paid employment. In addition, many people with experience of mental illness use volunteering as a way of moving back into paid employment. This review focuses on the barriers that organisations may face in using volunteers with experience of mental illness and addresses frequently asked questions that organisations may have when taking on such volunteers.

### NATIONAL CONVERSATION ABOUT WORK

Between November 2008 and May 2010, the Human Rights Commission talked to over 3000 New Zealanders about how to achieve greater equality and fairness at work, and how this might impact on employees' families (Human Rights Commission, 2010). People with experience of mental illness reported that a particularly vexed issue for them was whether or not to disclose experience of mental illness. More specifically, it was felt that there were risks either way – disclose and risk not being considered for the job; don't disclose and risk being unsupported or dismissed should you become unwell.

When the commission sought advice on how this issue could be addressed, people with experience of mental illness suggested not making it about disclosure, but instead about ensuring the best person is employed for the job, by:

- focussing on what an individual can do, or can't do but could learn, and what is outside their capability
- challenging discriminatory assumptions about ability that are based on diagnostic labels
- having conversations throughout any person's employment about their needs and the support they require to do a job well, regardless of labels and assumptions.

It was felt that these conversations might be better had after a 90-day trial period, to ensure both employer and employee are confident in their ability to do the job, and that disclosure can be made without fear of prejudice or discrimination. People with experience of mental illness told the commission that there are mutual obligations inherent in acting in 'good faith' - the employee should be able to say, "This is what I'll do to keep well at work", and the employer needs to be able to say, "This is what I can do if concerns arise."

## OVERVIEW OF LEGAL FRAMEWORK

In this section, we outline the main legislation, case law and international conventions that relate to employment of people with experience of mental illness, and the discrimination they may experience in that context.

New Zealand's employment law is governed primarily by the Employment Relations Act 2000 (ERA), and by the common law rules that relate to employment. There are also international instruments that have an impact on New Zealand's labour law, including the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

Discrimination against people with experience of mental illness, in the employment process, is addressed by Part 9 of the ERA and Part 2 of the Human Rights Act 1993 (HRA) and, to date, has been considered in three cases before the Employment Relations Authority.

### EMPLOYMENT LAW

The ERA requires employees and employers to deal with each other in good faith and to not do anything to mislead or deceive each other (s4(1)(a) & (b)).

Good faith requires the parties to be active and constructive in establishing and maintaining a productive employment relationship, which is responsive and communicative (s4(1A)(a) & (b)). This includes requiring an employer who is proposing to make a decision that is likely to adversely affect the continued employment of an employee, to provide the employee with access to information about the decision and an opportunity to comment on that information before the decision is made (s4(1A)(c)).

The ERA allows for probationary periods and trial periods.

Probationary periods must be agreed between the employer and employee and specified in the employment agreement. Employees still have recourse to the law relating to unjustified dismissal, during and at the end of a probation period (s67(1)).

Trial periods can operate for 90 days or less, and must also be included in an employment agreement (s67A(1)). If an employee is dismissed during a trial period, they are not eligible to bring a personal grievance, or other proceedings, in relation to the dismissal (s67A(2)).

### DISCRIMINATION

An employee must choose, in bringing a discrimination claim, whether to proceed under the ERA or the HRA, but cannot proceed under both (s112 of the ERA). Different procedures apply under the two acts, and there are differences in the speed that cases are resolved and the remedies available.

The most significant difference between the HRA and the ERA is that the ERA only applies once the employment relationship has commenced (after which a personal grievance claim can be brought). A claim can be made under the HRA, however, in relation to the process of obtaining employment or outside the employment relationship.

### HUMAN RIGHTS ACT 1993

Section 21 of the HRA sets out the prohibited grounds for discrimination. These include disability (s21(h)), which includes (among other things) "psychiatric illness, intellectual or psychological disability or impairment, any other loss or abnormality of psychological, physiological, or anatomical structure or function". No definition is given in the act for psychiatric illness.

Section 22 of the act relates to employment. In summary, it states that it is unlawful for an employer, or their representative, by reason of any of the prohibited grounds of discrimination, to:

- refuse to employ an applicant
- offer an applicant or employee less favourable terms and conditions of employment, or training and other opportunities.
- terminate the employment of the employee, or otherwise subject them to any detriment
- require or cause the employee to retire or resign.

Section 22(1) makes it unlawful for people and organisations procuring employment or employees on behalf of others, to treat any person seeking employment differently, due to any of the prohibited grounds of discrimination.

Section 22 is subject to the exceptions set out in sections 24 to 35. In particular, section 29 sets out the exceptions to the unlawfulness of discriminating on the basis of disability.

The Human Rights Commission mediates on disputes relating to unlawful discrimination

under the HRA. The commission's disputes resolution process aims to reach fair and effective resolutions at the earliest possible opportunity. Options for resolving disputes include self-help, educational information, informal intervention, and mediation.

If the mediation offered by the commission is not successful, a complainant can take their issue to the Human Rights Review Tribunal (s92B). The tribunal has the power to award several different remedies, where it finds that unlawful discrimination has taken place (s92I and 92J).

In the past three years, there have been 69 formal complaints made to the Human Rights Commission, in the area of employment or pre-employment, on the grounds of disability in the form of psychiatric illness<sup>1</sup>. Of these, 42 related to discrimination during the course of employment and 17 to discrimination in pre-employment. Of the pre-employment claims, 11 were that the claimant had not been employed because of their illness, and five were because of invasive questioning about the illness.

Of the claims made during employment, 24 were because of bullying or different treatment by a manager due an employee's mental illness, and 16 were due to an employee being threatening with dismissal or dismissed because of sick leave or their perceived ability to work.

No cases relating to employment or pre-employment and disability identified as psychiatric illness have been heard by the Human Rights Review Tribunal. This suggests that the 69 complaints to the Human Rights Commission were settled through the mediation process.

The HRA allows for positive discrimination. Anything that would otherwise be a breach of the unlawful discrimination provisions of the act will not be so, if it is done or omitted with the purpose of assisting or advancing those who are protected by the anti-discrimination provisions of the act, and enables those people to achieve an equal place in the community (s73).

<sup>1</sup> Letter from Pele Walker (Human Rights Commission) to Sarah Gordon, 15 April 2014.

## EMPLOYMENT RELATIONS ACT 2000

The alternative option for making a claim of discrimination in employment is by way of a personal grievance under the ERA.

Section 105(1)(h) of the ERA prohibits discrimination on the grounds of disability. Disability holds the same meaning in the ERA as it does in the HRA. The same exceptions also apply and are set out in section 106.

Section 104 of ERA sets out (in summary) that an employee is discriminated against if their employer, or a representative, by reason of any of the grounds in section 105, refuses or omits to:

- offer them the same terms or conditions of employment, or other opportunities or benefits, as other employees
- dismisses them or subjects them to any detriment
- requires or causes them to retire or resign.

Detriment includes anything that has a detrimental effect on the employee's employment, job performance, or job satisfaction.

Raising a personal grievance is a matter of making the employer aware that there is a grievance the employee wants the employer to address (s114). If the grievance is not resolved between the employer and employee, either party can request mediation through the Ministry of Business, Innovation and Employment. If mediation does not succeed, the employee can apply for a hearing with the Employment Relations Authority. Where the authority has made a decision, it can be challenged by either party in the Employment Court.

The Employment Relations Authority has various remedies available to it in personal grievance cases (s123). These include reinstatement, reimbursement of any wages or other money lost, compensation, and recommendations to prevent similar problems occurring. Any award made to an employee may be reduced, if it is held there was

contributing behaviour by the employee (s124).

## CASES

In recent years, three cases have considered claims of unlawful discrimination on the basis of psychiatric illness in employment.

Two of these cases – *Lidiard v New Zealand Fire Service Commission* [2010] and *Cook v Allied Investments Limited* [2012] – focussed on pre-employment questionnaires, and the employee's failure to disclose their experience of mental illness in them. An earlier case – *Atley v Southland District Health Board* [2009] – also touched on this point, but was primarily concerned with discrimination during the course of employment. Both *Atley* and *Cook* address the issue of contributing behaviour on the part of the employee to the actions that gave rise to the personal grievance.

The cases are outlined briefly below. See Appendix 4 for a fuller discussion.

### ATLEY v SOUTHLAND DISTRICT HEALTH BOARD

Ms Atley was an emergency department nurse who had a diagnosis of bipolar disorder. She provided a medical certificate stating that she should not work night shifts because of her medical condition. Her employer, Southland District Health Board, advised her that she could not be exempt from working night shifts. She was redeployed within the health board, causing her lost remuneration, uncertainty and anxiety, and a reduction in job satisfaction through not working in the emergency department.

Ms Atley claimed that the health board had failed to accommodate her disability, and that she had been placed at an unjustified disadvantage because of it.

The Employment Relations Authority found there was a prima facie case of discrimination, as Ms Atley had suffered detriment that would not have been suffered by another emergency department nurse. Southland District Health Board had breached section 104(1)(b) of the ERA and Ms Atley had a personal grievance.

In reaching this decision, the authority considered sections 29 and 35 of the HRA. It found there was an exception (where discrimination was allowed) under s29(1)(b), as the risk of harm if Ms Atley worked night shifts was not a reasonable one to take. However, the exception did not apply as, under section 29(2), the health board could without unreasonable disruption take steps to reduce the risk to a normal level (by allowing other nurses to cover Ms Atley's night shifts).

The authority also considered section 124 of the ERA, which provides that an award made for a personal grievance may be reduced where there is contributing behaviour by the employee. In this case, Ms Atley should have disclosed her psychiatric diagnosis in her pre-employment forms, and her failure to do so "... contributed to the discrimination grievance arising". Her damages award for the unlawful discrimination was reduced as a result.

#### LIDIARD v NEW ZEALAND FIRE SERVICE COMMISSION

The Lidiard case concerned a fire officer who, after five years of employment with the New Zealand Fire Service, became unwell and was offered 12 months leave without pay to assist his recovery. Mr Lidiard wished to return to work earlier and provided reports to support this. These reports highlighted a history of mental illness pre-dating his initial employment. Mr Lidiard had not disclosed this history in the health questionnaire he completed when he applied for the job.

The Employment Relation Authority found that the requirement to complete the health questionnaire was not discriminatory practice (as Mr Lidiard contended), but was solely for the purpose of determining whether a person was physically and mentally fit enough to perform the roles and the duties of a firefighter.

The authority considered the section 29 HRA exception, and noted from that "there is a significantly increased risk of harm arising in the performance of a firefighter's duties for those with certain types of mental illnesses or who are taking certain types of medication as

a result of such illnesses", and the fire service must be allowed to ask appropriate questions so it can assess its legal obligations.

The authority concluded that Mr Lidiard's non-disclosure was detrimental to the employment relationship between Mr Lidiard and the fire service, having placed both him and the service in the way of harm, and having impaired the relationship of trust and confidence. By failing to disclose his experience of mental illness, Mr Lidiard had left himself open to adverse consequences, should his omission be discovered. The fire service was held to have been a fair and reasonable employer, and Mr Lidiard to have been justifiably dismissed.

#### COOK v ALLIED INVESTMENTS LIMITED

In the Cook case, the Employment Relations Authority also focussed on pre-employment questionnaires. Mr Cook was a security guard in a sole charge position at a large chemical factory. When applying for the job, he completed an application form, which required disclosure of any condition that may affect how he would do the job. The form specifically asked about certain conditions, including "nervous disorder/anxiety", and requested a recent medical history and a warranty as to the truthfulness of the answers.

Mr Cook did not disclose his experience of mental illness in this form. On his second day of work he rang his employers, Allied Investments, in a distressed state, saying that he could not work later that morning. He then produced a medical certificate from the Auckland Mental Health Crisis Team excusing him from work for three days. Allied Investments terminated his employment two days later, due to Mr Cook's failure to disclose his existing medical condition. It did so using a 90-day trial period provision in his employment agreement.

The Employment Relations Authority found that the 90-day trial period provision was unlawful (because of how it was phrased) and that Allied Investments could not rely on it to dismiss Mr Cook. The authority then considered the pre-employment forms, which Mr Cook had been required to complete, and found that, although

the questions asked in the forms were general (and hence more likely to be discriminatory), the exception in section 29(1)(b) of the HRA justified the information being sought.

It was held that the 'nature of the ailments' that Mr Cook had could potentially place him at risk, and that he purposefully withheld the information, which his employers needed to assess whether he could discharge the role. The authority also referred to the duty of good faith, and concluded that Mr Cook had "failed absolutely" to discharge this obligation. However, the authority determined that the dismissal process Allied Investments used was unlawful and, therefore, Mr Cook had been unjustifiably dismissed.

The authority went on to apply section 124 of the ERA, which provides that any award made to an employee may be reduced where there is contributing behaviour by the employee. It concluded that although there was a personal grievance, Mr Cook was "not entitled to any remedies at all", as his failure to disclose his experience of mental illness, "goes to the root of the bargain between the parties".

## HEALTH AND SAFETY

The Health and Safety in Employment Act 1992 seeks to prevent harm to people at work by promoting the systematic management of health and safety, defining hazards and harm, and providing a range of enforcement methods (s5). The definition of harm includes physical and mental harm caused by work-related stress (s2).

Health and safety, and in particular work-related stress, can support claims of breach of contract, negligence and personal grievance, as well as breach of statutory duty under the Health and Safety in Employment Act 1992.

## CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES 2006

The Universal Declaration on Human Rights 1948, the International Covenant on Civil and Political Rights 1966 and the International Covenant on Economic, Social and Cultural Rights set out what all people have the right

to, or to be free from. The Convention on the Rights of Persons with Disabilities 2006 (CRPD) clarifies the application of these rights to persons with disabilities. New Zealand ratified the convention on 26 September 2008, thereby assuming an obligation under international law to ensure and promote the full realisation of all the rights it contains (Article 4).

The CRPD states that people with disabilities include those "...who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others".

Article 27 of the CRPD, on work and employment, sets out that:

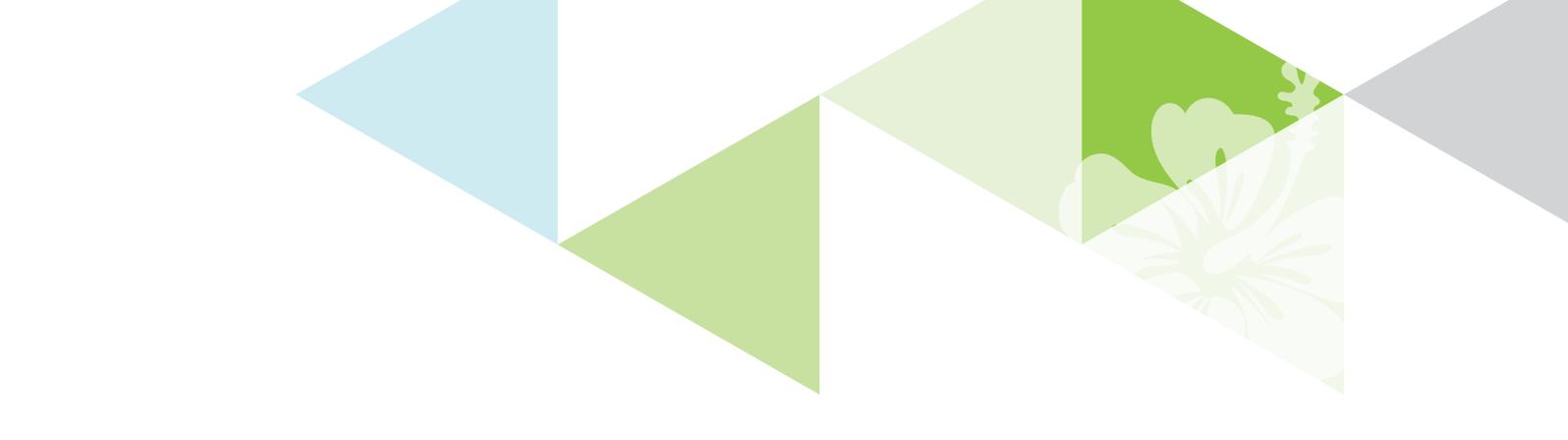
*1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work...*

In particular, this includes prohibiting discrimination in all matters relating to employment.

The CRPD is the first, and at present only, international human rights instrument to provide details on how it is to be implemented and monitored. Article 33(3) stipulates that people with disabilities and their representative organisations should participate fully in the monitoring process. Article 35 requires state parties to report to the United Nations committee set up under the convention.

New Zealand submitted its first report in March 2011 (Human Rights Commission, 2011). The report states that, in spite of people with disabilities in New Zealand having the same access to legal safeguards as other workers, and discrimination on the basis of disability being unlawful, there are a number of major challenges in practice. These include:

- disabled people wanting to work, but



employers' lack of knowledge and discrimination acting as barriers

- disabled people being less likely to seek work and, if seeking work, being less likely to be employed than non-disabled people
- disabled people tending to be employed in lower-paid work.

The report states that these challenges are being addressed by ensuring that mainstream employment services are accessible to disabled people, and through a continuing shift away from sheltered employment and towards employment in the general workforce for disabled people, with additional support provided where required. It states one of the primary goals of the government-funded Human Rights Commission is for all people in New Zealand to have equal employment opportunities and access to decent and productive work.

The convention's monitoring system allows civil society organisations to provide shadow reports, which feed into the monitoring process. In New Zealand, the Convention Coalition, a collaboration of disabled people's organisations, has produced two such reports (Convention Coalition 2010; 2012). The first of these was based on interviews with 98 disabled people. It reported that barriers to workforce participation for disabled people included:

- high rates of unemployment amongst disabled people
- low incomes, in combination with the higher living costs associated with disability
- the work environment
- lack of accommodations
- rigid workplace policies, such as having to work standardised 9am to 5pm daily hours, making employment untenable.

The Convention Coalition concluded that the experience of disabled people in the workforce offers a clear example of the impact of negative and disabling attitudes in New Zealand society, and that while the CRPD enshrines

non-disabling principles, legislative change by itself is not enough to make significant change to a disabling society. The report states that small changes to attitudes, and efforts to accommodate the needs of disabled people in the workplace, have the potential to produce economic and productivity benefits for the whole community. The need for government supports to improve access to work for disabled people was also recommended as a way to improve the situation of disabled people.

In the more recent 2012 report, [32] the Convention Coalition states:

*In summary, although anti-discrimination law is outlined in the Bill of Rights Act and Human Rights Act, there are no affirmative action policies for disabled people in employment, despite a higher than average number remaining unemployed. There are exemptions in law for employers, under the guise of reasonable accommodation, to be able to be exempted from employing disabled people and there are exemptions under the Minimum Wage Act to pay some disabled people on assessment less than the minimum wage. Under Welfare Reform, the Government is in the process of introducing an investment approach – providing more help to obtain employment for those who are most at risk of long-term benefit dependency. In the current economic climate, it is a concern as to how this will be achieved fairly and equally, if at all. (p. 40)*

More specifically, the 2012 report raises concerns about the introduction of the 90-day timeframe within which a person must raise a personal grievance and the impact this is having on people with disabilities.

Another way that New Zealand legislation and practices could potentially be assessed for compliance with the CRPD is by allowing affected people to have their complaint (that a particular provision is inconsistent with the convention) considered by the Committee on the Rights of Persons with Disabilities. However, New Zealand has not ratified the optional protocol to the CRPD, which gives the committee jurisdiction to consider such

complaints. The Convention Coalition (2012) recommended that, as a matter of grave urgency, the New Zealand Government should ratify the protocol. Until that happens, those affected have no formal recourse for addressing violations of New Zealand's international obligations under the CRPD.

## A DEMOGRAPHIC PROFILE OF THE CASE STUDY PARTICIPANTS

The 15 employees included eight females and seven males, five of whom were aged from 23 to 34 years, eight from 45 to 54 years, and one from 55 to 65 years. In terms of ethnicity, 13 people described themselves as New Zealand European, one as Samoan and one as Australian.

All 15 employees had a qualification of some type: four held an NZQA certificate, six a university undergraduate degree, diploma or certificate, and five a university postgraduate degree, diploma or certificate.

Five employees reported that they experienced a physical illness or disability, in addition to mental illness.

The majority of employees (n = 9) had experienced mental illness for over 20 years, with the others reporting ranges of 3 to 5 years (n = 2), 11 to 15 years (n = 2), and 16 to 20 years (n = 2). When asked how often they had been affected by their experience of mental illness during their lifetime, seven employees indicated 'some of the time', six 'most of the time', one 'all of the time', and one 'a little of the time'. When asked how often they had been affected by their experience of mental illness during the past year, eight employees indicated 'some of the time', two 'most of the time', three 'a little of the time', one 'all of the time', and one 'none of the time'.

The vast majority of employees (n = 13) were engaged with their general practitioner (GP) in relation to their mental health. Eight people also accessed services delivered by a non-government organisation mental health provider (n = 2), a district health board mental

health provider (n = 2), or a private mental health provider (n = 4). Two employees were supported only by district health board mental health services.

Participants had been employed in their current role for between three months and 10 years. The numbers of hours worked per week ranged from eight to 43, with the majority of employees (n = 10) working full-time. Twelve employees had a permanent employment agreement, two a fixed-term contract and one was self-employed. The salaries of employees ranged from under \$20,000 to over \$100,000, with the majority receiving in the \$20,000 to \$40,000 (n = 5), or \$40,000 to \$60,000 (n = 5) ranges. Twelve employees did not have any staff who reported to them. The other three had between 10 and 14 direct reports. The majority of employees (n = 10) had no budget responsibilities. The other five had responsibility for budgets ranging from \$30,000 to \$600,000.

## CASE STUDIES

In this section, we discuss and present extracts from the case studies conducted as part of the research.

The case studies have been grouped based on the sector that the participants worked within:

- private sector – Mikayla and Julie; Andrew and Frankie; Pat and Shazza; Herbert and Mary; Vanessa and Geoff; Dianne and Nina; and Andrew and Patrick
- public sector – Belinda and Eseta; Terrence and Glen; Phill and Helana; and Elizabeth and Grace
- non-government sector – Charlotte and John; Lisa and Cerise; and Karen and Caroline
- self-employed – Bill.

The names of the employees in each case are designated with an asterisk, for ease of reference.

## PRIVATE SECTOR ORGANISATIONS

The majority of cases (seven) involved private sector employment. The organisations ranged from small- and medium-sized owner-operated

businesses, through to one of New Zealand's largest supermarkets.

### MIKAYLA\* AND JULIE

Mikayla\* has been employed for one year by a small private electricity retailer as a software tester. She is based in a major city and has a permanent employment agreement to work 40 hours per week. Mikayla\*'s employer is Julie.

Mikayla\* saw the job advertised on TradeMe and made contact with Julie. They then met for a chat and Julie encouraged Mikayla\* to formally apply for the job. Having had periods of unemployment in the past, Mikayla\* knows that unemployment is not good for her. Working provides her with a sense of responsibility and a reason to get out of bed every day.

*...having no job is just, it's kind of like a big rat hole. – Mikayla\**

Mikayla\* disclosed her experience of mental illness a few months into her role, when she started experiencing some difficulties. Julie's response was the best she could have hoped for.

*Her attitude towards it was ... it was about kind of working out what was best for me to help me perform the best that I could and yeah just cope with things that I was struggling with rather than kind of being concerned about, oh are you going to be taking time off, you know. She just genuinely showed a concern for me as a person, and different to in the past when people focused on are you able to meet your deadlines? – Mikayla\**

Julie has a friend with mental illness, so feels she has good awareness of how mental illness affects people. At the time of Mikayla\*'s difficulties, Julie sought clarification from the company's human

resources team as to how to handle the situation legally, as opposed to morally – morally, she wanted to be fully supportive.

*The company response was that legally we didn't need to give her any leave, any sick leave, because she hadn't been there long enough to legally earn the sick leave. But that morally I could do what I wanted to do to support her basically. So the agreement which Mikayla\* and I then entered into together was that I would give her some paid sick leave and she could take unpaid sick leave. Bottom line she needed to do what she needed to do to stay happy and healthy and I would support her to do that. – Julie*

Now, whenever Mikayla\* needs time out, she just lets Julie know and that is organised, no questions asked. Julie advises that this type of arrangement is not particular to Mikayla\*; the organisation is very accommodating generally.

*So for example there's a lot of people here with children and the CEO is one of these people and he will lead by example in that if you've got something that you need to do at your school for your child you go and do it. But it's, you know, a very open environment in that way and I think supporting people with mental health issues is just part of that. Comes under the same umbrella. – Julie*

Julie doesn't ask any questions about disability or illness at the pre-employment stage.

*... in some ways I'm glad I didn't know beforehand. It wouldn't have changed my view of Mikayla\* I don't think. You never know until you're in the situation but I'm*

*pleased I didn't know. It didn't give me the opportunity to say; oh no I'll put her aside as a candidate. – Julie*

Mikayla\* doesn't sleep very well due to her illness and medication, and she feels that this affects her ability to fully concentrate at work. Julie feels that Mikayla\*'s experience affects her ability to feel good about what she does, more than her ability to do the job, so Julie makes a point of having regular catch-ups, an open-door policy and providing positive reinforcement and reassurance. Both Mikayla\* and Julie agree that the welcoming, open, friendly, healthy and supportive attitude and environment of the workplace is key to enabling positive and successful employment.

*...we're encouraged to have fun when we're at work and we're encouraged to take breaks if we're feeling like we've got a lot of work on and we've got flexible hours so we can kind of come in and leave when we want to as long as we're keeping on top of our work. Yeah there's not really a lot of kind of restrictions around working here. You know you can wear whatever you like. You're kind of left to manage your own workload, that kind of thing ... I think the major thing really is just the supportive attitude, like knowing that I can be open with Julie and some of my team mates and know that they're not*

*going to view me as some sick person or some ... or a burden or that kind of thing, which really helps. – Mikayla\**

Since her own disclosure, a couple of people in Mikayla\*'s team have spoken to her about their own experiences of mental illness.

For Mikayla\*, this employment experience "blows all the others out of the water", and has had a positive impact on her health.

*I think overall this job has, how do I say, it's made my [mental illness] in general a lot easier to cope with because I don't have those added pressures of having to turn up at a job every day and feel worried about what people are ... thinking, you know, negative perceptions that they might have of me because I know that people are just really accepting. – Mikayla\**

From Julie's perspective, Mikayla\* brings more to the workplace than just her actual job-related expertise.

*She's a very creative and a very kind, caring people person. And so she provides a real people care aspect too, within her team and also within the wider team that a lot of other people don't have. She's got real natural skill in that, so. Yeah she's been a huge asset in that way as well. – Julie*

## **ANDREW\* AND FRANKIE**

Andrew\* has been employed for 10 years by a supermarket in a variety of different roles. Currently, he is working in the bakery department. He is based in a major city and has a permanent employment agreement to work 43 hours per week. Andrew\*'s employer is Frankie.

Andrew\* is a qualified chef and has worked previously as a head chef for a number of restaurants and hotels. It was while he

was working in one of these roles that he became unwell and went into supported accommodation. He decided he needed a job in order to get out of the mental health system, so he applied at the local supermarket. Andrew\* didn't have a problem with being upfront about his experience of mental illness at the interview.

*I'm not ashamed of it ... I think it's quite an honour to be mentally impaired or whatever they call it. I call it a survivor. I call myself a survivor. – Andrew\**



Frankie appreciates this type of honesty. When an employee discloses experience of mental illness to her, she responds by discussing with them the worst thing that could happen if things weren't going well for them, the support they would require from her, and how she would know if they were getting to a point where their mental illness was becoming an issue for them.

Frankie has some insights into mental illness, as a result of personal experiences with her own family and from being an employer for over 30 years.

*I think that over the years that I have just understood that this does exist, it doesn't render a person incapable. But it does mean my personal modus operandi, if you like, is never to set somebody up to fail. - Frankie*

Andrew\* believes it is the culture of the organisation that supports his positive and successful employment.

*... in most places, you never see the manager. Where I'm working now, you see him. He comes onto the floor in the morning and walks around and he comes into the bakery and says hello and he shakes your hand and we have a bit of a laugh or a joke. You know, he's out there. He's one of the team ... and that goes for all the management, yeah senior management and management of departments as well. - Andrew\**

The upshot of this culture is what Andrew\* describes as a feeling of being part of a big multi-cultural family. This is more than just figurative - Andrew\*'s direct line manager accompanied him overseas to be his best man at his wedding.

Andrew\*'s experience of mental illness means that sometimes he can get a bit agitated, but he feels comfortable talking to both his direct line manager and his human resources manager about what is going on for him.

*So the supportive environment that Andrew\**

*is in, allows him to be able to disclose how he's feeling without any judgement and without any fear that his job is at risk. And if Andrew\* comes to see me I will say to him "Ok we've talked about all of this, now what do you want me to do with this information?" So it's empowering him to, to take it wherever he wants it to and that's a collaborative thing. - Frankie*

Andrew\* has also given his employer permission to put their hand up and say, "I think you need some time or I think you need to do something or get some help". His employer has also linked with his family from time to time. Flexible hours, time off for appointments and flexible sick leave are all available to Andrew\*.

Most recently, Andrew\* had a stint on night shift. However, he wasn't able to sleep during the day and consequently was starting to get unwell. He went to speak to Frankie about it and she transferred him back to day-shift, no problem.

Frankie says that Andrew\* is darn good at what he does.

*... he's a good skilled worker and they're hard to come by and you don't chuck them out because they have a couple of bad days. - Frankie*

But Andrew\* is more than just a good worker.

*... it is very grounding, humbling to be part of somebody's darkest days and know that they can come to you for support. It teaches you and reminds you of how fragile we all are. I think that we could all say that we have personally benefited from our connection with Andrew\* and the organisation has definitely benefited from the skills and, and the hard work that he does. - Frankie*

So why does she think some employers don't give people with experience of mental illness a go?

*Look I suspect that people have got this great big vision of mental illness that it's all loud, noisy, and unmanageable ... I suspect that they've never had any real dealings with it and, and they hold onto these misconceptions ... they probably [are] already [employing people with experience of mental illness] but they, their employees, haven't had the courage to tell them about it. That's part of it but you have to have an open mind and you have to consider what they can do instead of what they can't do and then decide whether it's a win-win situation because I'm sure there are those situations. And the loyalty that you get from*

*someone who is prepared, if an employer is prepared to go that extra mile for an employee, that is of benefit to the business. - Frankie*

Andrew\* believes that work is good for people and that many others would welcome the opportunity to thrive through employment.

*... once you get work you feel better about yourself. If you gave more people the opportunity to do these things they'd prove themselves. - Andrew\**

## **PAT\* AND SHAZZA**

Pat\* has been employed for 10 years by a private IT company, as a lead IT consultant and director. He is based in a major city and has a permanent employment agreement to work 40 hours per week. Pat\*'s employer is Shazza.

For Pat\*, the work world has involved some incredible highs and some equally devastating lows. His current positive and successful employment is partly a result of him understanding a lot more about his mental illness.

*For a very large part of my life that wasn't true ... I didn't understand myself and I didn't understand how to manage myself. I really enjoyed and took huge advantage of the highs, mostly for positive gain, and that is very exciting. Being able to be brighter, sharper, faster and work longer than anybody else around you is very exciting. That is an exciting place but it is not particularly sustainable. - Pat\**

Shazza advises that Pat\*'s self-awareness of his mental illness, and his ability to communicate honestly and openly about what that means for him and his work, results in it not being a big issue for the organisation.

One aspect of work that Pat\* has learnt to completely avoid is managing other people.

*Over my life I have had jobs where I actually had to manage quite a lot of people, over 100 in some cases. Particularly in the wrong part of my bipolar cycle I make very bad judgement calls. If you make bad judgement calls with people they have much wider implications, than if you make bad judgement calls ... buying something or selling something. So I learned the hard way that, in the wrong part of my cycle, I could really upset people. I could make very silly decisions, right up to and including firing people, which leads you into all sorts of trouble if you don't do it properly. - Pat\**

It was getting himself "into the usual trouble with managing people" that led to Pat\* being assigned, by his previous employer, to consult with the company that he is now employed by. He has a strong suspicion that they knew about his experience of mental illness before they employed him.

*Not in the sense of "this person has a disorder" but this person is a bit of an asset and a liability, so requires some management. - Pat\**

When Pat\* did subsequently disclose his experience of mental illness, Shazza felt able to understand more fully and to offer support if required.

*It didn't change anything, it just meant we could be [a] better, ... a better employer to him. - Shazza*

Pat\* considers his employer's understanding and accommodations to be the other essential ingredient in his positive and successful employment.

*They have done a lot of things to make an environment where I can be successful and the biggest one clearly was, allowing me not to have to manage other people, actually allocating another director to manage the people that I work with who you could kind of argue work for me, but I don't have to manage them. That is not a very common organisational model. Generally if you're responsible for a fairly large budget you are also responsible for the people. - Pat\**

One of the other things Pat\* has learnt is to be vigilant about monitoring what and how he is communicating; this too, is supported by his employer.

*I do a variety of things. I pretty carefully consider, before I commit an opinion, especially a complex and possibly slightly, challenging opinion. I have learned to read it several times and preferably sleep on it. I generally now seek, second or even third opinions from my own workmates, my peers. If I am really unsure I tend to run it past one of the other directors, so it makes me a little slower and a little more conservative, and it is not quite as exciting but it is pretty safe and it means that I am ok. - Pat\**

*And if there is difficulties then we talk about them, sometimes he might get into a bit of a rant on an email to a customer and he recognises that and we actually review those emails now to see if he is actually stepping over the mark. So it is quite an open arrangement, 90% of the time we don't even*

*have to worry, probably 95%, but there is just that odd occasion, and he knows himself. - Shazza.*

If Pat\* is having a bad day and knows his judgement is off, or that he is particularly anxious, he can just go home. Shazza advises that these types of arrangements are not particular to Pat\*.

*We keep an eye on all our employees to make sure they are OK and they are not stressed ... [we] allow all our employees to have flexible working arrangements and we are mobile so we can actually have someone work from home if they are feeling a bit off colour, no matter what, they can actually work from home. - Shazza*

Pat\* and Shazza both talk extremely positively about their employment relationship.

*They are just, aware and supportive. They have made an environment where I can be really successful and not get trapped into taking expensive risks. I am left to do my own thing, and encouraged and supported and rewarded and, given all sorts of leadership opportunities, thought leadership in particular. - Pat\**

*He communicates well; he is a really hard worker. He is very intelligent; he is a top quality architect; he is very well respected in the industry. He is a model type employee. Hopefully he will retire here. - Shazza*

Pat\* believes the What Works project is particularly important.

*Over the years I have taught myself and learned by trial and error the things that work for me and those that don't work. It has been a painful process and I am still learning. I don't believe that one person can work this out for themselves in a single lifetime so ways to share knowledge and experiences with peers would be very helpful and possibly avoid business and relationship catastrophes or even suicides. - Pat\**

## HERBERT\* AND MARY

Herbert\* has been employed for three months by a private bread bakery as a cleaner. He is based in a major city and has a permanent employment agreement to work 30 hours per week. Herbert\*'s employer is Mary.

Before this, Herbert\* had been unemployed for eight years, despite actively seeking work for some time. He eventually accessed support to personally visit and drop his CV in at businesses in his local area. His perseverance was rewarded when Mary took him on, initially on a trial basis.

Mary has employed people with mental illness in the past, considering it a way that the business is able to help other people and give back to the community. What she has come to appreciate is that, while it may involve a bit more time and effort in providing support initially, it is generally well worth it. Her experience with Herbert\* has only served to reinforce this view.

After eight years of unemployment, it took Herbert a couple of weeks to 'acclimatise' to working 30 hours per week.

*It took me just a while, I kept my eyes to the horizon, kept going in, in other words made myself get to work on time and set alarms and basically just, just showed up to work every day, made sure I did ... it's meant a bit of a change but I welcome it with open arms because that's what I was hoping to do for all those eight years that I wasn't employed. - Herbert\**

Herbert\* describes his biggest challenge in starting at the bakery.

*I had difficulty believing I was coming across as a normal person for a while but after a while, it just didn't worry me, the people seemed so nice, they just accepted me and got on with their job and I got on with mine, it made it easier to get on with mine. - Herbert\**

Mary relays what she observed.

*... he used to hang around the gate when he first started because I think he was, you know - shall I go through the gate, am I going to get through there ... we have about 80 people employed so he's got to face everybody, and then suddenly I saw him bowling in the front door, ... shoulders back and just going and getting his apron, getting his hat, getting himself dressed, clocking in and just going out and doing his job. - Mary*

Just three months in, Herbert\* was picking up some additional hours to cover another staff member's leave.

In terms of the impact of his mental illness, Herbert\* finds it most irritating when his thoughts distract him from the task at hand. However, he has devised a strategy to manage that.

*I have been able to refocus by putting a rubber band around my wrist and flicking it whenever I have those thoughts so that I can come back to ... what I was doing. - Herbert\**

Herbert\* claims that working has given him a new lease on life. He particularly values it for the social interaction it provides and the feeling of being part of something.

*What I most like is that the people there are all, all different but they're all united under one roof and have to get along with each other and it's interesting to see our interactions between one another and it's just exciting to be a part of it. - Herbert\**

Mary says one of the major ways she supports Herbert\* is by providing constant positive reinforcement. It seems that Herbert\* is now starting to believe in himself.

*I've just found a refinement in myself that I didn't know existed, that I could get along with others and have a positive attitude to*



*sometimes tough work, and people, but now I know that I can handle things. – Herbert\**

Herbert\* concludes with some advice to others like him.

*... the stigma and discrimination out there*

*that everyone fears, you don't have to fear it so much, there's employers who completely understand that, maybe not completely, but they understand that everyone needs a chance. – Herbert\**

### **VANESSA\* AND GEOFF**

Vanessa\* has been employed for one year by a regional (daily and community) newspaper as a journalist. She is based in a town and has a permanent employment agreement to work 40 hours per week. Vanessa\*'s employer is Geoff.

When she was close to completing her journalism training, Vanessa\* responded to an advertisement, was interviewed and offered the job by Geoff. Vanessa\* had wanted to be journalist for a long time. This job has already supported her development, both personally and practically.

*... it's certainly provided me with a lot more confidence when it comes to people, it's provided me with a huge opportunity to get my restricted licence which I've been putting off for a long time ... so actually finally learnt to drive, I get to drive a car, it provides me with some great contacts, some of which have turned out to be friendships. – Vanessa\**

A couple of months into the job, Vanessa\* disclosed her experience of mental illness to Geoff after becoming distressed at work. As a result of experience with his family and other employees, Geoff was neither surprised, nor fazed.

*I suppose I was possibly even indifferent to it ... it didn't really sort of worry me 'cause a lot of people have varying degrees of mental illness, I have [other employees with experience of various disorders] ... that is actually just very typical of a news room and a journalist environment ... it's not like*

*we have a bunch of stray people and then all of a sudden, someone comes in with mental health issues, everyone in the news room, dare I say the word, perhaps is a little bit crazy at one time or another ... I mean I've worked all over the world and my basic view is that all employees have their issues ... they've all got a thing or several things which makes them a little bit stuffed up sometimes... but generally speaking, they still get out of bed in the morning and they still turn up to work and they do what I require them to do. – Geoff*

Vanessa\* describes Geoff's response from her perspective.

*... he reassured me I was not the first person to [experience distress] in the office ... he certainly didn't see me as being a problem or a liability or anything like that, he just felt bad for me [more] than anything else. – Vanessa\**

Vanessa\* contrasts this with previous employment (including with the government) where she was made to feel more like a commodity than a person and would not have been comfortable disclosing her experience. Micro-management was also an issue for Vanessa\* in previous employment, particularly given that her experience of mental illness significantly affects her self-confidence. The very public nature of journalism is something that Vanessa\* consequently struggles with.

*... putting your work out there with your name attached to it and when you're a*

journalist, your mistakes are spectacularly public and if you've had an error in a story which I have had several times, it's there for all the world to see ... being kind of in a public fishbowl like that can actually be quite scary. – Vanessa\*

While acknowledging that Vanessa\* is relatively new to the job and still developing as a reporter, Geoff describes her as a gifted writer. He believes the main support he provides to enable Vanessa\*'s positive and successful employment is regular reassurance and positive feedback, although this is not peculiar to her.

... when praise is deserved, she gets it ... I come back to her when the paper is published and I say this ... particular work here was well done ... making sure that if there's good feedback coming back my way with regards to a story that she's written, that that feedback is passed on to her ... especially in news rooms, praise is very important ... it's my job to give that out and that is what I do with all [the staff]. – Geoff

Vanessa\* reports that the "praise part of it is really really helpful" to her. Vanessa\* has also been able to have time-off to attend doctors and counsellors appointments.

Geoff advises that the community paper is very strong in its content and highly regarded, which is largely due to Vanessa\*. He concludes:

I'm tempted to say steer clear from people with mental illness but the fact of the matter is that that would be ridiculous ... every so often I guess it [mental illness] will impinge on what they're doing, that's inevitable ... but every other employee in my news room every so often has something which is going to impinge on what they're doing ... you know be it, their dog's died, their wife's ill or they're ill or their kid, their kid's fallen over in the playground and they've got to race out and pick their kid up, you know everyone's got something and it's going [to] impinge on what they're doing, every so often, so it's just part of regular life really. In many respects those with mental illness, [they have] strategies, they have plans, they have medication, they're experienced, they know what they're doing, and as far as I'm concerned, they can ... manage it their own way ... so I would say ... to any potential employer, don't worry about it, you're not going to get any more grief from them as you are from any other random employee. – Geoff

## **DIANNE\* AND NINA**

Dianne\* has been employed for two-and-a-half years by a pharmacy as a pharmacy assistant. She is based in a regional city and has a permanent employment agreement to work 25 hours per week. Dianne\*'s employer is Nina.

Dianne\* has been working in pharmacies since leaving school. She thoroughly enjoys her work and it provides for her on a number of levels.

*You know it's everything. It's what keeps, you know keeps you focussed, it keeps life*

*going, it's my income. It's my time with other, you know with adults, intelligent conversation. – Dianne\**

She was employed by Nina after dropping her CV into the pharmacy, in response to an advertised position. She did not disclose her experience of mental illness. In fact, as a result of previous negative reactions, she took her scripts for psychotropic medications to be filled at a different pharmacy, in order to keep her experience private.



*... it felt at my last work having a mental illness I lost a lot of credibility. I had a lot of responsibilities taken off me which didn't need to be taken off me ... I didn't want them knowing I had anything wrong with me. I didn't want to lose credibility because of it. - Dianne\**

After she had been in the position for 18 months, Dianne\* arrived at work one day very distressed. Within an hour, Nina had arranged for Dianne\* to see Nina's own psychologist. Dianne\* believes that Nina's own experience was her saving grace.

*I've been through an episode ... and it bothers me that I was never able to just have that down time to mentally recover ... I hate the whole thing of faking it 'til you make it ... I just wanted to try and help her avoid that if I possibly could really. - Nina*

Despite needing to have one month off work, which required extra work on the part of Nina to cover, Nina provided Dianne\* with the reassurance to take the time she needed.

*... the first time Nina came to see me after it happened, I'd been home a week ... hovelled in my dressing gown, rocking on the couch type style. She said "Dianne\* it could take six days, six weeks or six months. However long it takes, you've got your job". - Dianne\**

Dianne\* firmly believes that the resultant sense of relief was critical to her speedy recovery.

*And that [a previous] episode lasted probably about nine months. It was awful, absolutely awful. And this would have been eight weeks, start to finish. I think it was just not having that pressure ... as soon as I heard that, that was, even though of course I didn't [have] six months off, the pressure was completely lifted. - Dianne\**

Despite only having four days of sick leave available, Dianne\* was paid for three weeks of the month she had off.

*Until I just couldn't handle the guilt anymore and the reason they didn't pay me for the last week is 'cos I rang Nina crying just 'cos I felt so guilty that she was paying me and I wasn't there and it was more pressure and so she realised that oh my gosh, she was trying to help me by taking off financial pressure, and then you threw in another pressure of guilt ... So yeah, she was trying to do the right thing the whole way through. - Dianne\**

Dianne\* returned to work progressively, starting with coming and going as she needed to, and doing only as much as she felt capable of. It was realising the extra burden that she was putting on Nina that prompted her to find a way of expediting her return in a full and permanent capacity.

*I was looking through all the filing and it was the, the rushed scribbles of Nina entering one of my invoices. It really made me think, oh my goodness, you know she's got her own stuff, her own family and they're rushing all my work through and it just made me feel really, really bad and that's when I talked to my doctor about starting work on a [medication] rather than waiting. And I did that for one day and that was my plan every day. And I never did it again. I did it for one day and, and that was it, I went back to work like normal. And I still carry [the medication] to this day around in my handbag in case I need them, which I never do. - Dianne\**

Being able to now talk to Nina openly and honestly is something that Dianne\* values. Nina believes that openness is critical in enabling her to provide support.

*I believe we try to accommodate everybody as best we can ... if they're not as forthcoming I obviously can't help them. I guess thankfully Dianne\* has been very forthcoming and completely open about what she's been going through ... so it actually made it quite easy for us to help her. - Nina*

In contrast to her previous employment, Dianne\* has not lost any credibility as a result of her employer becoming aware of her mental illness.

*Nina has seen how much stronger this has made me and she's piling more and more and more work on which I thrive on. So there was huge contrasting difference. - Dianne\**

Nina reports that she gets a lot of positive feedback about Dianne\* through their customer satisfaction surveys. She believes

supporting Dianne\* through her time of being unwell has encouraged some positive self-reflection of her own.

*It sort of made me revisit my experience and what I'd been through and how much progress I'd made and just reaffirm, I'm in a good place in my life. When I get stressed, right [what] am I going to do about managing it. So actually even though it didn't happen to me, the fact that we were able to help her, helped me. - Nina*

## **ANDREW\* AND PATRICK**

Andrew\* has been employed for six months by a private surveying organisation as a planning consultant. He is based in a major city and has a permanent employment agreement to work 40 hours per week. Andrew\*'s employer is Patrick.

Andrew\* applied for the job in response to an advertisement, was interviewed and offered the job. At the time, he already knew, and was known to, the organisation from his previous role with the city council. Just a few weeks into the job, he was really struggling and it was impacting on his ability to work.

*I was visiting the doctor frequently and the psychologist, I was not really coping very well in life or work at all. - Andrew\**

Patrick describes the situation from his perspective.

*... little bit of bizarre activity at work and him needing a lot of time off ... it was right at the very outset of his employment [so was] a bit of a cause for concern. - Patrick*

Andrew\* relied heavily on friends and family to support him during this time, and the advice he got from them and the professionals was that he couldn't keep

his experience of mental illness from his employers. Therefore, both Andrew\* and his sister spoke with Patrick and the other directors of the company about what was going on for him. Andrew\* describes their response as very supportive, understanding and empathetic, both initially and throughout.

*I've had quite a few chats with him about his situation ... to sort of try and understand it and work out what's going on ... I've tried to deal with it as a friend as much as anything. - Patrick*

Despite still being in the trial period, the support provided included paid sick leave. It also included being allowed and encouraged to continue working, even while he wasn't feeling 100 per cent.

*I've sort of even encouraged him to, when not at work to, get back to work and focus on something that is positive and forward, in direction ... if he came to work and started concentrating on things that were important and new and you know positive, he would go on the upward spiral. - Patrick*

*... there were other times I think where I was encouraged to kind of plug away and just, you know, be as productive as I*



*could, with an understanding that I wasn't necessarily a hundred per cent productive ... they perhaps were aware that [there] might be situations where I was sitting at work being unproductive, but better for me to sit at work being unproductive than at home being unproductive. It's kinda like when you're in the army, being put on light duties.*  
- Andrew\*

Andrew\* describes how the organisation is supportive more generally.

*Very fair and reasonable in terms of being flexible for working hours around family and kids' engagements. They're supportive of individuals having autonomy or being self-managing, providing the work gets done ... work needs to be done but with realistic expectations around how and when it is done.* - Andrew\*

Andrew\* feels very appreciative and lucky to have received this support from his employer and there is an obvious loyalty and deep commitment to the organisation as a result.

*I try to give back to my employer by working extra hours on the weekend for no expected return ... so try to work as conscientiously as I can to assist with boosting and maximising the company results, so I guess*

*that's all about working for a company as if it's your own and, it does often feel like that.*  
- Andrew\*

In hindsight, Andrew\* believes that he has been struggling, to some degree, for at least the past two to three years, and that this would have had an impact on his work productivity for some time.

*... if certain things had not happened, possibly I would be still be struggling and would not necessarily have recognised that I was suffering from an illness and needed to be helped.* - Andrew\*

That recognition and resultant help has meant that Andrew\* is better than he has been for years and consequently he is now:

*... so much more focused, so much more able to work productively and efficiently and effectively.* - Andrew\*

He concludes:

*So in a workplace, it's important that people get that and have that feeling of support and understanding so that they can end up getting better and give back to the employer and hopefully in the long-term, the employer will benefit.* - Andrew\*

## PUBLIC SECTOR ORGANISATIONS

While some employees reported negatively about previous employment experiences with public sector organisations in general, and government departments specifically (see the cases of Vanessa\* and Geoff; Terrence\* and Glen; and Karen\* and Caroline), the next

four cases involve public sector organisations that are benefiting in a myriad of different ways from employing people with experience of mental illness. At times, this is in spite of policies, practices and cultures that work against more widespread employment of such people.

### BELINDA\* AND ESETA

Belinda\* has been employed for four years by a small government organisation as a decision support coordinator. This role involves her supporting five district health boards and 80 non-government organisations to collect, report on and respond to accurate data on their service activities and outcomes. She is based in a regional city and has a permanent employment agreement to work 40 hours per week. Belinda\*'s employer is Eseta.

On its job application form, the district health board has two questions – one pertaining to mental illness and one pertaining to physical disability. The questions are posed quite differently. In relation to mental illness, the question asks if mental illness is something that has jeopardised your work in the past; in relation to physical disability, the question asks if physical disability is something you will need assistance with.

Eseta has made an active decision to recruit and appoint people with lived experience of mental illness, as she believes they are more likely to understand the journey of the people that the services are supporting.

Eseta had worked with Belinda\* in the past and encouraged her to apply when this role came up. In the previous job, Belinda\* had disclosed to Eseta at the interview.

Belinda\* was on a benefit for a number of years. For her, working means she has to get out of bed and be somewhere each day. It provides stability, both mentally and

financially. She also values being able to give back and influence change in services that she has previously been a client of. Ironically, the office she currently occupies was previously her hospital bedroom.

Belinda\* has had periods, due to her illness, where her concentration hasn't been great and she has needed to take time off for appointments. She continued to work through those times, because she feels that work helps keep her "kind of sane", but she felt her productivity wasn't up to her normal standards. Eseta, however, doesn't think Belinda\*'s mental illness has impacted on her employment, except in a positive way.

*Like with any high-performing team, you have to make allowances for people's physical and mental health. Everybody has times for whatever reason where they need to take some time out. – Eseta*

Support available to Belinda\* includes flexible hours, time off for appointments, time in-lieu, and the option of working from home. These options are available to all members of the team, and are not formalised or spoken about as special arrangements.

One of the reasons Eseta doesn't formalise such arrangements, is because it would draw them to the attention of line managers and the human resources team who, in her experience, can discriminate against people with experience of mental illness. Eseta believes there is a misconception that people with experience of mental illness are going to take phenomenal numbers of days off

sick. This suggests that may not necessarily be organisational acceptance for Eseta's approach, and that the support Belinda receives is largely due to the receptiveness of her immediate line manager.

For Belinda\*, it is not the "practical" supports she considers most valuable, but more the reciprocal, open, honest and supportive relationship that she has with Eseta and between the team in general.

*We share quite a lot of information in our team, it's like a little family and you know, all of us have problems at some time and the rest of us pull around and support whatever that problem. - Belinda\**

The trust between Eseta and Belinda\* and the team is absolutely pivotal to their working relationship.

*... Not second guessing what Belinda\*'s doing, entrusting that she'll get everything done that she's supposed to get done ... to work with people with mental health disorders, you have to let some of that control go. - Eseta*

Eseta believes one of the key things that makes Belinda\*'s employment positive and successful is her insight, and this, together with the high degree of trust between, them has seen Belinda\* share her relapse prevention plan with Eseta.

*Other people that have disorders, ... they just don't have any insight and I think that*

*that's the biggest thing as an employer is having somebody with insight that's able to advocate for their own health and wellbeing ... when Belinda\* shared that [relapse prevention plan] with us, that was the best thing that she could've done for me as an employer so that when I saw some of the early warning signs where she might not have picked them, it gave me an opportunity to then sit down and have a chat with her. - Eseta*

With this insight, when Belinda\* advises Eseta that she is not coping, Eseta's response is to say: "What's going to help you?..." then it's up to me to make sure that whatever Belinda\* needs to stay at work, then I do it".

Belinda\* agrees that awareness of her early warning signs and responding to those is important. She also has a strong work ethic, so even when she is unwell, she tries to push herself and to keep her personal stuff out of the workplace. At times, she has pushed herself harder, because of the feeling that she needs to prove herself a little bit more.

Eseta found it difficult to choose, as there were so many positive adjectives that she could use to describe Belinda\*: conscientious, reliable, wonderful listener, great at engaging with people, respected, influential.

*We would not have achieved as much as a service if we didn't support Belinda\* to do what she needed to do. - Eseta*

## TERRENCE\* AND GLEN

Terrence\* has been employed for one year by a school as an associate principal. He is based in a regional city and has a permanent employment agreement to work 40 hours per week. Terrence\*'s employer is Glen.

Terrence\* was employed through an open employment process, which culminated in four people being interviewed. He was

considered to be head and shoulders above the other applicants, having a range of qualifications and experience that were needed in the school. Interestingly, those qualifications and experience have resulted from Terrence\* having 20 jobs in 30 years, something that he doesn't reflect on favourably.

*Now some of those have been promotion up through the teaching staff but almost in every case I've jumped ship out of somewhere because it's got too hard [to manage myself and my work]. – Terrence\**

At the interview, Terrence\* disclosed his experience of mental illness and the fact that sometimes it would affect his ability to work.

*I think I put across those messages very genuinely that I, you know, could work to a very high standard but I wasn't claiming that, that was going to happen all the time. – Terrence\**

Glen describes how they responded to Terrence\*'s disclosure.

*We didn't see that as a problem because he indicated how he might go about being able to make it work if we took him on with that disability ... It also gave us a neat insight into him as a person. – Glen.*

Glen considers non-disclosure would constitute a serious employment issue.

In terms of making it work, Terrence\* already had a job coach in place and funded. Terrence\*'s experience of mental illness primarily affects his organisational abilities, and this is specifically what the job coach is engaged to support with.

*So I'm turning up each day more than ever I've done in my whole career being able to understand what I did yesterday, what I need to do today and what I might do tomorrow. – Terrence\**

Having been upfront from the outset, Terrence\* has found that it has been quite easy to talk about his experience with Glen and his other colleagues ever since. In response, he has had a number of colleagues disclose their own experiences to him. The key things Terrence\* now does to make his employment positive and successful include being upfront about the things he has difficulty with, being able to recognise when

things are becoming a problem, and knowing what to do in response. He also values having the school holiday down-time.

Flexible hours, being released on pay to attend appointments, and time off when necessary are all available to Terrence\* and supported by Glen's open-door policy.

*I can be completely honest about the fact that I'm [unwell] and you know just need some space or the time off or something. I can work any hours or times I want. Because this job is so good and it's such a good match I haven't needed any of those things but I recognise they're all available. You know I can literally wander down to Glen now and go look I'm sorry I just won't be here for the rest of the week and that will be fine. – Terrence\**

Glen advises that these types of arrangement are not particular to Terrence\*; the organisation is very accommodating in general.

*Like if he needs to go away for family occasions or if a crisis comes up as they do, again we've got that flexibility within our school to encourage staff to go and focus on family. Because they're no good to you if they're trying to do their job and they shouldn't be here. Yeah and that's not just Terrence\*, that's right across our fifty-five staff. – Glen*

One of the things that both Terrence\* and Glen rate very highly is the relationship between the members of their three person team and the attitudes of the staff in general.

*We have this wonderful rapport amongst the three of us to make sure we look after each other ... if they had concerns about me they would let me know so we've got this real sort of honest, supportive understanding. – Glen*

*... this place is full of a wonderful collection of people and they're respected for being people focussed so therefore if you're a*

*person you're accepted. - Terrence\**

In terms of his previous employment experiences, Terrence\* is particularly critical of his time with a government department. More specifically, he felt that attitudes and bureaucracy obstructed his employers from responding to his difficulties in a supportive manner.

Terrence\* has always felt that his job defines him, providing a place for him to go Monday to Friday. With his present role, he also feels like he has found a place where he belongs and can make a significant contribution.

*In pre-school education they value these things called the Te Whariki strands and I've always thought that when I find a workplace where [they value those] things like, belonging, contributing, participating*

*and exploring ... I'm in a good place and I can then be the best person I can be. - Terrence\**

Glen believes Terrence\* has brought a refreshing change to their whole management structure and raised the professional proficiency of what they do as a school. Glen also values how employing Terrence\* has contributed to their learning, understanding and insight into mental illness.

*And the real world is that there are a vast number of people with mental illnesses but the world goes round, life goes on and you've got to accommodate them and some of them are brilliant. I mean Terrence\* is one of those finds that, that we're extremely happy with. - Glen*

## **PHILL\* AND HELANA**

Phill\* disengaged from the police force on psychological grounds in 1995, after being employed for 11 years as a sworn officer. Over the next six years, he concentrated on regaining his mental wellness, completing a degree in criminology and philosophy, and establishing his own sailing-focused training consultancy.

In 2001, a former police colleague suggested that Phill\* should apply for a position of training manager with the police. After gaining the necessary medical and psychological clearances, Phill\* applied, and was shortlisted, interviewed and offered the position. His second career with the police has now spanned 13 years and he is currently head of school for leadership, management and command. He is based in a major city and has a permanent employment agreement to work 40 hours per week. Phill\* was re-employed by Helana.

Largely as a result of his own experience, Phill\* has sought to increase awareness

of mental illness within the police and to support individuals who are experiencing mental distress.

*I was involved in the New Zealand Police disability network and that was the main avenue where I provided input around research and resources to the organisation around mental illness ... the realisation that in police there are many serving members suffering mental illness ... I think we are far safer organisation where people can put their hand up and seek counselling, therapy, medication, whatever's going to work for them ... rather than feel that you know, they have to tough it out, and not seek help ... I'm a trained coach and I carry a portfolio of the people I coach and some of those have experience of mental illness. - Phill\**

Helana describes the benefits for the organisation.

*... he would become really involved in areas of passion for him and you know some*

*definitely non-traditional things like around ... mental health issues ... I saw that as something he did 'cause it was using what he could bring ... using his journey to pave the way for future people ... that's one of the key benefits that's come from him 'cause he didn't mind kind of talking about that stuff which a lot of blokes who are stereotypical former cops wouldn't have felt comfortable with, so as a result he was used as a confidant. - Helana*

This work expanded into Phill\* promoting diversity and inclusivity throughout the organisation.

*I think from my own experience what works is high integrity leadership that embraces not just diversity but inclusion ... with diversity it is having a diverse mix in your workforce but unless people can actually feel that they can be who they are in the organisation, that they are respected for who they are and that they have a voice I think you only get minimal benefits from an inclusive workplace. The business case is clear around the benefits of diversity in any workplace ... Within a policing jurisdiction it's one of the single biggest obstacles to systemic corruption ... Diversity of thought ... that comes through having people in the organisation that have some form of inherent diversity whether that is gender, sexual orientation identity, religion, faith ... mental illness. - Phill\**

It is this aspect of Phill\*'s work that provides him with a real sense of vocation and satisfaction.

*... it's about sitting in my retirement in my lazy boy watching a succession of really effective police managers and leaders on the news and thinking I've actually*

*had something to do with not only their success in their careers but, the shaping of the culture within the organisation. - Phill\**

Helana identifies that Phill\* is very good at self-managing his workload and pressures, within a relatively autonomous role with flexible working conditions (e.g. flexitime and the ability to work from home if necessary).

Since being back with the police, there have been a few occasions where Phill\* has needed time off due to his experience of mental illness. He felt well supported by Helana during those times.

*I felt comfortable sharing stuff with her and being totally open with her. She was really supportive by maintaining contact, checking in with me you know about how I was feeling, how things were going ... I knew she had my back and I knew she supported me, I knew she valued my input on the management team. There was no questioning my ability, upon my return to work, to do my job. - Phill\**

Phill\* feels that the critical factor that supports positive and successful employment for people with experience of mental illness is the individuals that they are working for and reporting to.

*They get the best out of people, they look for the best in people, they enable others, they encourage others, they normally have very high standards of integrity ... I'm very clear about the fact that I choose who I will work for ... I have a no idiots rule when it comes to managers I report to so if I end up working for an idiot I'll move, I'll go and do something else. - Phill\**

## ELIZABETH\* AND GRACE

Elizabeth\* has been employed for three-and-a-half years as a research assistant by a university. She is based in a major city. From October 2010 through to February 2013, Elizabeth\* had a permanent employment agreement to work 37.5 hours per week. In March 2013, she started studying. Since then, she has had a fixed-term contract to work variable hours each week (however many she is able to fit in around her study). Elizabeth\*'s employer is Grace.

Working provides Elizabeth\* with a social network, a break from her study, and something else to focus on and achieve.

Elizabeth\* disclosed her experience of mental illness when she needed to take time off work in order to attend a support group.

*I got an opportunity to go to a support group that was during work time ... I don't have a car as well [so] it would take quite a big chunk out of my day and that was the day that we usually had meetings on that time and so I had to, you know ... I sent an email just asking if I could have that time off and didn't specifically say why ... [Grace] didn't get back to me for ages and I had to confirm if I was going to go to this group or not because it was starting. And then I kind of awkwardly went up to her office and just said, can you just tell me because I need to know and this is why, and didn't really mean to but it wasn't really, she kind of said, oh yeah that is fine ... and don't worry, you can take my car if you want. - Elizabeth\**

Grace explains:

*We all have our issues and we all hope that people will be sympathetic and supportive to us when we have them so you know, do unto others and all that. - Grace*

Although initially it may have been inadvertent, disclosure has meant that

Elizabeth\* has since been able to be honest with Grace and other colleagues about what is going on for her. This makes her work-life easier, both practically and morally (e.g. not feeling like she is being dishonest).

Following on from the support group, Elizabeth\* then negotiated to attend a counselling session once a week. Grace got advice from human resources as to how the time off should be managed, particularly given that it was to be a regular weekly appointment, and Elizabeth\* was then given the option of taking it as sick leave. Elizabeth\* chose not to take it as sick leave, organised the appointment to be on a day and time that caused the least disruption to her work, and always made up the time. Grace appreciates the responsibility Elizabeth\* takes for her own wellbeing problems, and identifies that this is a point of difference between her and some of the other staff.

More recently, Elizabeth\* has taken two months unpaid leave in order to engage in intensive treatment. It was important to her that she stayed connected to the workplace during that time, and she did this through regular contact with Grace and other colleagues, and checking her emails remotely.

Other than requiring time-off, Elizabeth\*'s mental illness has meant that, at times, she finds it difficult to concentrate and doesn't get as much work done as she normally would. However, as most of the time her workload is self-managed, this isn't a big issue from Grace's perspective.

Generally Grace finds Elizabeth\* to be very efficient and conscientious, with an exceptional work ethic. She takes constructive criticism well, and has really matured and improved since she has been working for Grace.

Elizabeth\* appreciates the flexibility and accommodations that Grace has provided to support her to be well. Grace suggests that if Elizabeth\* didn't do such a good job, she might not be so accommodating.

In her previous employment, Elizabeth\* experienced a lack of respect and flexibility, which meant she wasn't able to attend counselling at all.

*The message that came through [from previous employer] was that they wanted me to take better care of myself so that they didn't have to worry about me being unwell on the job, not that they were concerned actually about my experience ... Yeah my other job you weren't allowed to go to the*

*toilet outside of like your ten minute break or anything. I can go to the toilet 50 times a day if I want to in this job, you know. - Elizabeth\**

Grace concludes:

*If somebody rang me and said you know, Elizabeth\* has told us she has mental health issues, what do you think, I would say, you know apart from possibly at some stage she might need some time off, everything else I wouldn't worry about it. I mean I didn't know about it when I employed her but it wouldn't have made any difference to me. I mean I kept extending her contract, I didn't need to do that, you know she is an excellent employee. - Grace*

## NON-GOVERNMENT ORGANISATIONS

The next three cases involve individuals who are employed by non-government organisations to provide or manage services to support other people who are experiencing distress, including mental illness.

It is notable that all of the non-government organisations that employees worked within were in the mental health sector. Often, it

was these employees' own experiences that led them to pursue such roles, and those experiences are regarded as being of real value in the work that they do. It means, however, that these employees' experiences are not necessarily reflective of employees' experiences in non-government organisations in other sectors.

### CHARLOTTE\* AND JOHN

Charlotte\* has been employed for the past year as a counsellor with a small non-government community social services agency. She is based in a major city and has a fixed-term employment agreement to work 27 hours per week. Charlotte\*'s employer is John.

Despite being only 34, Charlotte\* describes counselling as her fourth career and one that is a dream fulfilled.

*I don't need to be this hundred per cent angel of a human being in order to help others. - Charlotte\**

In response to an advertisement, Charlotte\* rang to inquire further about the job. She was advised that the organisation was looking for a counsellor who was fully registered, older and had experience in working with family violence. Charlotte\* was none of those things, but decided to apply anyway. John explains how she then came to be employed.

*We interviewed four people I think for that role, you know Charlotte\* wasn't what we were looking for ... but to be fair you know she really shone above and beyond people with far more years' experience than she has so at the end of the day we made a decision*

*that we didn't think would be when we looked at everything on paper at the start of the day ... she isn't the norm ... she's quite an exceptional practitioner and individual. - John*

Charlotte\* disclosed her experience of mental illness in her application and then discussed it further at the interview.

*So I really considered that it's part of the piece I bring to the value in my work but it's also for me about, about transparency and honesty. If I'm going to work in a place that's about caring for people it's not, it doesn't feel right if I go away and don't say, hey this is a piece of what I manage and this is, you know, a piece of the package. - Charlotte\**

John reported that Charlotte\*'s disclosure did not overly concern him.

*I just see people as a mix of things and I kind of work on the basis that we're all dealt different cards from the same pack and really it's just about ... the individual ... and how they manage that ... but it's also we as an employer, we have a responsibility to support them to manage that. - John*

Previous experiences of getting unwell have made Charlotte\* very clear about what she needs to do to keep well. Given the job she now has, she is absolutely committed to maintaining her health and wellbeing.

*If I'm failing at the job of looking after myself then everything else falls apart - my relationships, finances, sense of who I am in the world ... I've got an ethical responsibility to my clients that I make in an agreement with them in a counselling contract that I'm going to be there. That I'm going to be emotionally available and not off on extended sick leave. And I guess the real thing for me is I cannot do this job if I become more than a little unwell. So that's such a powerful motivator. So care for myself, is tied into care for my clients, is tied into my responsibility to my job. - Charlotte\**

In terms of her work commitments, Charlotte\* negotiated to work three-and-a-half (rather than four) days per week, an additional three weeks unpaid leave per year, and a fixed-term contract, so that both parties had the opportunity to assess how the arrangements were working before they formalised them through a permanent employment agreement. When asked if any special arrangements have been made for Charlotte\*, John replied "No".

John has absolute confidence and trust that Charlotte\* is the best-placed person to know about managing her experience of mental illness, and that if there's anything he needs to know, she will bring it to him. One of the things that Charlotte\* has needed at various times when she has been unwell is "not to not be working".

*... to have the routine of coming in here potentially for shortened hours potentially with a lot less stress but actually don't take me at a point where I'm really struggling to keep my head out of water and then take all my structure out of my life. Don't take all the interactions I'm having with people out of my life. Don't take my contribution to society out of my life. - Charlotte\**

From an employer's perspective, John believes the relationship between him and each and all of his staff is key to positive and successful employment. This translates practically into an open door policy, where people are encouraged to speak openly, where there is flexibility to accommodate appointments and the like, and where the focus is on supporting people to be in the best space they can be, to do their work to the best of their abilities. As a social service agency he believes it is important to 'walk the talk', in terms of care for people, and that includes not being discriminatory towards staff with experience of mental illness. Charlotte\* values the relationship she has with John, and how his approach enables her to stay in dialogue about what's working and what's not working for her.

*They haven't shamed me about asking for the things I need ... He'll query, you know, if I'm looking a bit pale, you know, are you right and it's not, it's not a mental health question. It's not a, are you unwell, do we need to take steps, have you accessed EAP. It's a kind of, you know, how are you, what do I do and that again is part of the gift I think of working in the field I do. – Charlotte\**

John's view is that Charlotte\*'s experience of mental illness adds value to her work, in terms of her ability to engage, relate and validate people's experiences, making her a better counsellor. As a result, she has a

very high retention rate. It is validating for Charlotte\* that her employer appreciates that some of the strengths she brings to the job are intricately tied to some of the vulnerabilities she has.

John advises employers:

*Be open minded ... if you're making a decision based on mental health you might not be getting the best candidate for the role and there are a lot of strengths that that lived experience brings to a variety of areas of work. – John*

## **LISA\* AND CERISE**

Lisa\* has been employed for two years by a non-government mental health organisation as a support worker in a Pacific-specific residential support service. She is based in a major city and has a permanent employment agreement to work 40 hours per week. Lisa\*'s employer is Cerise.

A former colleague of Lisa\* recommended her to Cerise when they advertised the position. Lisa\* gave permission for Cerise to talk to her previous employer about her experience of mental illness and the impact this can have on her work. They then discussed this further at the interview.

*... when you're looking at employing people with lived experience, you have to accept that at some point, there are, have been issues, there may be issues again, and your employment relationship has to work around that so for us, it was around taking a step back and deciding what benefits she brought to our organisation and what we could offer her, what we could offer was an employer that absolutely understood that it's important to sit down and be honest, so that means from minute one she was honest with us, we knew what to expect and we were honest with Lisa\* around what we*

*expected so that is if Lisa\* feels she's becoming unwell, we expect that she'll identify that early and have a conversation with us around that. – Cerise*

One of the reasons Lisa\* can respond so well to these expectations is because she has a lot of insight into how her illness affects her, and takes responsibility for identifying her own needs. This has not always been the case.

*I think because of the relapses that I actually had in the past ... I got sick and tired of it and so I had a really deep you know, thinking about it and decided no, I've got to do something about this and no-one else is going [to] do it for me, if I don't look at strategies and that on how I will you know, cope, so for me you know I had to change my whole mind set. – Lisa\**

She is also good at then communicating those needs to her employer.

*... which makes it easier for us as her employer, and that's because when she needs something, she tells us so we don't have to guess, which I can tell you is just fantastic. She's probably more honest with us than most other staff. We have staff*



*members that have issues at home, may not have a label, may not have a diagnosis but have emotional reactions to situations happening in their life that without that lived experience ... aren't as skilled as Lisa\* is at identifying when something's wrong, so it's different probably in terms of in a positive way, she's better skilled at identifying her own shit really. – Cerise*

Cerise also believes that Lisa\*'s own experience means she is a much more reflective support worker.

In order to support staff to have open and honest conversations with her, Cerise prides herself on having an open-door policy, and people knowing that, if they come to her with an issue, as their employer, she'll help them to work through it and won't judge them for it. She also supports all her staff to engage in professional supervision.

As a result of the side-effects of her medication, Lisa\* is sometimes unable to drive. The organisation accommodates this by ensuring that there is another driver available. However, Cerise emphasises that this arrangement is not particular to Lisa\*.

*... but that, the same could be said for our staff that don't have lived experience, that we have staff members that don't have a driver's licence so we have to ensure that there's a driver on each shift. – Cerise.*

What's more, there is an upside to Lisa\*'s side-effects.

*... being prepared to weigh up honestly what those pros and cons are, and valuing, sometimes the cons are of great value. For instance, Lisa\*'s side-effects, it's really interesting how clients respond to that 'cause they will automatically, having those same side-effects, identify Lisa\* as a consumer of mental health services and sometimes that puts them at ease a lot more quickly. – Cerise*

As a Samoan woman, Lisa\* is also able to identify with those Pacific Island clients who have either suffered stigma from their own community, or are unable to have honest conversations with their families about their experience of mental illness.

There have been one or two occasions when Lisa\* has identified that she needs more time off, because she's not feeling too well or she's experiencing early warning signs. Cerise is quick to point out that this is no different to anyone else who's having sick leave. Given that she works full-time, the organisation also allows for Lisa\*'s clinical team to visit her at work.

Lisa\* feels that the enjoyment and satisfaction she gets from her work really motivates her to get through any challenges she faces. In contrast with previous employment, Lisa\* is now actively pursuing extra responsibilities and opportunities to improve her skills.

## **KAREN\* AND CAROLINE**

Karen\* has been employed for four years by a non-government mental health organisation as a manager. She is based in a regional city and has a permanent employment agreement to work 40 hours per week. Karen\*'s employer is Caroline.

Karen\* decided to enquire about the job

when it was advertised, knowing and being known to the organisation through her position with a government organisation. In response to her enquiries, she was asked about any personal experience of mental illness. Having not disclosed to previous employers, Karen\* was a bit hesitant at first.

She was not aware that the organisation had a proactive policy of employing people with personal or family experience of mental illness. At the interview they asked Karen\* to provide more detail.

*... the general manager and operations manager in the interview asked me about my whole journey through mental illness and how it's affected me. They wanted to know if I was aware of early warning signs, how I manage myself when I'm starting to become unwell. Basically they made it quite clear that they were ok that I had a mental illness, they just wanted to know what ways I'm able to manage it. – Karen\**

With the affirmative action policy in place, the organisation comes from the perspective of expecting people to become unwell and have time off, rather than expecting them not to, and has a number of policies and procedures to manage that.

*... if [people] are unwell or they've got family members who are unwell, then we will make arrangements to support them in whatever way they need support. So people can always have time off for appointments for themselves or their family members that they're responsible for ... if people become unwell, we do have quite an extensive sick leave provision anyway, but apart from that and on top of that we have what we call special organisation leave. – Caroline*

All front-line and management staff have some external support, something Caroline feels is particularly important. Caroline enables people to access these supports by having an open door policy, and making sure that people know that they can go and see her and talk about things that are troubling them at any time. If she can't help personally, she is always prepared to organise extra supervision or support outside of the organisation.

Karen\* reports that this approach means she has taken less sick leave as a result

of her mental illness than in any other job. It has also meant less deceit, something that caused her some distress in previous employment.

*... on the odd times when I have rung in sick here I've been able to be honest, whereas like at [other workplace] I'd never say that I can't get myself out of bed. There was no indication in that mentally I wasn't coping, it was always a physical reason that I'd ring up for ... if I rang saying I had a tummy bug I'd have to feel so guilty ... whereas here you can be honest. So you don't have that, that guilt. – Karen\**

Karen\* also values being able to continue working, even if she is not feeling 100 per cent.

*... there was a period about 18 months ago where I wasn't so well and the manager at the time wanted to give me some time off work. And I just said, "No you can't do that. If I have time off work then you won't see me for ages, I've got to be able to try and work through this, I've got to have that structure in my day". If I lose that structure, it takes a long time to recover and come out the other side. – Karen\**

Karen\* is adamant that these types of arrangements would not have been acceptable in the government department she previously worked for, and it has taken her some time to be comfortable being so open and honest, not only with her employer but also her own staff.

*I'm OK about telling my staff that I'm just not feeling that flash today. And they're OK with that as well. And Caroline asks me how I am? And, and I'm OK about saying yeah, I'm alright, or no, it's not a good day today ... in this job you don't always need to keep a front 'cos that keeps you going, but if that front's knocked down a little it's still ok. – Karen\**

Karen\* reflects on what all of this has meant



for her in contrast to previous employment.

*Well it's the first job that I've had in my whole life that I've been in the one workplace or one employer for more than two years. Certainly in more recent years ... if the job became stressful or I become stressed, nobody knows so I can't really say anything and I burn out a lot quicker. That's when I sort of get itchy feet and I tend to job hop rather than manage myself a little better. Whereas here I can do, you know I*

*can manage myself OK, it's not a bother. - Karen\**

Caroline describes Karen\* as a committed and hardworking employee, whose own experience of mental illness means she has good empathy and understanding of the difficulties that other people might be going through. As a result, she is probably able to read the signals and respond quicker and more effectively than somebody who didn't have that personal understanding.

## SELF-EMPLOYMENT

With being self-employed, Bill's case does not involve an employer perspective. The self-directed and managed nature of self-employment can make it an attractive option

for people with experience of mental illness wishing to pursue positive and successful employment.

### BILL

Bill has been self-employed for two years as a business consultant. He is based in a major city and works 20 to 30 hours per week.

For the seven years before going out on his own, Bill was a senior executive with a multi-billion dollar company. This role involved lots of work and long hours, but great remuneration. He was in this role when he became unwell. He believes this was partly a result of the stress but, more significantly, also of the work practices (the way people were being treated), which were at odds with his value set. Bill ended up needing to take three months off. During that time he was given time and space, people covered for him, and he was never made to feel guilty. The employer paid for him to see a private psychologist and got food delivered. Colleagues regularly checked in with him and his wife.

*Sometimes just the little things where you just show you care mean a lot more than some of the things I will talk about later*

*which were more substantial ... So those little things made a big difference, you know the occasional phone call to my wife, saying do you need help, so you want to come out for a coffee and have a break from it. - Bill*

Upon his return, it was very much expected that everything would be back to normal. However, that wasn't the case. Used to being in control, Bill particularly struggled with having seemingly lost that and this affected his work.

*... you know I used to be very calm and in control in nearly every situation but now I wasn't ... I didn't know what was wrong with me, I didn't know how to get better, my emotions were all over the place ... I would come into work feeling really good and then some minor thing had set me off and I would just collapse and crawl into a corner. - Bill*

The employer didn't know how to manage the situation, apart from by way of performance management and a restructuring process.

The lack of transparency and forthrightness around this approach only served to exacerbate Bill's distress.

*I don't know if it was anything deliberate, they didn't know what they didn't know, they didn't know how to cope with it, they didn't know how to handle it and I didn't know what I was going through ... So if I had some managers who understood this situation I think it would've been handed a lot differently. So it was a bit of a case we both didn't know what we didn't know. - Bill*

The upshot was that Bill left his employment with a sizable pay-out.

*I wanted to go, I wanted to get away from all of this. It was just not making me better, you know. If it had been a dollar I probably would've still done it. - Bill*

The pay-out provided him with an opportunity to take the time to get well and re-assess his priorities.

*... the first thing I think with anyone ... that has had these sort of prolonged illnesses or injuries, whether they are physical or mental, is at least get the financial burden and stress out of the way if you can, because if you have got that hanging over your head it is very hard to clear your head and get things right. We were, we were one of the lucky ones because we had that [the pay-out] behind us. - Bill*

His re-assessment led to Bill setting himself up as a consultant to small businesses, enabling him to have control over what he does and when he does it. If the work is not consistent with his core values, he doesn't

do it. If the work compromises his work-life balance, he doesn't do it.

*As a result of this, now my relationship with my kids is a bit better and my relationship with my wife is better, I have more time at home and I am less stressed. Have I got as much money, no, nowhere near it but you know, how much is enough? So it has really put those things in perspective. - Bill*

Bill believes that mental illness is particularly challenging to employers.

*If the person does his back you know exactly what to do, you know where to go, what to do, how to deal with it, the process to follow through. As soon as it becomes an emotional and mental thing people just go, get spooked. They don't know how to approach the person, they don't know where to turn ... The other thing to me is it just comes down to some very basic humanity I guess, is that it just shows you care. - Bill*

Would Bill disclose his experience of mental illness to a prospective employer? No.

*I wouldn't tell a person anything because we are not ready for it yet, a long way from being ready for it. - Bill*

Bill concludes:

*Why is it that the most critical part of a person's functioning, which is their mental capacity to do work, is still so foreign to people? ... what you need to do, the first thing is educate yourself, educate your staff to look after themselves and look after their peers and take it seriously. - Bill*

## THEMES

All of the interview findings were analysed for common themes. In this section we discuss the main themes to emerge including: obtaining work and what it means, disclosure, the effects of mental illness on employment, special arrangements, the work environment, and actions employers and employees can take to maintain positive and successful employment.

### OBTAINING WORK AND WHAT IT MEANS

For the most part, employees came to be employed in their current positions through an open employment process, by responding to advertisements, being interviewed and then being offered the job. Other common ways of obtaining employment were through knowing the potential employer (five employees were known to their employer beforehand) or being recommended to the employer. A number of employees made direct contact (either in person or over the phone) with their prospective employers.

In terms of what employment meant for the employees, a sense of satisfaction and accomplishment were the main factors that emerged.

*It gives me satisfaction to see the products coming out into the shop and just knowing that I've been part of it, to produce that.*

Work also provided a sense of motivation, responsibility and fulfilment, as well as money, stability, security and support. Depending on the job, it enabled people to make a difference in others' lives. It was a reason to get out of bed every day, but it also helped individuals grow as people.

*I would say my socialising has improved, my work ethic has improved and I've been able to meet more people and become more of who I am made to be.*

### DISCLOSURE

#### WHEN DID PEOPLE DISCLOSE?

Some employees were upfront with their employers from the start of their employment relationship, either disclosing at the application

stage or in an interview. For a couple of employees, previous employers had informed their future employer about the employee's experience of mental illness. One person was asked by her future employer upfront. This was an organisation that gave priority to employing people with experience of mental illness. Others disclosed sometime after they had been employed, usually out of necessity – they had either become unwell, or they needed to take time off because of their mental illness.

The reasons for disclosing at the beginning of the employment relationship included that it was the honest thing to do, the employer can appreciate where the person is at, and the employee feels really good when they are not discriminated against. One person described how, by disclosing in her CV, her experience of mental illness must be accepted for her to get to the interview stage. However, one employer felt that disclosing in a CV was inappropriate.

For those employees who did not disclose upfront, but did so when they became unwell, there was no sense that this was done deliberately to mislead. No employers seemed surprised when their employee disclosed their experience of mental illness. One employer said she was glad she did not know about her employee's mental illness beforehand (she had disclosed after becoming unwell).

*It wouldn't have changed my view of [her] I don't think. You never know until you're in the situation but I'm pleased I didn't know. It didn't give me the opportunity to say; oh no I'll put her aside as a candidate.*

#### PRE-EMPLOYMENT QUESTIONS

Most organisations that asked pre-employment questions asked about health issues and disability in general. According to the employers, the questions were used as a way of identifying any issues that may need to be worked through and any potential support needs.

*What do we need to know about you to make the work environment conducive to you doing a good job?*

The questions could be used as a conversation starter in an interview, and a way of finding out if a person is fit for the role. One employer felt that questions specifically about mental illness were used by their organisation to screen people out.

*HR felt that because in the past they've not had good experiences with people being able to manage their mental health.*

Another employer, however, used these questions in order to hire a certain number of people with experience of mental illness.

*... They made it quite clear that they were okay that I had a mental illness, they just wanted to know what ways I'm able to manage it.*

Some employers never ask.

*I've never actually asked that question, probably I should but I don't ... I trust in people ... my view is if they've managed to get through [their training] they've pretty much got what it takes for the most part.*

### **DISCLOSING TO COLLEAGUES**

Most people had disclosed their experience of mental illness to at least one other person they worked with, apart from their immediate manager. The effect had generally been positive, with employees reporting that disclosure meant they did not have to pretend, could fit in as 'normal', did not need to worry about how they were perceived, and could explain when things weren't helpful in the workplace. One effect of disclosure reported by several employees was that others in the workplace had subsequently disclosed their own experiences of mental illness to them. One employee noted that disclosing her mental illness to her colleagues reflected her confidence, rather than a need for validation.

### **EXISTING KNOWLEDGE**

Most employers had some knowledge about mental illness before employing their current employee. The knowledge had been obtained because their job required it (for example they were a health professional), through their own experience or experience of their friends' or

family member's mental illness, or through experience with other employees.

*I've worked with people for over 30 years in different environments and it's just been the norm.*

For some employers, they had little prior knowledge of mental illness, and their experience with their current employee was their first of employing someone who was open about their experience of mental illness. A couple of employers had previous experiences with employees with experience of mental illness that were not as positive as with their current employee.

### **INFORMATION**

Most employees had not given their employer any information or resources regarding mental illness. Some saw this as unnecessary, due to their employer's existing knowledge (through friends or family) or the nature of their work. There was an impression that many of the employers trusted their employees to give them information as and when the need arose. One employee said she was treated as a resource by her colleagues, because of her experience of mental illness. One employer had obtained information about employment subsidies.

One employee had provided his organisation with a lot of information about mental illness as part of his commitment to diversity and inclusion, and trying to address the stigma associated with mental illness.

### **THE ROLE OF THE GP OR MENTAL HEALTH PRACTITIONER**

Most employees said that their GP or mental health service provider had not played any role in their employment, other than providing them with sick notes or prescriptions. One person said that their doctor had told them not to work so much. Others said their doctors were supportive of their employment.

*She was so excited to see me working in the field.*

## THE EFFECTS OF MENTAL ILLNESS ON EMPLOYMENT

Some employers observed no obvious effects from mental illness on how their employees performed their jobs, although some of those same employees reported experiencing negative effects. It seemed that the effects the employee noticed (for example not being as productive) were not always outwardly observable.

When employers and employees agreed that there were negative effects, these were either in the past, time-limited or seen as an acceptable part of having that person as an employee. The parties had come to some form of arrangement in order to work around the effects or turn them into strengths of the job.

Some employers found that their employee's mental illness had a positive effect on the way they performed their job.

*She brings such a kind of strength and hope to the clients that she works with.*

## BENEFITS OF EMPLOYING PEOPLE WITH EXPERIENCE OF MENTAL ILLNESS

Employers were asked if they, or their colleagues or organisation experienced any benefits from employing an employee with experience of mental illness.

Employers often talked in terms of the qualities that their employee brought to their organisation, rather than benefits. These qualities included insight, respect (commanded for their views as service users with lived experience), knowledge and honesty around their mental illness, creativity, confidence, professionalism, trustworthiness, supportiveness, resilience and credibility. These qualities were perceived as beneficial, even by employers outside the mental health sector.

## SPECIAL ARRANGEMENTS

We asked the participants about special arrangements made in the workplace for employees with experience of mental illness. We meant, and this was interpreted to mean, reasonable accommodations (changes that are

made to the work environment or in the way things are usually done to meet an employee's needs in relation to a disability). None of the employers mentioned their legal obligations to provide these reasonable accommodations. Where they were provided, the employer felt they were the right thing to do, rather than a matter of legal obligation.

Most of the special arrangements made for employees in the workplace, due to their experience of mental illness, were around increased flexibility of working hours, work location and sick leave arrangements. There were accounts of employees having arrangements with their employers to work at home, take time to attend appointments, or take sick leave (paid or unpaid) where necessary.

*I think there's been one or two occasions where she has identified she needs more time off 'cause she's not feeling too well or she's exhibiting early warning signs, but no different to anyone else who's having sick leave.*

Where the arrangements were in place, the employees did not always make use of them.

*My boss said I could take that one hour [for counselling] as sick leave if I wanted to, but I never did because ... I still wanted to do all of my hours.*

Some employers considered that the arrangements they made for their employee who had experience of mental illness were no different to those they would arrange for their other employees.

*We do allow all our employees to have flexible working arrangements and we are mobile so we can actually have someone work from home if they are feeling a bit off colour.*

## THE WORK ENVIRONMENT

The work environment was seen as important by all the employees we interviewed. The employers we talked to had deliberately decided to foster working environments that were friendly, respectful, fun and communicative. Consequently, employees felt

valued and cared for, and frequently cited the working environment as being one of the main reasons they enjoyed their work.

*I guess what I like here is that I have a safe environment where if I need to I can go home. I can have a bad day, I can do some pretty stupid things, and I get forgiven.*

*We like to be seen as Christians and I think that's the Christian thing to do ... it's just the way we treat people.*

*It's a pretty relaxed place and we work pretty hard, we're pretty head down, tails up when we've got a busy day, but there's a lot of banter that goes on, it can be quite jovial, we can have a lot of laughs.*

### KEY THINGS EMPLOYERS DO FOR SUCCESSFUL EMPLOYMENT

Both employees and employers identified things that employers did to make employment positive and successful. These included:

- maintaining an open door policy, with clear communication in both directions
- creating a positive open work environment
- encouraging and supporting employees
- helping to manage people's workloads
- having good 'employer attributes' (caring, empathetic, treating people fairly, high integrity)
- being flexible.

Most of these things are generally considered to be positive workplace practice, useful for supporting any employee in their work, and are not specific to people with experience of mental illness.

### KEY THINGS EMPLOYEES DO FOR SUCCESSFUL EMPLOYMENT

Both employees and employers identified how employees made their employment positive and successful. This included:

- having a good work ethic

- having good 'employee attributes' (listening skills, honesty, organised, happy, optimistic, intelligent)
- knowing themselves, their warning signs, and what they need to do to stay well
- maintaining good relationships
- building good communication, open and upfront
- keeping the job in perspective.

As with the key things identified for employers, many of these things are positive workplace practices that apply to all employees.

### LEGAL MATTERS

None of the employers or employees in this study said that they had to call on their legal rights in their current employment relationship. A few of the employers had sought clarification from their human resources advisors about their legal obligations for issues such as sick leave.

### COMPARING EXPERIENCES

We asked both the employees and employers to compare their previous employment experiences to their current experience.

Employees described previous employers as making assumptions about people, due to their experience of mental illness, and disclosing the employee's experience of mental illness without asking. Previous workplaces were described as too stressful; people felt micro-managed and found it difficult to fit in to the workplace culture.

*It felt at my last work having a mental illness I lost a lot of credibility. I had a lot of responsibilities taken off me which didn't need to be taken off me.*

In contrast, employees described their current employers as more positive, and employees felt cared about and respected. Several people said that their current job was the longest they had ever had.

*[This is the] first job that I've had in my whole*

*life that I've been in the one workplace or one employer for more than two years.*

Most of the employers said that their employment relationship with the interviewed employee was no different from any of their other employment relationships.

*They [staff members] are all treated with the same kind of respect and support.*

### REASONS FOR DISCRIMINATION

Employers felt that other employers probably discriminated against people with experience of mental illness due to fear and misconceptions (for example, such as perceptions that people with experience of mental illness will need to take lots of time off).

*Instead of seeing that there could be real benefits of having the skill set that these staff present, they'd rather get the staff member that doesn't present those risks.*

Some employers said there was not enough information available to them about mental health conditions and the possible impacts of employing people with experience of mental illness. Others

thought discrimination was more about the bottom line.

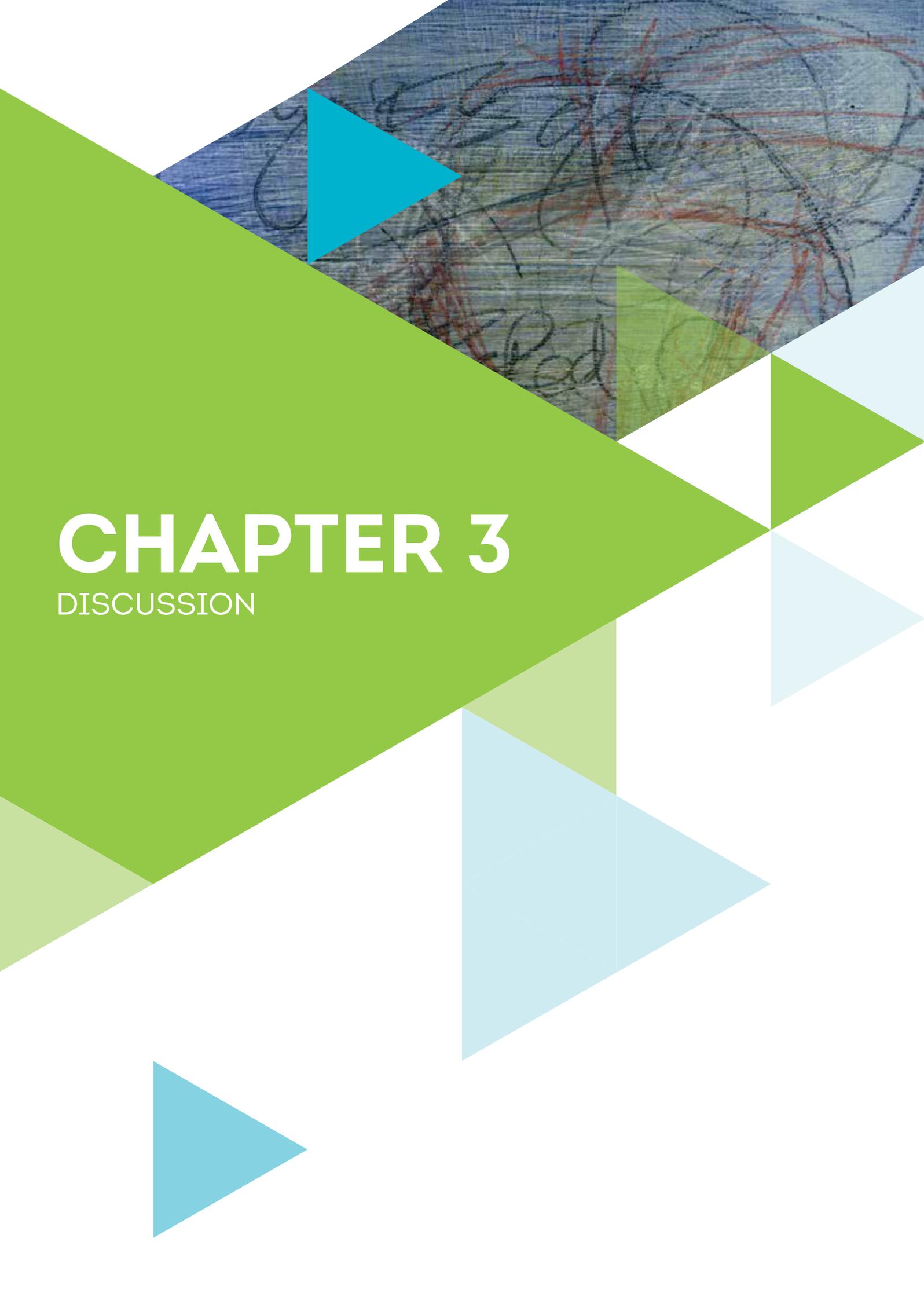
*If his mental illness really affected our business negatively and meant that we couldn't continue to operate and we were losing money ... then we would have to say I'm sorry we don't have a job for you ...*

### ADVICE

When asked what advice they would give to other employers about hiring people with experience of mental illness, the employers made several comments.

- The relationship between the employer and employee is pivotal - it has to be open and honest.
- Employers should not be afraid of being employers. This means raising employment issues with the employee when necessary.
- All employees will have their issues at various times, not just people with experience of mental illness.
- They may be a need to be slightly more aware of people's requirements and respond to those in a meaningful way.
- Provide support and have the right skills to do so.



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# CHAPTER 3

DISCUSSION

# DISCUSSION

The aim of this research was to advance current thinking and contribute to the debate on employment of mental health service users. We did this by examining the critical factors that have enabled, and more particularly sustained, open employment of people with experience of mental illness.

By restricting our study to open employment, we have not addressed the valuable role that supported employment services can play in enabling and sustaining the employment of people with experience of mental illness.

Our focus was on those people whose lived experience of mental illness was vital, but whose identity had moved beyond that of service user. It was clear that for the employees we talked to, their experiences of mental illness were no less serious than for most other people with experience of mental illness. The majority had experienced mental illness for over 20 years and had largely been affected by that experience for either all or some of their lifetime. Many had developed well-refined management strategies during that time. This is reflected in them rating the impact of their illness as more severe over the course of their lifetime, than in the past year. As a result, while most employees had experience of using secondary mental health services in the past, their current main provider of such support was their GP. For most, their GP or mental health service provider had not played any role in their current employment. It is also notable that a number of employees had engaged private mental health service providers and that their employment enabled them to do this.

Of the 15 employees we interviewed, 10 said they had been affected by mental illness for at least some of the time in the past year and felt that this had had an impact on their employment. That their employers saw little negative impact, we think, could be a reflection of some self-stigma (where people feel that they are not as able, or entitled, as other people due to their experience of mental illness) on the part of the employees.

Employers appreciated that all employees have different idiosyncrasies, issues and needs that

effect their work from time to time, and hence did not view those employees with experience of mental illness as any different from other employees. The employers were also clear that the key to supporting the positive and successful employment of all staff, whatever their idiosyncrasies, issues and needs may be, is good relationships and communication. Such relationships and communication, and what is required to nurture and sustain those, are exemplified through all the cases, and the need for them is a principle finding of this research.

The lack of younger (under 23), older (over 65), and Māori participants is a serious limitation of the present study, particularly given that those people may face multi-faceted barriers in their pursuit of employment. A number of Māori employees who were keen to participate were precluded from doing so, because their employers were either unable or unwilling to also participate. The tight timeframe associated with the research (e.g. needing to conduct all the interviews within a seven week period) was perhaps a barrier for some employers. Many of the employees whose employers did not support participation, expressed a real sense of disappointment at not being able to take part. There were also some individuals who wished to participate, but were precluded because they did not want to involve their employer. This could be because they had not disclosed their experience of mental illness to their employer or because of the added work it would require on their employer's behalf.

All the employees who participated had a post-secondary school qualification of some nature, even if it was not directly relevant to their current employment. Such qualifications are often essential in giving people the opportunity to pursue individual interests, relating to vocational choice and career development, which consequently result in greater fulfilment and satisfaction with their work.

## LITERATURE REVIEW FINDINGS

The previous literature review was published in 2007 (Duncan & Peterson, 2007), with most of the articles sourced on or before 2005.

After an almost 10 year gap, we found few differences in our review of literature since 2007.

Ten years ago, employment and mental illness was a newer topic, and findings such as the extent of discrimination in the workforce and the need for more accommodations for workers with experience of mental illness were controversial. The current literature establishes the existence of discrimination and the need for accommodations as an accepted fact, as it does for the positive benefits of employment for people with experience of mental illness. Little has changed in terms of recommendations or solutions being offered. Disclosure is still seen as an issue for the individual, and employees with experience of mental illness need to have a plan for how they intend to deal with it.

## SUMMARY OF LEGAL OVERVIEW

New Zealand's employment law is governed primarily by the Employment Relations Act 2000, which requires that both employees and employers to act in good faith. It is unlawful for an individual to be treated differently in employment because of their experience of mental illness (including through job advertisements, job interviews, job offers, working conditions and pay, being forced to retire or leave, or being fired). This includes an obligation on employers to provide special services or facilities to meet an employee's needs in relation to a disability (unless it would be unreasonable to expect an employer to do so) and to take reasonable measures to reduce any risks to a normal level (unless it would be unreasonably disruptive).

In cases where employees have claimed unlawful discrimination due to their experience of mental illness, the court has acknowledged the claimants' concerns about being discriminated against, but ruled that non-disclosure of mental illness at the pre-employment stage can be a breach of good faith. Such breaches have been held to constitute contributing behaviour by employees and precluded or reduced the

amount of damages awarded for unlawful discrimination.

The Convention on the Rights of Persons with Disabilities 2006 clarifies the application of international human rights law to persons with disabilities and requires parties, including New Zealand, to recognise, safeguard and promote the right of people with disabilities (including mental illness) to work on an equal basis with others.

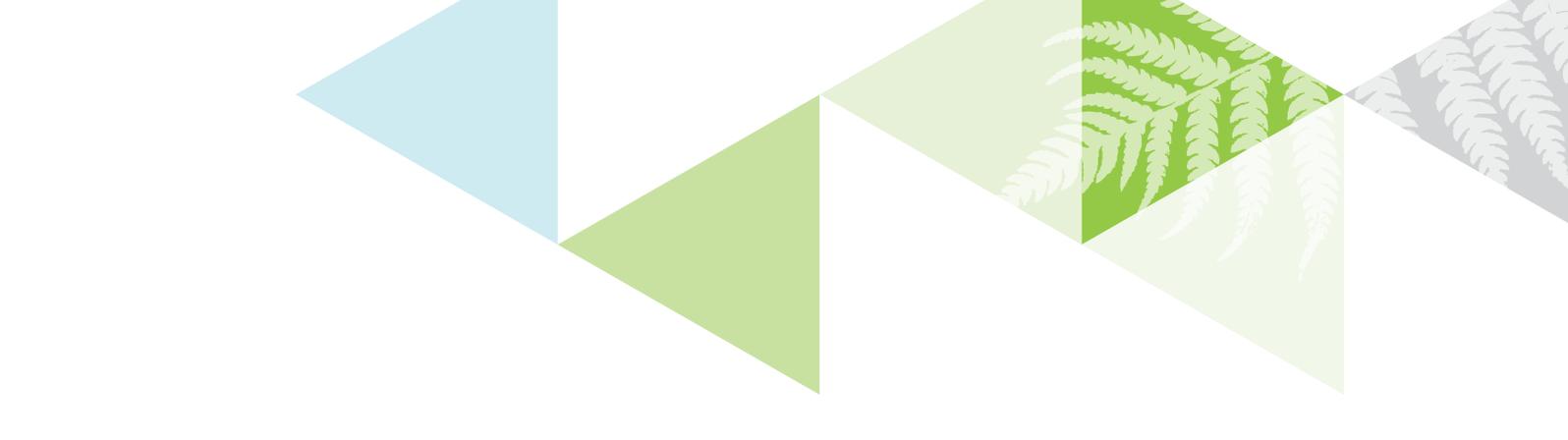
However, despite the international and national legal safeguards, and many years of the Like Minds, Like Mine programme, organisations reporting on our compliance with the convention state that negative and disabling attitudes in New Zealand society remain a major barrier to disabled people's participation in the workforce.

## DISCLOSURE

Previous research advises little more than that disclosure is a difficult decision and that employees need to plan their disclosure about their mental illness to an employer.

The experience of our research participants fell into two camps. There was a clear divide between those employees who disclosed at the beginning of the employment process, usually in the interview stage, and those who disclosed during their employment, usually after becoming unwell. While the timings of disclosure were different, however, the outcomes in these instances were similar – they were positive, and the employees did not seem to experience any regrets about their choice of timing. This indicates positive approaches and attitudes from these employers, which may not always be the case. None of the employers commented negatively about the timing of disclosure, although one employer acknowledged that had they known at the employment stage they might have missed out on recruiting someone who turned out to be an excellent employee.

There are arguments either way for disclosing at the beginning of, or later on in, employment. Being upfront at the beginning feels more



'honest' to some, and may make the employment process easier to navigate, if all parties are aware of any potential difficulties that may arise and arrangements that may need to be put in place to counter these. An employer cannot discriminate on the grounds of mental illness, although such discrimination may be hard to prove if it happens.

Legally, if an employer asks questions about disability or health issues that could impact on the job, a person with experience of mental illness is under an obligation to answer these truthfully, or risk dismissal at a later point (as discussed in the legal overview). One good reason for disclosing at the beginning of the employment relationship is that if discrimination then occurs, it happens before the employee has invested too much into the relationship. Also, disclosure at the beginning creates an opportunity for reasonable accommodations to be agreed.

The participants in this study who disclosed later in their employment delayed because they did not initially realise their mental illness would significantly affect their employment. However, delaying disclosure until a person becomes unwell can lead to worry and significant stress, due to their investment in the employment relationship, as well as financial concerns about losing their job. However, employers have also invested in the employment relationship, and once their employee disclosed their mental illness, the employers in this study went out of their way to retain them. By not disclosing at the beginning, one could argue that employees benefit from the employer being more receptive and committed to supporting them, because they have already made a substantial investment in them.

Our participants indicated that the decision about disclosure involves weighing up the risk of an adverse versus a positive reaction from an employer to a person's experience of mental illness. The literature is full of examples of discrimination, but this research illustrates some of the positive stories. In our view, it must always be a decision that is left up to an individual, but we now argue that early, full disclosure has greater potential benefit.

Disclosing at the beginning of the employment relationship did not disadvantage those who did, and by disclosing right away an employee can keep control over their disclosure; they do not have to worry about who knows and who does not. They are also not too invested in the process if their potential employer discriminates and refuses to hire them. Legally, they are in a stronger position, and in political terms, the more people who disclose and who are 'out and proud' (Corrigan, Kosyluk, & Rüsche, 2013), the stronger the mental illness anti-discrimination movement becomes, and the easier it becomes for the next person in that position.

Disclosure may be voluntary or obligatory, and there is little discussion in the literature as to the effect this difference has on the ongoing careers of people with experience of mental illness. The term 'disclosure' is also fraught, implying a negative secret that should be reluctantly shared. This research suggests that where control over disclosure remains with the person with experience of mental illness, the outcomes are better. The discourse surrounding disclosure, which is possibly perpetuating a form of self-stigma, and the ongoing effects of how it is done, are both worthy of further research.

## WHAT WORKS?

Our participants identified the following actions as promoting successful employment.

### OPEN DOOR POLICY

An open door policy was cited by both employees and employers as important in maintaining a good employment relationship. It meant that the employee could raise issues as they arose, and the employer could deal with these issues in a timely manner. This was especially important when it came to employees managing their early warning signs of worsening mental illness.

## TREATING EACH OTHER WITH RESPECT, AS INDIVIDUALS

Each employee, those with and without experience of mental illness, will have their own idiosyncrasies, issues and needs in regards to their employment. It is hence best practice, particularly in terms of alleviating the burden and stigma that people can sometimes feel, to ask all prospective employees what accommodations they might require (Panel on Labour Market Opportunities for Persons with Disabilities, 2013). Rather than making assumptions about what people will require (e.g. all people with experience of mental illness need flexible hours), accommodations should be negotiated with employees on an individual basis. Employers in this research tended to see their employees as individuals first, and people with experience of mental illness second.

Responses suggest that employees also need to see employers as individuals, and approach each employment situation afresh, especially when it comes to weighing up the decision to disclose their experience of mental illness.

## RECIPROCITY AND LOYALTY

As a result of the support they had received from their employers, and their positive working environments, employees often expressed a keen sense of reciprocity, commitment and loyalty to their employer and organisation. This was frequently reflected in people making extra effort to be present, focused and productive.

One implication of this is that employees may be reluctant to leave an employer who has been so good to them, thus limiting their career.

## EMPLOYERS BEING EMPLOYERS

Many of the employees described their employers in glowing terms, almost as friends rather than employers. However, the employers were always clear that they were employers first, and that they had obligations as an employer. Advice from one employer was that employers should not be afraid of

being employers; employers had an obligation to raise employment or performance issues, should they arise.

## SPECIAL ARRANGEMENTS

We asked both employees and employers about any special arrangements they had in place. Employees perceived their need for accommodations to be more extensive than employers did. The employers said that where special arrangements were in place they were generally no greater than those for other employees, and were mainly reflective of good employment practice, such as flexible working hours or sick leave. There is a belief that people with experience of mental illness will be difficult to manage and take a lot of time off work, but the findings of this research challenge this perception. It seems that once mental illness is out in the open, and special arrangements are discussed and agreed upon, employees are able to use these special arrangements to help combat their warning signs, reducing the effects that mental illness has on their employment.

## CONTACT

Contact between people with experience of mental illness and others is known to be the most effective way of countering stigma and discrimination towards people with experience of mental illness (Gordon, 2005). Of note, is that the majority of employees in the present research had prior contact with their prospective employers, either by way of knowing and being known to the employer through previous work, or by making contact in person or by phone in response to an advertised position. Employers who had more extensive contact with people with experience of mental illness (i.e. than their one employee) were more likely to see their experience as generalisable (e.g. to people with experience of mental illness in general).

There were several examples in this research where people were not only seen as valued colleagues, but also as valued resources when it came to mental illness in the workplace. The effect of having someone with experience of mental illness in the workplace, who is open

about their experiences, has the potential to change a workplace. If the person maintains control over their disclosure and their work 'presence', they are maintaining equal status with their colleagues, a prerequisite for the type of contact required to counter stigma and discrimination.

### THE RIGHT FIT

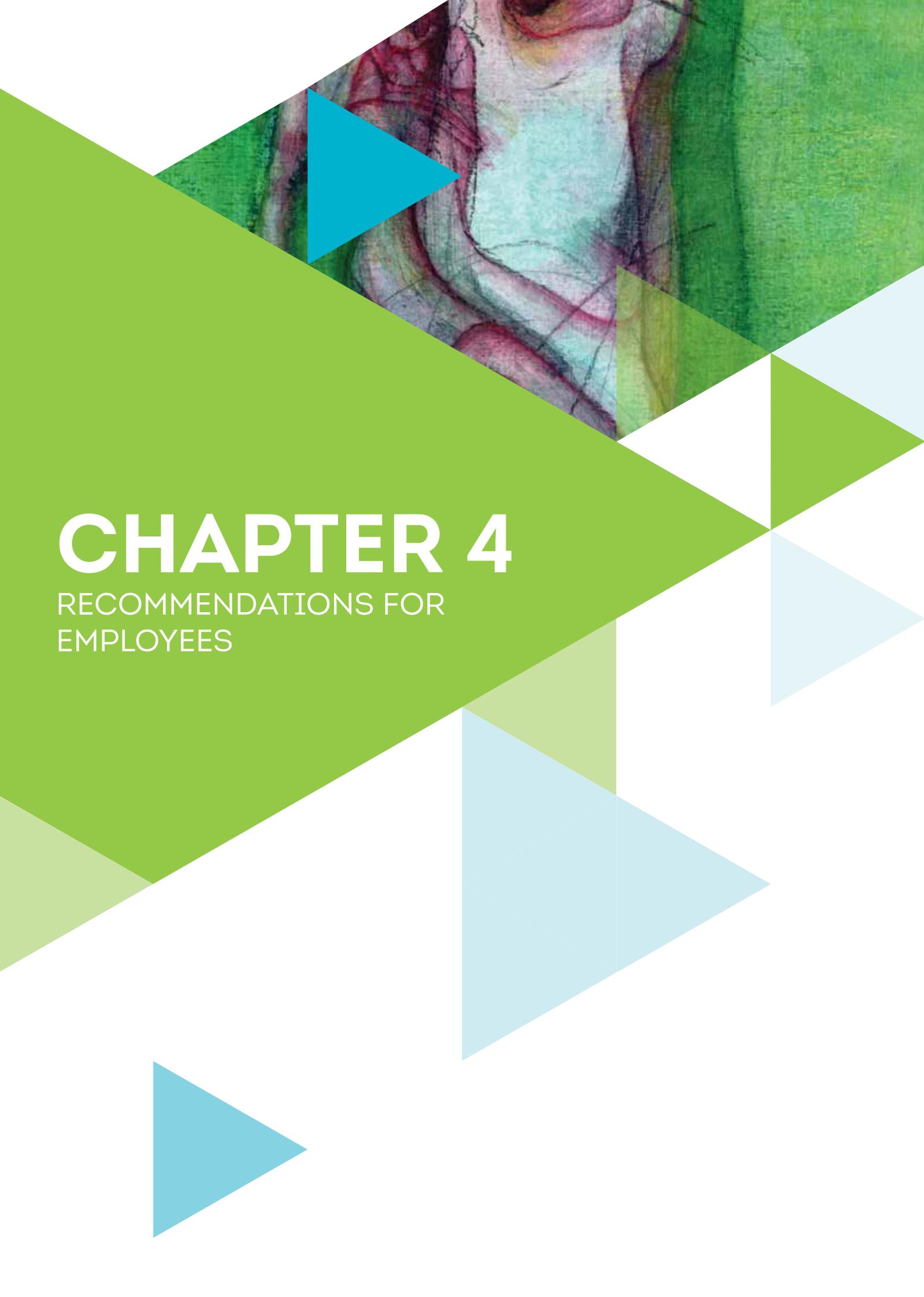
We interviewed the employees at one 'snapshot' during their career. Most employees recounted other, less successful employment experiences. Employees had learnt from these experiences, in particular about whether to disclose (choosing to be open from the start) and what accommodations to seek. Some said that the period of their current employment was their longest. Having found a job with the 'right fit', we wonder how their careers will now progress. What are the flow-on effects for their future employment?

### WHAT DO THE CASES TELL US?

An important finding is that there are positive stories of employment for people with experience of mental illness and that good employers exist. There are people with experience of mental illness in open employment who are getting on with their working lives with minimum intervention. Despite the impressions given by much of the existing employment research, people with experience of mental illness can gain employment and enjoy it, even though there still can be experiences of discrimination.

Another finding is that good employment practices, such as good communication, flexible working hours and good sick leave policies are often all that are needed when employing people with experience of mental illness. In the employment relationships where both parties have treated each other with respect as individuals, reciprocity and loyalty have followed, leading to positive outcomes, which employees, employers, organisations, clients and customers have all benefitted from.



The image features a stylized anatomical drawing of a human torso, showing muscles and internal structures in shades of red, pink, and blue. This drawing is partially obscured by large, overlapping geometric shapes in various shades of green and light blue. The overall composition is modern and graphic.

# CHAPTER 4

RECOMMENDATIONS FOR  
EMPLOYEES

# RECOMMENDATIONS FOR EMPLOYEES

## BE AWARE

- There are many benefits for employers in having an inclusive and diverse workplace (e.g. improves workplace culture and the organisation's reputation, has a 'feel good' effect on employees and customers, and leads to greater employee loyalty and commitment). As someone with experience of mental illness, you can add value through your unique insights relating to mental health.
- Employment has a raft of positive effects that make it good for your health and sense of self: social inclusion, financial independence, greater stability and structure, and a sense of belonging and purpose.
- People with experience of mental illness can face stigma and discrimination in obtaining, maintaining and returning to work, but good employers and workplaces do exist.
- You don't have to be 100 per cent fit and healthy to be a good employee – most people aren't.
- Legally, if the employer asks questions about disability or health issues that could impact on the job, you are under an obligation to answer these truthfully, or risk dismissal at a later point.
- It is unlawful to be treated differently in employment because of your experience of mental illness (this includes through job advertisements, job interviews, job offers, working conditions and pay, and being forced to retire or leave, or being fired).
- The Human Rights Act 1993 creates an obligation for employers to take reasonable measures to meet their employees' needs in relation to a disability. Otherwise known as workplace accommodations, these are typically changes that are made to the work environment or the way things are usually done.
- Workplace accommodations that other people with experience of mental illness have found helpful include:

- flexible hours, in terms of how much and when you work
  - flexibility in where you work (e.g. the option of working from home)
  - flexibility around sick and annual leave (e.g. the option of additional paid or unpaid leave)
  - flexibility around attending appointments (e.g. being able to attend appointments in work-time)
  - an on-the-job coach or mentor
  - the ability to continue working even when not feeling 100 per cent
  - not having to manage people.
- People without experience of mental illness often have similar arrangements to accommodate other aspects of their lives (e.g. children).

## BE PROACTIVE

- Identify and take charge of your own employment goals.
- Ask your mental health team how they can support you to attain your employment goals.
- Identify and put into action self-management and coping strategies.
- Get the job-specific skills and qualifications you need to attain your employment goals.
- Be clear about what you can and will do, and what you can't and won't do, and any workplace accommodations that you may require as a result.
- Have a plan about when and how you will disclose your experience of mental illness to a prospective employer.
- Identify and seek employment with organisations that are known to value inclusion and diversity.
- Make personal contact with prospective employers.

## **BE CONSIDERED**

- When and how you disclose your experience of mental illness to an employer is a personal decision – there are pros and cons to disclosing at the pre-employment stage, as opposed to once you are in employment.
  - Pros of disclosing pre-employment – you will be fulfilling your obligation to answer any questions regarding disability or health issues that could impact on the job truthfully; appropriate accommodations can be arranged in the workplace; support can openly be put in place; it feels more honest and establishes an open and honest relationship with the employer from the outset; you haven't invested too much in the employment relationship if discrimination does occur; you can keep control of your disclosure, and don't have to be worried about who knows and who does not; if an organisation is not going to be receptive and accommodating, then the workplace is not likely to be good for your mental wellbeing.
  - Cons of disclosing pre-employment – being discriminated against; not being employed.
  - Pros of disclosing after employment – no risk of discrimination at pre-employment stage; the employer is invested in the relationship; the employer is more likely to see the person rather than the illness.
  - Cons of disclosing after employment – risk of dismissal due to breach of pre-employment obligations; no accommodations and supports available; worry and stress about what will happen if you get unwell or are 'outed' by someone else; guilt about lying.
- Unless the organisation has a proactive strategy of employing people with experience of mental illness, your CV is not the place to disclose your experience of mental illness.
- When you do disclose, provide the employer

with information, solutions and benefits (e.g. Yes, but it doesn't impact on my ability to do the job. I manage it well by doing ...; In my previous work it has/hasn't impacted in this way...; I have found this helpful/not helpful and would appreciate you considering me being accommodated by way of...; I bring value and diversity to the workplace because of my insights relating to mental health).

- Consider how you might use the 90-day trial period, e.g. by proposing it as an option for both you and the employer to trial any working arrangement; leaving disclosure until after that period.

## **BE POSITIVE**

- Maintain a positive attitude and ethic to work.
- See yourself as a valued employee.
- View bad days as something that everyone has from time to time.
- Practice good 'employee attributes' (listening skills, honesty, organised, happy, optimistic, intelligent, communicative, friendly, respectful).

## **BE RELATIONSHIP-FOCUSED**

- The relationship between an employee and employer is pivotal to positive and successful employment.
- Be open and honest with your employer.
- Communicate any issues and the support you require to your employer in a timely manner.

## **PERSEVERE**

- Positive and successful employment for most people involves employers that value a friendly, respectful, communicative work environment, with a culture of flexibility, inclusion and diversity. It may take time, effort, trial and error to find, but persevere. Such employers do exist and it is well worth finding them, in terms of job satisfaction and overall wellbeing.

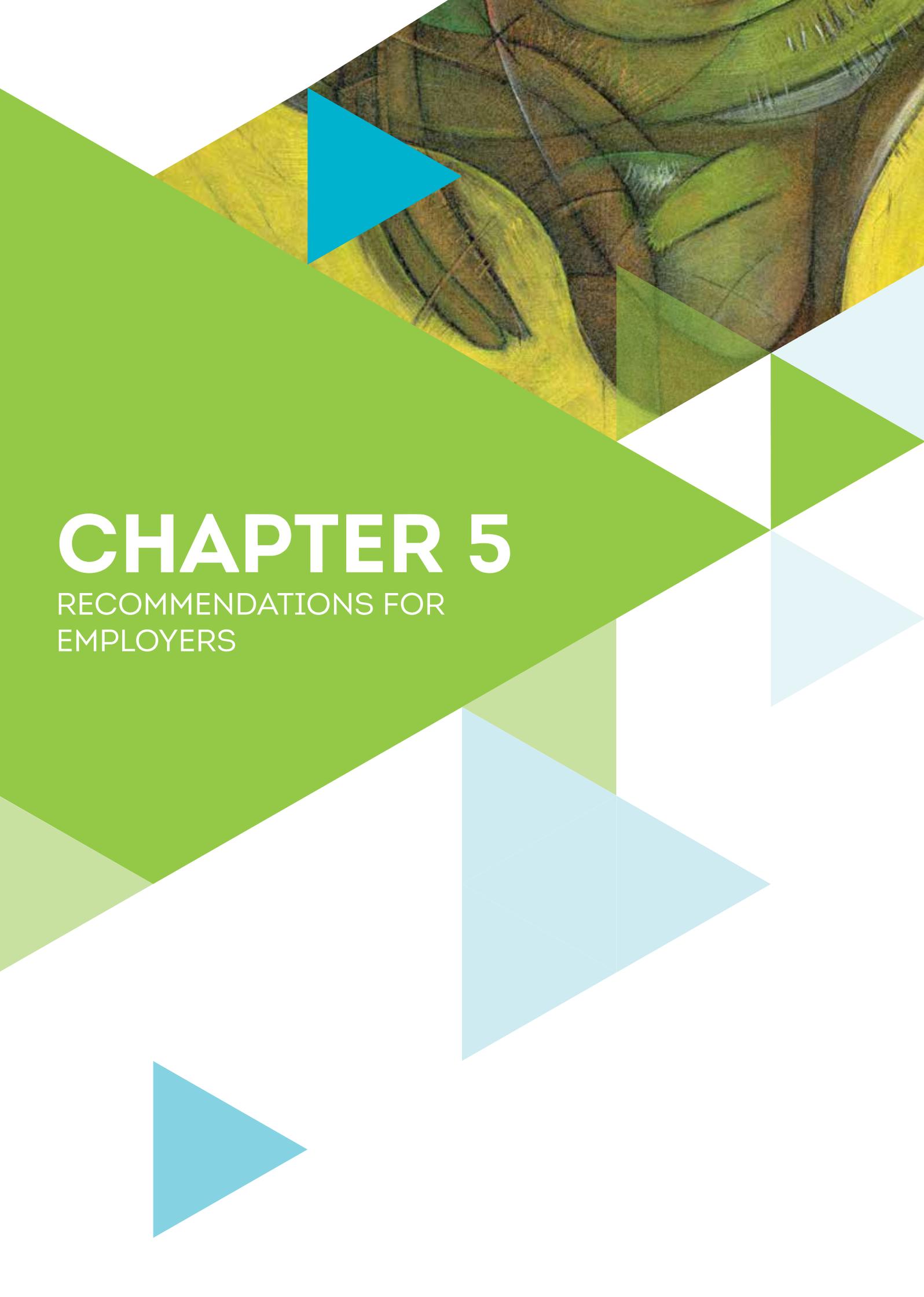
## BE INFORMED

- *The Option Grid* (Kongs-Taylor et al., 2014) has recently been introduced into New Zealand and is an evidence-based resource aimed at helping people with experience of mental illness make a decision to find or return to employment. While aimed at people with experience of mental illness, it is also likely to encourage health professionals and others who distribute and use the grid to recognise and promote the benefits of such employment for

this group. It can be accessed from [http://www.optiongrid.org/resources/employmentandmentalhealth\\_grid.pdf](http://www.optiongrid.org/resources/employmentandmentalhealth_grid.pdf).

- *A-Z pre-employment guidelines* (National Equal Opportunities Network, 2014) is a set of guidelines that aim to ensure equality and fairness for all job applicants regardless of their characteristics, such as gender, ethnicity, age, disability and religion. It can be accessed from <http://live.isitesoftware.co.nz/neon2012/adviceandguidance/azindex/>





# CHAPTER 5

RECOMMENDATIONS FOR  
EMPLOYERS

# RECOMMENDATIONS FOR EMPLOYERS

## BE AWARE

- Experience of mental illness is common – it is a leading cause of disability in New Zealand.
- Even if you are not aware of it, you probably already have employees with experience of mental illness.
- People with experience of mental illness do not necessarily have any more issues than any other employee.
- People with experience of mental illness can have more refined self-awareness, self-management and coping strategies to deal with difficulties in work and life generally.
- Supporting people with experience of mental illness in employment can be a good investment, particularly in terms of reciprocated commitment and loyalty.
- Employing people with experience of mental illness can have positive benefits for the workplace environment and culture generally, including specifically promoting and supporting others' wellbeing.
- It is unlawful to treat people differently in employment (including through job advertisements, job interviews, job offers, working conditions and pay, forcing them to retire or leave, or firing them), because of their experience of mental illness.
- The Human Rights Act 1993 creates an obligation for an employer to take reasonable measures to meet an employee's needs in relation to a disability. Otherwise known as workplace accommodations, these are typically changes that are made to the work environment or in the way things are usually done.
- Workplace accommodations that people with experience of mental illness commonly find helpful include:
  - o flexible hours, in terms of how much and when they work
  - o flexibility in where they work (e.g. the option of working from home)

- o flexibility around sick and annual leave (e.g. the option of additional paid or unpaid leave)
- o flexibility around attending appointments (e.g. being able to attend appointments in work time)
- o professional supervision
- o an on-the-job coach or mentor
- o being able to continue to work even when they are not 100 per cent well
- o not having to manage people.
- These accommodations are generally no greater than the arrangements other employees have to accommodate various aspects of their lives (e.g. long-term physical conditions or impairments, children), are not onerous to implement and manage, and are not costly. They are the most effective accommodations for supporting people with experience of mental illness to work positively and successfully.

## BE REFLECTIVE

- Of how you are directly or subtly creating barriers to employment for people with experience of mental illness (e.g. what are the pre-employment questions you ask, why and how are you asking those, how do you use that pre-employment information).
- Of your assumptions and beliefs about mental illness.
- Of how you respond to a person that discloses they have experience of mental illness – seeing them as a potential risk or a potential valuable resource for your organisation.
- Focus on the individual's abilities, rather than their disability.

## BE RELATIONSHIP-FOCUSED

- The relationship between an employee and employer is pivotal to positive and successful employment.

- Treat employees with respect.
- Treat employees as individuals who all have different idiosyncrasies, issues and needs.
- Maintain an open door policy, with clear communication in both directions.

### **BE A GOOD EMPLOYER**

- Ask all prospective employees what accommodations they might require.
- Exercise your rights, responsibilities and options as an employer (e.g. consider using the 90-day trial period to see how a workplace accommodation fits with your workplace).
- Practice good 'employer attributes' (caring, empathetic, treating people fairly, high integrity, being flexible).
- Create a friendly, respectful, communicative work environment, with a culture of flexibility, inclusion and diversity. This is not only good for people with experience of mental illness, but for all your staff and for business. Potential benefits include increased morale, motivation, commitment, loyalty, productivity, and wellbeing; and decreased absenteeism, presenteeism (i.e. attending work whilst unwell or unproductive), conflict and turnover.
- Provide praise (when deserved) and critical feedback (when necessary). Raise employment issues when required.
- Avoid micro-management.
- Be cognisant of people's workloads and support self-management of those.
- Be clear with yourself and the employee as to what you will do and what you expect them to do if an issue arises.
- If an employee discloses that there is an issue:
  - o do not assume what they will need in support – ask them
  - o take responsibility for supporting a solution within the workplace

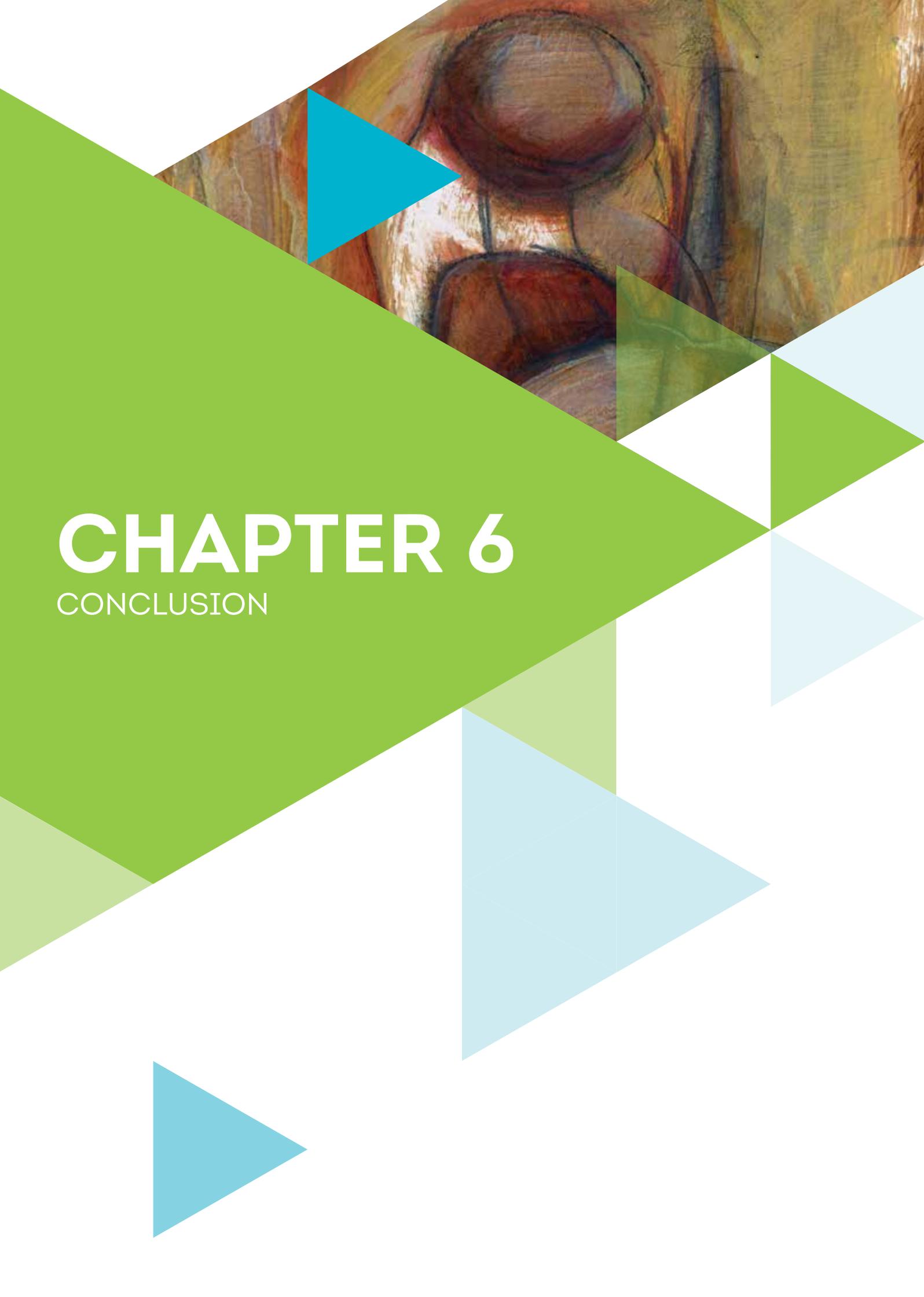
- o provide support and have the right skills to do so
- o be clear about what support you are and aren't prepared to provide
- o support the employee to make a plan
- o maintain regular communication and checking in.
- If you become aware that an employee is, or may be, experiencing an issue, be proactive in raising it with them and identifying what support they require.
- Be respectful of people's personal information.
- Give plenty of notice of planned changes, giving clear and full explanations of the change and why it is necessary.

### **BE INFORMED**

- An English publication (Mental Health First Aid England, 2013) provides information for managers on how to support people with experience of mental illness, within the context of supporting the wellbeing of all employees in the workplace. It can be accessed from <http://www.lse.ac.uk/intranet/LSEServices/healthAndSafety/pdf/SHIFTpracticalGuideToManagingPeopleWithMentalHealthProblems.pdf>
- *One in five* (Working Women's Resource Centre, n.d.) is a resource for those representing and supporting workers with experience of mental illness. It looks at the issues that these workers face, and identifies how they can be supported and how attitudes can be changed in the workplace. It can be accessed from <http://www.wwr.org.nz/assets/resources/1-in-5-Guide-2010.pdf>.
- *A-Z pre-employment guidelines* (National Equal Opportunities Network, 2014) is a set of guidelines that aim to ensure equality and fairness for all job applicants regardless of their characteristics, such as gender, ethnicity, age, disability and religion. It can be accessed from <http://live.isitesoftware.co.nz/neon2012/adviceandguidance/azindex/>

- *Supporting volunteers with experience of mental illness* (Green, 2012) is a literature review aimed at the New Zealand volunteer sector. Volunteers with experience of mental illness share many of the same issues as those in paid employment. In addition, many people with experience of mental illness use volunteering as a way of moving back into paid employment. This review focuses on the barriers that organisations may face when using volunteers with experience of mental illness and addressing frequently asked questions that organisations may have when taking on such volunteers. It can be accessed from [http://www.volcan.org.nz/resources/supporting\\_the\\_mental\\_health\\_of\\_volunteers.pdf](http://www.volcan.org.nz/resources/supporting_the_mental_health_of_volunteers.pdf)



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# CHAPTER 6

CONCLUSION

# CONCLUSION

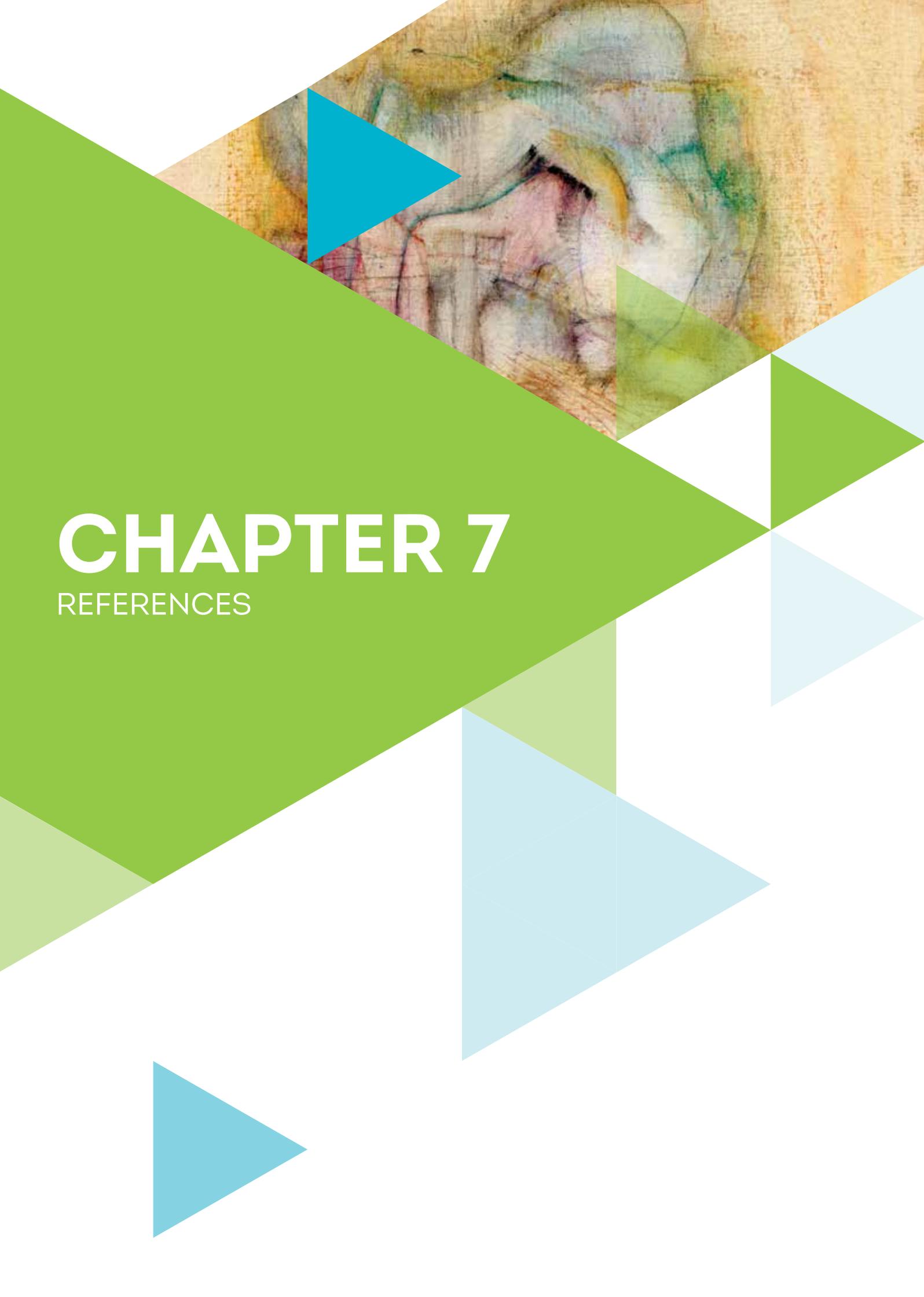
The intended outcome of the Like Minds, Like Mine programme is a socially inclusive New Zealand that is free of stigma and discrimination towards people with mental illness. Employment is a significant issue: most people, including those with lived experience of mental illness, want to work. Workplaces are an important route to social inclusion and provide multiple benefits to individuals and society. However, people with mental illness have higher unemployment than other groups of disabled people.

This research, even with its acknowledged limitations, makes a valuable contribution

showing that people who have experience of mental illness can and do contribute effectively as employees in a range of roles. It also demonstrates that employers can work through apparent difficulties to reach mutually beneficial solutions. It is evident in the examples we looked at that if the approach taken by employers and employees is practical and positive, problems are not insurmountable.

Interest from employers in mental health in the workplace is growing, providing an opportunity to work for more inclusive workplaces and towards a socially inclusive New Zealand.





# CHAPTER 7

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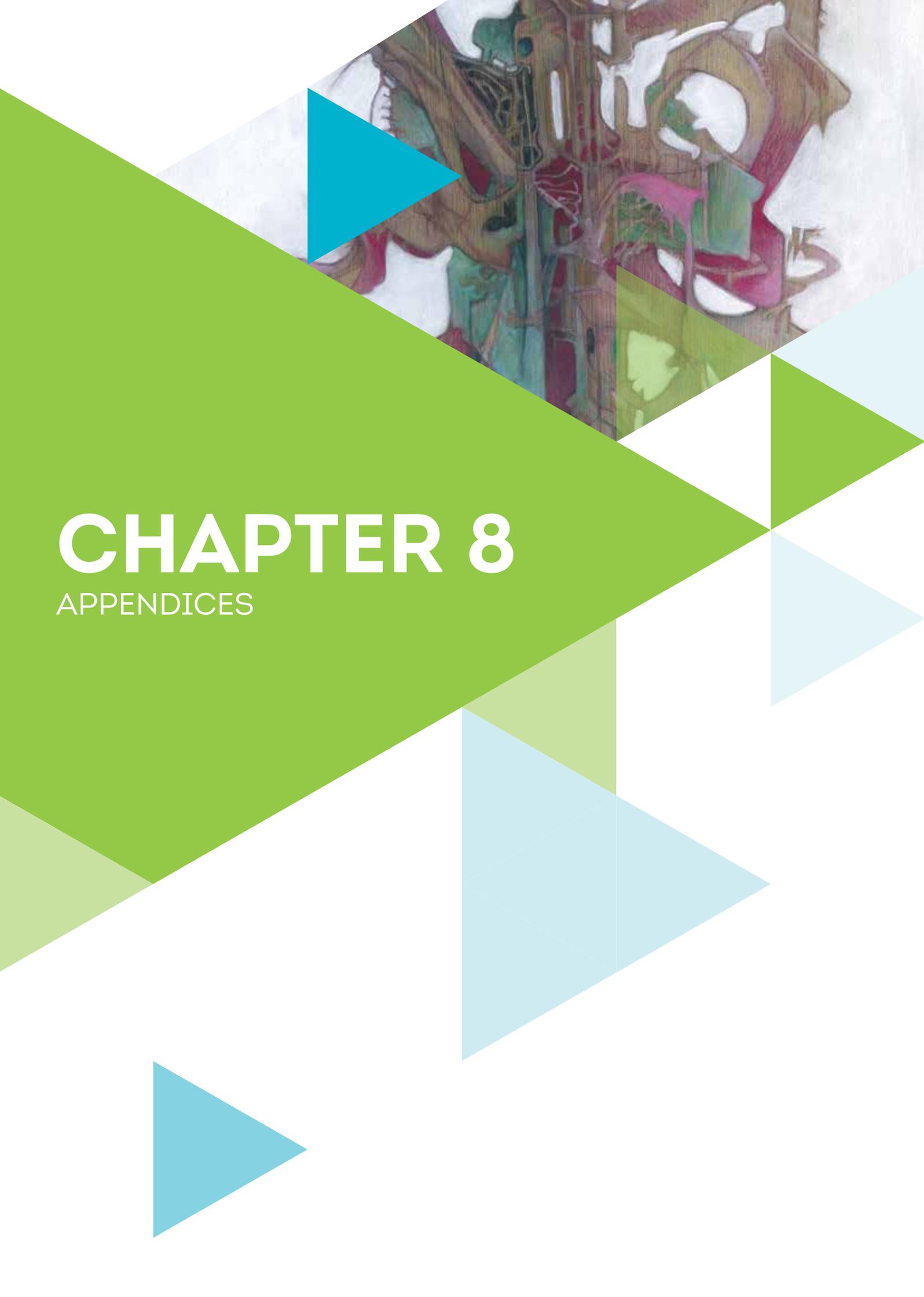
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The background features a large green triangle on the left side, pointing right. Overlapping this and the top right corner is a painting of a face with vibrant, abstract colors like red, green, and blue. The rest of the page is white, decorated with several smaller triangles in shades of green and blue, some pointing towards the center and others towards the corners.

# CHAPTER 8

APPENDICES

# APPENDICES

## APPENDIX 1: SEMI-STRUCTURED INTERVIEW SCHEDULES

### General outline of questions for employees

Can you please tell me a bit about your job including what it means to you and what it provides for you?

Can you please tell me a bit about your workplace?

Can you please tell me how you came to be employed? (For example, through a vocational service.)

How did your employer become aware of your experience of mental illness? *(Did you disclose prior to being employed? Did you tell them or did someone else? When? What was their reaction? Did they treat you differently after they found out? If so, please explain.)*

Have you given your employer any information or resources?

Have you ever had difficulties in your job related to your experience of mental illness? *(For example, difficulty performing the job, difficulty concentrating, being easily distracted, lack of motivation, taking time off sick or for appointments, side-effects of medication.)*

Have any special arrangements been made? *(For example, flexible hours, time off for appointments, increased sick leave.)*

Do your colleagues know about your experience of mental illness? How has that been for you?

Have you ever become unwell while working? How did your employer react?

Has your GP or mental health service provider played any role in your employment? *(For example, talking to your employer, supplying sick notes.)*

With this job, have you needed to call on any of your legal rights as an employee?

How does this employment experience compare with other employment experiences?

What are the key things you do to make your employment positive and successful?

What are the key things that your employer does to make your employment positive and successful?

### General outline of questions for employers

Can you please tell me a bit about [name of employee]? *(For example, where and how they fit within the organisation.)*

Can you please tell me how [name of employee] came to be employed by you?

How did you become aware of [name of employee]'s experience of mental illness? *(Was it disclosed prior to you employing them? Did they tell you or did someone else? When? What was your reaction? Did you treat them differently after you found out? If so, please explain.)*

Have you ever received or sought any external information, resources or support to assist with [name of employee]'s employment? *(If yes, please explain.)*

What did you know about mental illness before you employed [name of employee]?

What questions do you ask about disability or illness at the pre-employment stage and why?

How does and has [name of employee]'s experience of mental illness affected his/her employment? *(For example, doing the job, engaging with colleagues, time off.)*

How have you responded and dealt with the way [name of employee]'s experience of mental illness affects their employment?

Have any special arrangements been made? *(For example, flexible hours, time off for appointments, increased sick leave.)*

There is a common perception that employers discriminate against people with experience of mental illness. Why do you think that is? What makes you and this workplace different?

With this employment relationship, have you needed to call on any of your legal rights as an employer?

Is this employment relationship different to others that you have? *(If so, how?)*

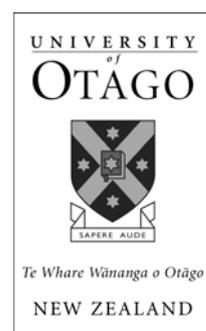
What are the key things that you do to make [name of employee]'s employment positive and successful?

What are the key things that [name of employee] does to make his/her employment positive and successful?

Have you, your colleagues, or your organisation experienced any benefits as a result of having [name of employee] as an employee?

What advice would you give to others who were thinking about employing someone with experience of mental illness?

## APPENDIX 2: INFORMATION SHEET



### WHAT WORKS

*Positive experiences in open employment of mental health service users*

### INFORMATION SHEET FOR PEOPLE INTERESTED IN PARTICIPATING

Thank you for showing an interest in this project.

Please read this information sheet carefully before deciding whether or not to participate. Your involvement is entirely voluntary (your choice). If you decide to participate we thank you. If you decide not to take part there will be no disadvantage to you and we thank you for considering our request.

### What is the aim of the project?

The aim of this research is to identify the factors that contribute to the positive and successful employment experiences of mental health service users.

### Who will participate in this study?

We want to interview mental health service users in open employment and their employers.

Open employment means regular jobs (part time or full time), which are either permanent or contracted. For this project we are not wanting to interview people using supported employment services or who are working in mental health services as a peer, consumer advisor or lived experience practitioner. Our definition of mental health service users is people who are using primary or secondary mental health services (e.g. GPs, NGO services, DHB mental health teams) on either a regular basis or from time to time.

### What will participants be asked to do?

Participating employees and employers will each be interviewed separately but consecutively, by Dr Sarah Gordon at a place and time of your convenience. When



interviewing Māori employees/employers, Sarah will be supported by Tane Rangihuna. When interviewing Pacific Island employees/employers, Sarah will be supported by Nandika Currey. The interviews will be semi-structured, which means that we can provide you with most of the questions that are going to be asked before the interview. Each interview should take about one hour.

**What data or information will be collected and what use will be made of it?**

Before the interview we will ask some general questions about you. This information will be used to make sure we interview a range of people. You have the right to access and correct this information.

Through the interview Dr Gordon will ask questions about what you believe to be the critical factors that contribute to the positive and successful employment experiences of mental health service users.

Dr Gordon will ask your permission to audiotape the interview. The audiotapes will be transcribed. We will send you the transcription so you can check it, make any changes you consider necessary, and sign it off as correct. We will then analyse the transcripts to identify themes that have come through the interviews. We will also identify quotes that reflect certain themes well.

The audiotapes and transcripts will be securely stored in such a way that only the project investigators can access them.

We expect most participants will want their data reported in a form that does not personally identify them. We will do this by using pseudonyms in place of the names of employees, employers and workplaces. We are aware that any of these three variables could make you identifiable and will make every attempt to preserve your anonymity through all reports on the study. Where an employee and employer are in agreement, you can choose to have your information presented in a personally identifiable way. Should you be considering this, we

recommend you reading the Thinking about Disclosure fact sheet we have prepared and discuss this further with us.

The research will be presented in a report for publication as a Like Minds, Like Mine resource. The report will be publicised, disseminated and promoted through Like Minds, Like Mine providers, networks and forums. Publications will also be submitted to academic journals. The published results of the project will be available in the University of Otago Library (Dunedin, New Zealand).

Once the study is completed and the results published, the audiotapes and transcripts will be stored for 10 years in a locked filing cabinet, in a locked storage room, at the University of Otago, Wellington, and then they will be destroyed.

You are most welcome to request a copy of a summary of the results of the project should you wish. There is a section on the consent form that allows you to make your request known.

**Can participants change their mind and withdraw from the project?**

If you do agree to take part in the study, you are free to withdraw from the study at any time, without having to give a reason, and without any disadvantage to yourself of any kind.

**What are the risks and benefits of being involved in the project?**

We don't expect you to experience any ill effects from taking part in the study.

**What if participants have any questions?**

If you have any questions about this project, either now or in the future, please feel free to contact:

Dr Sarah Gordon  
Department of Psychological Medicine  
University of Otago, Wellington  
Telephone number: (07) 8235025  
Email address: sarah.e.gordon@otago.ac.nz

Dr Debbie Peterson  
Social Psychiatry & Population  
Mental Health Research Unit

University of Otago Wellington  
Telephone number: (04) 8061486  
Email address: debbie.peterson@otago.ac.nz

This study has been approved by the University of Otago Human Ethics Committee. If you have any concerns about the ethical conduct of the research, you may contact the committee through the Human Ethics Committee administrator (ph: 03 479 8256). Any issues you raise will be treated in confidence and investigated, and you will be informed of the outcome.

## APPENDIX 3: THINKING ABOUT DISCLOSURE FACT SHEET

### Thinking about disclosure?

One thing about mental illness is that it is something we have a choice about whether to disclose or not. It is also seldom that disclosure is a one-off decision. We may choose to tell an employer about our mental illness, but then we have to decide whether to tell our colleagues, and which ones. At the same time our families may or may not know. Each time we are faced with the dilemma as to whether to disclose or not requires a decision, and a consideration of the consequences.

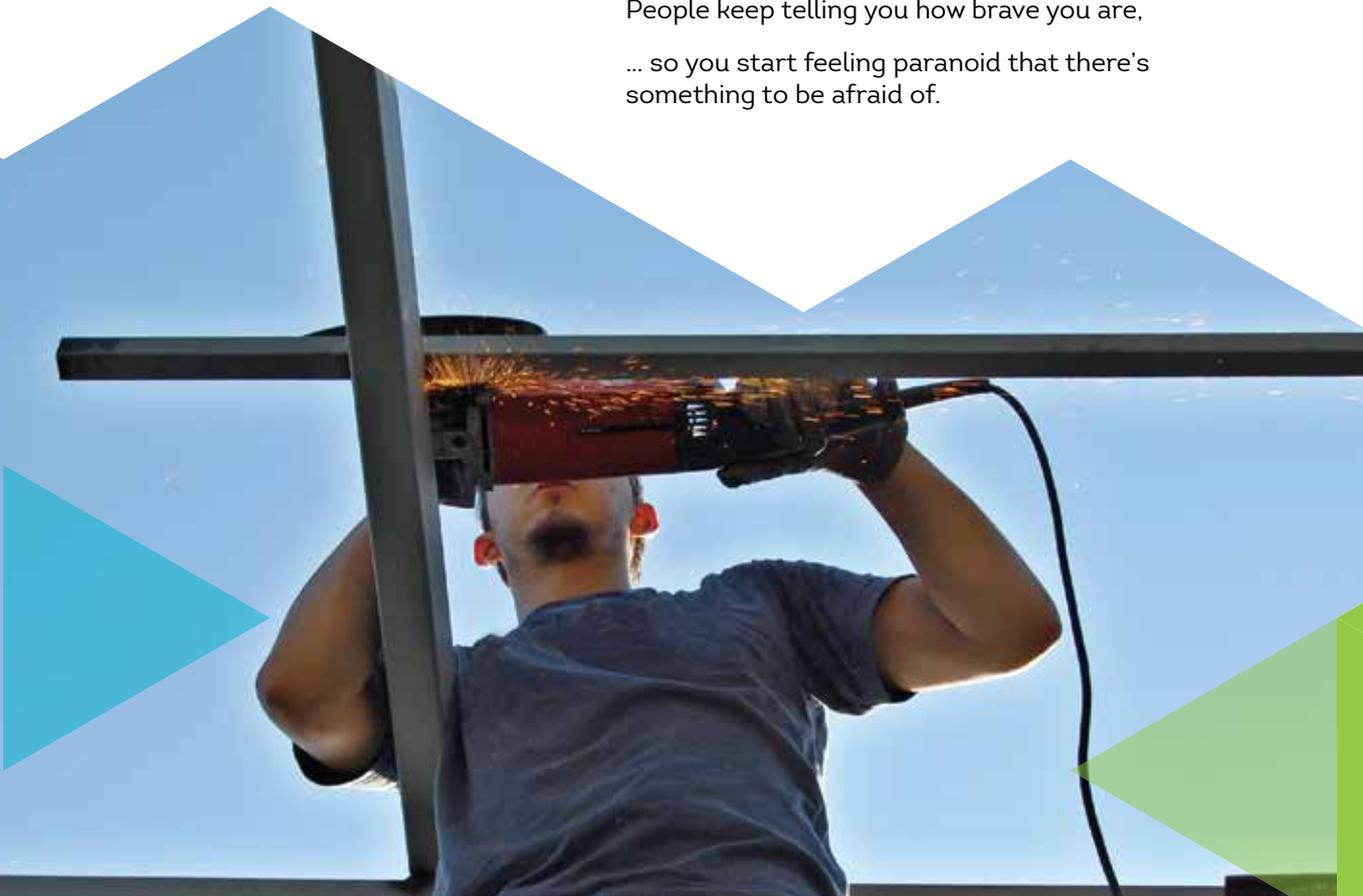
### Pros and cons of disclosure (some examples)

You don't have to worry about whether someone may find out,

... except you haven't told your family – but your auntie's next door neighbour has just taken care of that for you.

People keep telling you how brave you are,

... so you start feeling paranoid that there's something to be afraid of.



You feel really at ease in your workplace, people treat you the same as everyone else,

... then it comes time to get a new job, and you worry that your current boss (as your referee) may tell your potential employer about your mental illness before it's appropriate.

Ten years ago you were proud to be in a project highlighting the achievements of people with experience of mental illness,

... now your girlfriend (who you hadn't told about your experience of mental illness, after all it was ages ago) finds the project report in the library.

#### **Positives about disclosure**

On an individual basis, the positive benefits of being open about your experience of mental illness are a feeling that you are no longer carrying around a secret that other people can use against you – disclosure brings with it a sense of freedom. It means that you can ask for what you need to help you out with your mental illness. People may even look up to you in response to your openness.

#### **Negatives about disclosure**

The negative consequences of disclosure usually relate to two things: discrimination (being treated differently because of your experience of mental illness); and lack of control (once it's out there, it can't be taken back).

## **APPENDIX 4: DISCRIMINATION CASE LAW**

### **ATLEY v SOUTHLAND DISTRICT HEALTH BOARD**

The case of *Atley* involved claims of failure to accommodate the disability, and/or an unjustified disadvantage personal grievance. Ms Atley was an emergency department (ED) nurse who had a diagnosis of bipolar disorder who became required to work night shifts. She provided a medical certificate stating that she should not work night shifts because of her medical condition. Southland District Health Board became aware of Ms Atley's diagnosis and medication regime, and some six months later advised Ms Atley that she could not be exempted from the duty to work night shifts. This resulted in redeployment within the health board, with the negative consequences of lost remuneration, uncertainty and anxiety about ongoing employment, and a reduction in job satisfaction as a result of not being allowed to work in ED.

The Authority held there was a prima facie case of discrimination, that Ms Atley suffered detriment that would not have been suffered by another ED nurse. The Authority went on to consider the impact of ss29 and 35 HRA and held that the risk of harm to self and others if Ms Atley worked night shifts was not reasonable to take. Thus the exception under s29(1)(b) was met, however this was held not to apply under

s29(2) as Southland District Health Board could without unreasonable disruption take steps to reduce the risk to a normal level. In this case other ED nurses had offered to cover Ms Atley's night shift and this would have satisfied the statutory test. The s35 qualification was found to support the Authority finding that it was not an unreasonable disruption to have other employees cover Ms Atley's night shifts. Therefore it was held that Southland District Health Board had breached s104(1)(b) and so Ms Atley had a personal grievance.

In the *Atley* decision the Authority referred to s124 - which provides that any award made to an employee may be reduced if it is held there was contributing behaviour by the employee - and in particular the pre-employment screening form Ms Atley completed in 2001, and a more detailed pre-employment form she completed in 2005. The 2001 form is silent as to Ms Atley's psychiatric diagnosis and she answered 'No' to the question "Do you have or have you had in the past mental health/stress related conditions?" on the 2005 form. The Authority found that Ms Atley should have disclosed her diagnosis and that her failure to do so "...contributed to the discrimination grievance arising when it did since a timely disclosure would have resulted in a focus on the risk issue in 2005." Therefore her award of damages for the unlawful discrimination that occurred was reduced by 25 percent.

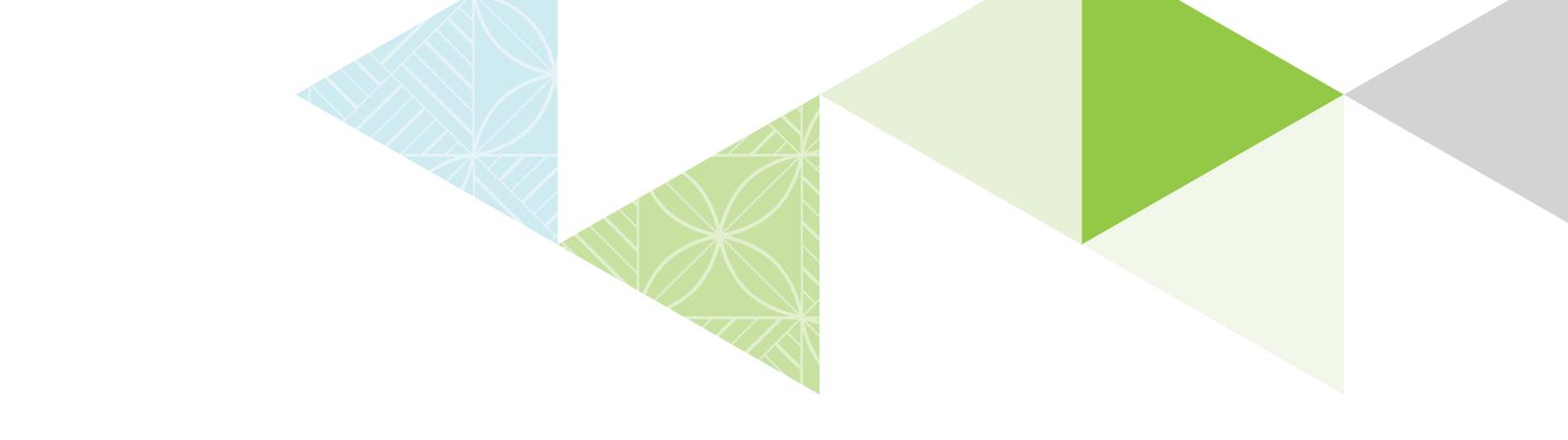
#### LIDIARD v NEW ZEALAND FIRE SERVICE COMMISSION

The *Lidiard* case concerned a fire officer who, after five years of employment with the New Zealand Fire Service, became unwell and was offered twelve months leave without pay to assist with his recovery. Mr Lidiard wished to return to his role prior to that twelve months elapsing and furnished the Fire Service with relevant reports in support of this. These reports highlighted a history of mental illness pre-dating his initial employment. When he applied for the role Mr Lidiard completed an application form and a health questionnaire. The health questionnaire was to be returned in a supplied envelope addressed to the "Medical Vetting Coordinator". This separation

of medical information from other parts of the recruitment process was held to ensure that the form was not used with an intention to discriminate, rather it requested information solely for the purpose of determining whether a person's physical and mental fitness to perform the roles and the duties of a firefighter. Mr Lidiard's position was that this was a discriminatory practice.

The Authority then considered the s29 HRA exception, and noted from evidence from the Fire Service that "there is a significantly increased risk of harm arising in the performance of a firefighter's duties for those with certain types of mental illnesses or who are taking certain types of medication as a result of such illnesses", and so the Fire Service must be allowed to ask appropriate questions so as to assess its legal obligations. The Authority member, Mr P Cheyne, said "I accept that mental health is an important consideration in whether a person can properly and safely perform the role of firefighter as identified in the AFAC (Australasian Fire Authorities Council) guidelines." Mr Lidiard had not disclosed any mental health diagnoses or experiences on these forms prior to his employment, and so in its process the Fire Service was not able to determine if a s29 exception applied in this situation as it was without the relevant information.

It was concluded by the Authority that this non-disclosure was detrimental to the employment relationship between Mr Lidiard and the Fire Service, having placed both him and the Fire Service in the way of harm and having impaired the relationship of trust and confidence. Mr Lidiard, during the Fire Service investigation of the matter, gave untruthful answers about his reasons for not having answered the pre-employment questionnaire correctly. The Authority in its conclusion stated that "The statutory obligation is for those in an employment relationship to deal with one another in good faith which includes not misleading one another." The Authority then briefly considered the stigma attached to mental health and said it 'might' be understandable that Mr Lidiard would think



he should hide his history to avoid any risk of discrimination. However it found that in doing so Mr Lidiard had left himself open to adverse consequences should his omission be discovered. The Authority stated that Mr Lidiard's other option was to 'properly' answer the questionnaires and to rely on the HRA and its remedies that are available for proven breaches. The Fire Service was held to have been a fair and reasonable employer, and Mr Lidiard to have been justifiably dismissed.

#### COOK v ALLIED INVESTMENTS LIMITED

The other decision of the Authority focussing on pre-employment questionnaires was *Cook*, which concerned a security guard in a sole charge position at a chemical factory. Mr Cook completed an application form which required disclosure of any condition which may affect how the applicant would do the job applied for, asked about specific conditions including "nervous disorder/anxiety", and included a question about any other illness that the applicant has suffered which may affect their ability to perform tasks and discharge responsibilities of the role. This form included a request for a recent medical history, a warranty as to the truthfulness of the answers and was signed by the applicant.

Mr Cook answered all these questions in the negative, but for the request for a medical history. Following an induction and a separate training day Mr Cook was rostered onto work from 22 March 2012. At 3am on 23 March Mr Cook rang Allied in what was described as a hysterical state, saying that he could not work later that morning. Mr Cook came into work with a medical certificate from the Auckland Mental Health Crisis Team excusing him from work for three days. Allied terminated his employment two days later in reliance on his failure to disclose existing medical conditions and did so using a 90 day trial period provision in the employment agreement.

The 90 day trial period provision in the employment agreement was found to be unlawful as it did not make clear that the effect of the trial period was to nullify the right to bring a personal grievance. Therefore Allied

could not rely on it to dismiss Mr Cook. The next question related to the pre-employment forms which Allied claimed were both lawful and necessary for the safety of Mr Cook, fellow employees and Allied's client. The Authority referred to *Imperial Enterprises Ltd v Attwood* where it established that the relevance of the medical information sought to the nature of the employment was key in determining whether the information collection was discriminatory or not - the more general the enquiry the more likely it was to be discriminatory.

In *Cook* it was found that the questions asked were general, but the Authority then turned to s29 HRA and found the exception that different treatment is not illegal if the environment, the duties and the risk of harm to self or others is not reasonable to take (s29(1)(b)) to apply in this case. It was emphasised that Mr Cook, prior to commencing his first shift, would have been well aware that the role was of a solo security guard in a multi-million dollar factory which operated using highly dangerous chemicals. It was held that the 'nature of the ailments' that Mr Cook has could potentially place him at risk, and that he purposefully withheld this information that Allied needed to make its own judgements about the propriety of him discharging the role.

It was recorded that Mr Cook stated that the reason he did not disclose his health status was that he thought he would not get the job if he was truthful. The Authority determined that "That may well be right", but that there was no evidence that Allied would not have employed him in an alternative role, and that the "evidence the Authority heard suggested that Allied had a number of different roles available from time to time and that not all of them would have been unsuitable for somebody with Mr Cook's health issues."

At this point the Authority also referred to the duty of good faith, and concluded that Mr Cook had "failed absolutely" to discharge this obligation. However the Authority determined that the process Allied followed in dismissing Mr Cook was unlawful, as a good and fair employer would not determine to dismiss an employee without giving that

employee a proper opportunity to be heard, and in this case there was no evidence of that opportunity being provided. Further, an Allied representative called Mr Cook when he was on sick leave wishing to discuss matters when such a call would not have been made by a good and fair employer. Therefore Mr Cook had been unjustifiably dismissed.

S124, which provides that any award made to an employee may be reduced if it is held there was contributing behaviour by the employee, was also applied in the case of Mr Cook. In considering whether there was a contribution by Mr Cook to the circumstances that gave rise to his dismissal the Authority concluded that he "... is entirely responsible for the circumstances giving rise to his personal grievance and as a consequence he is not entitled to any remedies at all", and that "His failure goes to the root of the bargain between the parties...".





**Mental Health Foundation of New Zealand**

PO Box 10051, Dominion Road, Auckland 1446  
Units 109-110, Zone 23,  
23 Edwin Street, Mount Eden, Auckland  
T (09) 623 4810 F (09) 623 4811

**Information Service**

T (09) 623 4812 E [info@mentalhealth.org.nz](mailto:info@mentalhealth.org.nz)