New Zealand needs a greater range of residential programmes capable of providing for people requiring compulsory drug and alcohol treatment according to the Law Commission.

The Law Commission’s latest report, *Compulsory Treatment for Substance Dependence*, proposes replacing the out-dated Alcoholism and Drug Addiction Act 1966 with a new Act which would make the law more user friendly while at the same time providing much greater safeguards for people forced to undergo compulsory treatment.

The review feeds into the Government’s multi-pronged Methamphetamine Action Plan which required a review of the Act by November 2010 after identifying access to effective treatment options for those with severe dependency problems as a key area for reform.

On average 74 people are compulsorily detained each year under the current Act. The Commission’s President, Sir Geoffrey Palmer, said it was possible numbers may increase slightly under the proposed new law because there would be easier access to a more diverse range of facilities spread throughout the country.

Currently there are only 4 facilities authorised to accept people under compulsory treatment orders after they have completed detoxification in a hospital. None was willing to take young people under 20 and none was available outside the three main centres.

In the course of its review the Commission heard that family members and others concerned about a person with severe dependence have considerable difficulty applying to the Courts for a compulsory treatment order.

In addition, the lack of facilities meant judges had sometimes been forced to decline applications to have a person committed simply because they were unable to find an institution willing to take the person.

“The threshold for forcing someone to undergo treatment is deliberately set high because the law places great value on individual autonomy.

“However, in these rare cases of severe dependence, where a person is at risk of serious harm, it is essential that the assessment process is prompt and easily accessed and that there are enough specialist residential facilities around the country to provide the care.” said Sir Geoffrey.
Under the Commission’s proposals anybody over the age of 18 who believed a person met the criteria for compulsory treatment would be able to contact an official called the Director of Area Alcohol and Drug Services who would arrange for an assessment.

In order to meet the criteria for compulsory treatment a person would have to have severe substance dependence, be at risk from significant harm and be likely to benefit from, but have refused, treatment.

The initial maximum period of compulsory treatment would be six weeks with the potential for the Family Court to extend the period for a further three months where a person appeared to have a brain injury caused by drug or alcohol use, so that more time was needed to treat them or make arrangements for their on-going care.

The key objectives of the period of compulsion were to provide immediate safety from harm and to stabilise the person medically, including providing detoxification. There would be a much greater emphasis on providing comprehensive specialist assessments and long term treatment plans for the period after discharge.

The new Act would also provide much stronger legal safeguards than the current legislation, ensuring that a person under a compulsory treatment order has the same patient rights and opportunities for review that apply to those held under mental health legislation.

The Commission rejected community-based treatment programmes on the basis that if an individual was well enough to be treated in the community they were unlikely to meet the criteria for compulsory treatment.

The Law Commission’s proposals were developed with input and assistance from the Ministry of Health.

The review of the Alcoholism and Drug Addiction Act 1966 forms part of the Commission’s larger project reviewing the overall framework for the regulation and control of illegal and other drugs in New Zealand. The Commission’s final report on drug laws is due in early 2011. That report will also include recommendations about the role of treatment in the context of drug related offending.

The full report can be found at www.lawcom.govt.nz

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For more information

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