

Scottish Mental Health Law Review

Consultation

**Tell us
what
you
think**



1. Do you think the
idea is a good one?

Yes

No

Not sure



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What is this consultation about?



The **Scottish Mental Health Law Review** is looking at the mental health laws in Scotland.



The Review is a group of people who are making suggestions to change the mental health law. These people are called The Executive Team.

The Scottish Government asked for three pieces of mental health law to be reviewed. These are:



- Mental Health (Care & Treatment) (Scotland) Act 2003
- Adults with Incapacity (Scotland) Act 2000
- Adult Support and Protection (Scotland) Act 2007



You should respond by 27 May 2022



If you would like a copy of this to be posted to you, or sent to you but in another format, please email secretariat@smhlr.scot

What is this consultation about?

You can email your replies to secretariat@smhnr.scot

or

Email secretariat@smhnr.scot with your phone number. Someone will give you a call and speak to you.



We want to make things better for the future.



Your human rights say that you should be treated fairly and listened to.



The Rome Review wrote a report in 2019. The report was about human rights, learning disability, autism and mental health law.



This Review is thinking about the report from the Rome Review.

What is this consultation about?



We have still a lot of work to do.



This is some of the information and ideas we have so far.



We want to ask some questions to see what you think about the ideas.



We might want to share some of your comments. We will only do that with your permission and nobody will know who the comment was made by.



A final report will be passed to Scottish Ministers in September 2022.



They will decide what happens next.

Human rights



Human rights mean everyone should be treated fairly, equally, with dignity, and with respect.



It is important that your human rights are protected.



You need to know what your rights are and where you can go if you are not getting them.



You need to know where to go when you aren't getting your rights.



It is important that you are allowed to have a say in your life and any decisions made about you.



Unpaid carers, family members or someone you trust also need to be listened to.

Human rights



People have told us that they want to feel cared for, respected and given the right support at the right time.



For someone to find out what they want and need there would normally be an assessment carried out.

The Review team think there should also be 'human rights enablement'.



Enablement means you have an assessment and a plan for your human rights. People should keep checking that your human rights are being met.

Human rights



Your family, unpaid carer or someone you trust could also have a say in your plan.



Your views and thoughts would be recorded and be updated on a regular basis.



If you don't want to have a human rights enablement done then that's okay. You just have to say no.



If you are not well enough to say what you want, your unpaid carer, family or someone you trust would be allowed to speak on your behalf until you are feeling better.



If a decision is made that you don't like, you can ask why it is being made.

Human rights

Questions



Question 1: What do you think about these ideas?



Question 2: Do you, your unpaid carer, family or someone you trust get a say in what happens to you just now?

 **Yes**

 **No**

Human rights

Questions



Question 3: If you were to speak to someone about what you want now and in the future, who would it be?



A Social Worker



A Doctor



Anyone else



Question 4: Is there anything else you would like to tell us?

Making sure everything is being done properly and you get the support you need



Someone needs to check that you are being treated fairly and make sure that you are getting what you want and need.



Someone needs to check that services for disabled people are good enough.



You need to be told who can help you if you are not happy with the service you are getting.



You should be able to go to a Tribunal if you think your freedom is being restricted.



The Tribunal should also be able to get you the service or treatment you need.

Making sure everything is being done properly and you get the support you need



If you are given treatment you don't want or are in hospital and you don't want to be there, you, your unpaid carer, family or someone you trust should be able to appeal against the decision.

Question



Question 5: What do you think about being able to appeal against a decision you don't like?



Good idea



Bad idea



Don't mind



If you said it was a bad idea, why do you think that?

Complaints



It can be difficult to complain when things go wrong.



We are not sure the current complaints system works for you.



Sometimes you need a bit of support from your unpaid carer, family or someone you trust.



The person helping you should also be able to get some support if they need it.



If you are part of a group you might all want to complain about the same thing.

Complaints

Questions



Question 6: If you needed to complain about something, how would you want it to be handled?



To tell my story in my own way



For someone to listen to me



To be believed



To be taken seriously

What else is important to you for making a complaint?

Complaints

Questions



Question 7: It is sometimes difficult to know where to go to get a complaint dealt with. What do you think could make this easier?



Question 8: How would you want to be told that your complaint has been dealt with?

Complaints

Questions



Question 9: If you were part of a group and you all had the same complaint, what do you think about being able to make one complaint for everyone?



Good idea



Bad idea



Don't mind



If you think it is a bad idea, why do you think that?

Independent Advocacy



Independent advocacy helps and supports people to have a say in what they want.



People with a mental disorder have the right to independent advocacy.



There are not enough people to provide advocacy.



If you need it you should be able to get it.

Collective Advocacy



Collective advocacy is when a group of people with shared experiences come together to try to improve issues that may affect their lives.



They are run by and for their members.



They are independent.



These groups are very important.



Access to collective advocacy is different depending on where you live.



They don't get enough funding.



Everyone should have access to collective advocacy.

Collective Advocacy



The Review carried out a consultation about collective advocacy.

There is an easy read document on our website with what we were told. Our website address is

www.smhlr.scot

Questions



Question 10: How do you think we could make advocacy services stronger?



Question 11: How do you think we can let people know that advocacy is there for them?

Advocacy

Questions



Question 12: Do you have any other ideas about advocacy?

Living the best life you can



Sometimes we need bit of help to say what it is we want.



Everyone should be treated the same and be equal.

There are four suggestions to make sure this happens.

Number one – You should always be treated with dignity.



Number two – You are allowed to make your own choices.

Number three – Everyone should be treated equally.

Number four – You should be allowed to be part of everything that other people are included in.



Services need to get better so everyone can access the right services.

Living the best life you can



Local Authorities and the NHS should give lots of mental health support to those that need it.



If you have to go in to hospital your benefits can be stopped.

But you shouldn't end up poorer because you are in hospital.



You should be allowed to live in your own home if you want to.



It is important that you don't feel sad and alone.



When something goes wrong someone should explain to you what is happening.



It is important that the anyone using services, your family and unpaid carers have a say in how services work.

Living the best life you can



Mental health services need more funding.



Training is needed for staff on human rights for people with a mental disorder.



Buildings need to be adapted so that they are comfortable for anyone who uses them.

Living the best life you can

Questions

A mental disorder is any mental illness, personality disorder or learning disability.



Question 13: We have been told that some people don't like the words 'mental disorder'.

Do you think it is okay?



Yes



No



If you don't like it, what would you change it to?



Question 14: How do you think we can make sure everyone is treated equally?



Question 15: Is there anything else you would like to tell us?

Making choices



There should be a record kept of what you want now and for your future.



This can be done in writing, by telling someone, pictures or even by video.

You can have a legal document called a Power of Attorney.



This is a legal document to say what you would like to happen if you take unwell.



A Power of Attorney lets you say who you would want to help you if you can't make a decision for yourself.

Nobody can make any decisions for you until you can't make the choices yourself.

Making choices



That person needs to do what they think you would want them to do.



Unpaid carers, family or someone you trust should also be included in any decision being made about a you if you can't.



Whoever is making decisions for you should be supervised.

Making choices

Questions



Question 16: What do you think about this?



Question 17: Do you think the person making decisions for you should be supervised?



Yes



No



Why do you think that?

Making choices

Questions



Question 18: What would you want done if someone made a decision about you that you wouldn't have liked?



There can be times when you are not allowed to do what you want or make your own choices. This might be because you are not well.



You, your unpaid carer, family or someone you trust should have to have a say if you aren't allowed to make your own choices.



This should only happen if you or someone else could get hurt.

Making choices



You should always be given help if you need it to make your own decisions.



This can be done by you or someone else keeping a note what it is you want. If you change your mind on what you want, it can be updated at any time.



You can do it by writing it down, making of video or a recording of you speaking it.



You can also tell your unpaid carer, family or someone you trust and they can write it down or speak for you.



There are organisations that can also help you record your wishes if you need it.



It is best to make a record of what you want as early as possible so that if you take unwell, you still get to have a say in what happens to you.

Making choices



You can say what it is you want about anything to do with your life.



If you are no longer allowed to make your own choices, it should only be until you are well enough to make them again yourself.



Your unpaid carer, family or someone you trust should always be asked what your wishes are and what they think is best for you before someone else makes a decision for you.



Your unpaid carer, family or someone you trust can find out why it has been decided you are not allowed to make your own decisions



This should be reviewed regularly.



It should be recorded and kept in your file.

Making choices

Question



Question 19: What do you think about this?

When you are unwell



Sometimes you can be too unwell to make a decision for yourself.



Decisions can be made for you which you don't agree with.

This can include being taken to hospital or given medication.



Sometimes you can be in hospital or a care home for too long.

This can be very upsetting. We are looking to change the law to make this better.



If you were given help and support at home you might not need to go into a hospital or a care home.



If you do have to go into hospital or a care home, it needs to be a nice place to go with staff who care and you feel safe and happy there.



Sometimes you are told to do something you don't want to do.

When you are unwell



This might be to keep you and others safe.



But someone should always be checking that you are okay.



We want fewer people forced to go to hospital or to have treatment.

Questions



Question 20: Is there anything else you can think of that would help you stay at home when you are unwell rather than having to go into hospital?



Question 21: Is there anything else you would like to tell us?

Children and young people

Children and young people are anyone under the age of 18.



Children and young people have the right to say what they would want to happen to them.



CAMHS – child and adolescent mental health services are a specialised service who can offer people help and support.



CAMHS services should be available up to your eighteenth birthday.



The services available for children need to increase.



Sometimes children and young people are admitted to hospital when they should be given support somewhere else.

Children and young people



Families and unpaid carers do not feel supported or listened to.



At the moment the support you receive as a child is different from the support you receive as an adult. This needs to be changed to make it easier when you turn 18.



The law relating to children's mental health may need to be thought about and redone.



In future, mental health law for children could be separate from mental health law for adults.

Children and young people



If the child or young person is too unwell, then a parent, unpaid carer or trusted adult should make any decisions for them.

If there is nobody there to do that, the authorities can make decisions for the child or young person.



Children and young people should have their voice heard in law and be involved in decisions made about them.



The families and unpaid carers should also have a right to get support if they need it.



Organisations like the NHS and Local Authorities have a duty to make sure services are available to children, their parents and unpaid carers.

Children and young people

Questions



Question 22: Do you think that mental health law for children should be separate from mental health law for adults?

 Yes

 No



Why do you think that?

Children and young people

Questions



Question 23: Do you think that the law needs to change to make services better for children and young people?



Yes



No



Why do you think that?

Children and young people

Questions



Question 24: Do you think that the law needs to change to give families and unpaid carers the support that they need?



Yes



No



Why do you think that?



Question 25: Is there anything else you would like to tell us?

Women having babies



There needs to be more support in the community for women suffering from mental disorders who have babies.



A new parent should not have to go into hospital for mental health disorder because there is no support for them at home.

Questions



Question 26: What do you think about this?



Question 27: Is there anything else you would like to tell us?

The law



There are three pieces of law relating to mental health. These are

- Adults with Incapacity (Scotland) Act 2000
- Mental Health (Care & Treatment) (Scotland) Act 2003
- Adult Support and Protection (Scotland) Act 2007



Some people are not sure what part of the law they should be using.



The Review is not sure whether to keep these three laws separate or just have one law.

Questions



Question 28: Do you think there should be three different laws or just have one law?

Checking to make sure the services are working



You, unpaid carers, family members or someone you trust need to be listened to so that services can be made better.



Someone needs to check that everyone is doing their jobs properly and nothing is being missed.

This could be somebody like an inspector.



Service providers and groups need to speak to each other .

Question



Question 29: Do you have any ideas on how we can check to see how our mental health services are doing?

The Mental Welfare Commission For Scotland



The Mental Welfare Commission for Scotland protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.



They visit people in hospitals, prisons and sometimes at home.



They provide advice to organisations which is helpful.



They make sure the law is being followed.



They can help when a person is not being listened to or cared for properly.

The Mental Welfare Commission For Scotland



At the moment they are not allowed to make any changes.

Questions



Question 30: What do you think about the Mental Welfare Commission being able to work with groups in the community?



Good idea



Bad idea



Don't mind



Why do you think this?

The Mental Welfare Commission For Scotland

Questions



Question 31: If you are being ignored, do you think the Mental Welfare Commission should be able to do something about it?



Yes



No



If you said no, is there anyone else you would rather speak to about it?



Question 32: Do you have any other ideas of what you think they could do to help?

What happens next?



Thank you for answering our questions.



Please email your answers and comments to secretariat@smhlr.scot



We will produce a report of the responses soon.



We can send the report straight to you. Just let us know your name and email address.