

Mind Our Rights! the summary report from the “Body Image, Human Rights and Mental Health” Event

Context: Human Rights Legislation and mental health service provision in Scotland in 2019/20

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Key emerging themes

People with mental health issues are often understood/assumed to have different rights to those of the general population: training on Human Rights is essential for all professionals working in the arena of mental health. People working in financial planning and strategic development roles should be trained to ensure that the delivery of Human Rights is built into the structures and systems of service design and delivery; training should also be provided for mental health service managers and practitioners in all services at every level.

More information on Human Rights should be readily available and accessible for people with mental health issues; the focus should be on the UNCRPD because the Convention sets out ways in which disabled people have specific protections

Key decision makers and influencers should be aware that “absolute rights”, such as the right not to be tortured or treated in an inhuman or degrading way, must never be limited or restricted in any way

A public authority such as local or national government can never use lack of resources as a defence against an accusation that it, or any funded service it provides, has treated someone in an inhuman or degrading way or breached any other “absolute right”

Decision-making about care and treatment should be a shared/supported process: co-production is key to ensuring the person receiving the care and treatment feeling that they have some control and agency in their life. Their needs and wishes must be heard, acknowledged, and validated and incorporated into any documents relating to current and future care and treatment.

*A list of the most relevant Articles of the United Nations Convention on the Rights of People with Disabilities can be found on Page 4; other relevant legislation is also listed

Headline findings and what must change

The following **essential actions** relate to key themes and overall findings that emerged from each discussion group

Essential action: everyone involved in provision of mental health services - funders, policy makers, health and social care partnerships, staff delivering public services and the Boards, management and staff of third sector organisations - must all receive adequate and appropriate education and training in relation to the human rights of people with mental health issues and how, as service providers, they can meet their legal obligations.

Essential action: everyone involved in mental health service provision should understand and respect the human rights of the people supported by services; they should also understand and respect the role any and all workers acting as human rights defenders

Essential action: the UNCRPD must be incorporated into domestic law in Scotland

In addition, key findings from the groups include

Barriers to the realisation of human rights for people with mental health issues must be removed: people with mental health issues are not necessarily familiar with the full spectrum of rights that they have in relation to care and treatment; local and national government and providers of services must take the responsibility for ensuring that users of their service, whatever that service may be, are aware of their rights and responsibilities

- every service should have a simple explanation of all the key human rights the people supported by that service can expect to be observed and upheld; also information on how each service will ensure that those rights are effectively and appropriately upheld; a standard Scottish Government approved pro forma sheet that can be completed/adapted for each service would be helpful in simplifying the key issues for service users
- people still experience stigma and “normalised” discrimination; there is still work to be done to address these fundamental inequalities. Basic training on human rights for professionals and practitioners should also include training around equalities relating to gender and sexuality and to race/ethnicity and religion

shared/supported decision-making is vital: information must be given that means people feel empowered in relation to making choices about their bodies and the care and treatment they receive

- many people feel that Advance Statements and Personal Statements “are not worth the paper they are written on” because they have no legal standing; this needs to change
- the risk of self-medication is much higher when people feel they have no control: to address this issue effectively, the power/control dynamic must change

parity of esteem between physical health and mental health is essential: diagnostic overshadowing must be eliminated

- physical health and mental health are connected - care and treatment must reflect that. Knowledge and understanding of mental health among GPs/in GP practices/health centres should improve to stop assumptions being made that for someone with a mental health issue, physical issues are “all in their head”; counsellor/peer worker in every GP practice
- people with mental health issues must receive the same standard of care in physical and mental health services as other people and be treated with dignity and compassion
- in relation to self-harm and/or suicide attempts, professionals must be trained to see the “bigger picture” and to recognise these as a symptom of mental distress (rather than an attention-seeking behaviour)

everyone has the right to a private life: “ bodies are important even when minds are unwell; people I still have needs and wants and they have an unquestionable right to a private life that includes a sexual life”

- people living in supported accommodation are only provided with a single bed; this means they are unable to access the basic Human Right to a private life in terms of intimate relationships as a result of the limitations of the rooms/furniture and supported accommodation unit protocols restricting visitors (this affects 240 people City of Edinburgh)

professionals and practitioners must learn to value the voices of experience about what helped them and how others can be helped

Summary report: context

Premise: the Scottish Government has stated that Human Rights are fundamental to the principles of mental health care and treatment; it is the role of mental health advocacy to support people with mental health issues to access their Human Rights and advocate for these rights to be met effectively and appropriately by national and local government and the services they fund.

Mental health advocacy groups in Edinburgh and Lothian have become increasingly aware through their work with patients, people supported by services and people with lived experience – our advocacy partners – that there is an ever-increasing gap between national/local government policy, strategy and the declared positive intentions of providers and the experience of people with mental health conditions/issues. Our advocacy partners are calling for

- the delivery of a genuine, consistent and coherent human rights approach within both statutory and third sector mental health service provision – this is currently failing.
- greater and more secure funding for support services for people with mental health issues that are provided by small, local third sector organisations and grassroots projects; these are currently under threat from shrinking local authority budgets combined with integrated joint board efficiency improvement measures and strategies
- Human Rights as set out in the UNCRPD must be realised for all people with mental health issues

Event: the Mind Our Rights! event was devised in the context of Mental Health Awareness Week 2019, which had a focus on Body Image, Human Rights, *and Mental Health*. The aim of the event was to bring 50 service users, survivors and people with lived experience and mental health professionals from various fields to come together to discuss human rights and key issues relating to mental health, physical health and body image.

Context: this event was developed by the collective advocacy providers and the Rights-based Care Strategic Planning group for Mental Health chaired by the Edinburgh City Council; the event related to Mental Health Week 2019 and was designed to feed into the Review of the Mental Health (Care and Treatment) (Scotland) Act 2003.

Key rights: these are encompassed in the United Nations Convention on the Rights of People with Disabilities (UNCRPD)¹, noting that mental health conditions are recognised as disabilities. All Articles of the UNCRPD are essential and relevant and relate to persons with on an equal basis with others. Articles particularly highlighted through discussions include

UNCRPD Article 5: Equality and non-discrimination in which all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law; also relates to **UNCHR: Article 14**: protection from discrimination

UNCRPD Article 12: Equal recognition before the law and to enjoy legal capacity on an equal basis with others in all aspects of life

UNCRPD Article 14: liberty and security of person and are not deprived of their liberty unlawfully or arbitrarily; the existence of a disability shall in no case justify a deprivation of liberty

UNCRPD Article 15: freedom from torture or cruel, inhuman or degrading treatment or punishment; all effective legislative, administrative, judicial or other measures must be taken to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment; also relates to UNCHR: Article 2: freedom from torture and unhuman or degrading treatment

UNCRPD Article 25: persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability; also relates to ICESCR 1966: the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; all appropriate measures should be taken to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation

UNCHR Article 8: the right to respect for private and family life; also relates to UNCRPD Articles 19: living independently and being included in the community; 21: freedom of expression and opinion and access to information; 22: respect for privacy; 23: respect for home and the family

Other relevant, current legislation (in 2020)

all other Articles of the UN Convention on the Rights of People with Disabilities

UN Conventions on Human Rights (UNCHR)

Human Rights Act (UK) 1998

Mental Health (Care and Treatment) (Scotland) Act 2003

Scotland Act (Scotland) 1998

Equality Act (UK) 2010 and related Public Sector Equality Duty (Scotland) 2011

European Convention on Human Rights (ECHR)

International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR; 1966)

¹ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>