

Cross-Party Group on Mental Health

Tuesday 1st February, 6pm

Minute

Present

MSPs

Emma Harper MSP
Beatrice Wishart MSP

Audrey Nicoll MSP (Chair)
Craig Hoy MSP
Carol Mochan MSP

Invited guests

John Scott QC

Non-MSP Group Members

Aidan Reid, Royal College of Psychiatrists
Andrew Love
Andrew Muir, Psychiatric Rights Scotland
Arianne Ross
Barry Gale, Mental Health Rights Scotland
Carol Murray, Heriot Watt University
Charlotte Mitchell
Chris Purnell, Scottish Ambulance Service
Claire Muir
Diane Strachan
Dr Harriette Campbell
Ele Davidson, CAPS Advocacy
Emma Broadhurst, Beat
Fiona Partington, the Health Agency
Gemma Richardson, Royal College of Paediatrics and Child Health
Gillian McElroy, the ALLIANCE
Gordon Johnston, VOX Scotland
Heather Hughes
Hunter Watson
Iain Gardner, SAMH
Ian Skirving
James Carter
Jim Hume, Support in Mind

Jo Finlay, Mental Health Foundation
Katie McGregor, Stroke Association
Katriona Sayer, ENABLE
Kimberley Somerside, Voluntary Health Scotland
Kirsty McGrath
Laura Jones, RNIB Scotland
Lindsey Young, Scottish Association of Social Work
Madhu Venugopal, CAPS Advocacy
Margaret
Margaret Reid
Martyn Pickersgill, University of Edinburgh; Usher Institute
Nelly Whaley, Salvesen Mindroom Centre
Nicola Reed, Cruse Scotland
Oluwatoyin Opeloye
Patricia Rodger
Paula Fraser, VOX Scotland
Roger Smyth
Ross McPhaden
Sarah Van Putten, Befriending Networks
Shalhaviv-Simcha Cohen, University of Edinburgh; School of Health and Social Science
Tracy Scott

Apologies

Oliver Mundell MSP
Tess White MSP

BACP
COSCA
Equality Network
NUS Scotland
Royal College of Occupational Therapists

1. Minutes

Members approved the minutes from the previous meeting (16th November 2021).
Paula Fraser proposed and Hunter Watson seconded.

2. CPG on Mental Health Group Agreement

Barry Gale presented proposals to change the sixth point of the CPG's current Group Agreement. Barry noted his concerns around the current wording of the Group Agreement, particularly decisions being left to the discretion of the Conveners. It was suggested that if someone breaches the Group Agreement, the Conveners should provide a verbal or written warning before removing someone from the meeting or, in extreme cases, terminate that person's membership with the agreement of members of the CPG.

Patricia Rodger understood Barry Gale's concerns, however she expressed discomfort at the idea of issues being dealt with during CPG meetings in front of other members.

Gordon Johnston felt the proposals were complex and overly bureaucratic for the CPG. Mairi Campbell-Jack agreed that the language did not fit with the tone of the existing Group Agreement.

Hunter Watson agreed with Barry Gale that paragraph six in the previous Group Agreement should be amended, but suggested that a person should only be expelled from a meeting after a warning from the Convener. Hunter also felt the language in the proposals was complex.

Jim Hume highlighted the Scottish Parliament's rules and procedures for Cross Party Groups and suggested ensuring the Group Agreement and subsequent proposals meet these existing rules.

Mairi Campbell-Jack recommended having another discussion about the Group Agreement at the AGM after the summer recess, prior to which SAMH will issue a discussion paper reflecting the concerns people have expressed. Mairi advised members that if they had any further points they'd like to make on the issue they should get in touch with SAMH at PublicAffairs@samh.org.uk.

3. Scottish Mental Health Law Review

a. Update from John Scott QC

John Scott QC began by thanking the many members of the CPG who had contributed to the Scottish Mental Health Law Review (SMHLR). John explained the SMHLR team has tried to hear from as many voices as possible over the last few years, including through the lived-experience reference group and the practitioners reference group.

John Scott QC informed the CPG that a consultation paper is to be issued in March, accompanied by an easy read version, to give people the opportunity to shape the Review before the final recommendations are made to the Scottish Government in September 2022.

John told members that human rights have been at the heart of the team's work. This has been reinforced by the Scottish Government's work to incorporate the United Nations Convention of the Rights of Persons with Disabilities (UNCRPD) and the International Covenant on Economic, Social and Cultural Rights. John advised that this work is happening alongside the work of the Scottish Mental Health Law Review.

John Scott QC explained that after listening very carefully, including to people with lived experience, it does not seem possible to end coercion at this stage. Instead, John emphasised that it is very much the intention that there will be a reduction in the use of compulsion which will put Scotland on a journey towards ending coercion.

According to John, the SMHLR will represent a fundamental redrawing of the law in Scotland with four core principles:

- Respect for dignity
- Respect for autonomy
- Non-discrimination and equality
- Inclusion

There will also hopefully be more sharing of duties and responsibilities to ensure there isn't one sole decision maker. There will also be greater consideration of the rights, will and preferences of individuals and their carers. John again highlighted that recusing the use of involuntary care and treatment will be a significant focus of the SMHLR.

The team has met with a variety of international experts, including academics, practitioners and people with lived experience. For the last few months, the team has been working primarily through the reference groups and the executive team has been meeting weekly.

John Scott QC advised that the consultation will be open for two months. There will also be a reference to the Rome Review included. The team is happy to arrange meetings during the consultation period, including face to face meetings as this becomes more possible.

John concluded his contribution by saying there is a radical transformation coming but emphasised that this is a journey during which things will happen in stages. The recommendations made by the SMHLR will go to the Scottish Government and will then need to be pulled together with other pieces of work such as the National Care Service.

b. Question and answer session

Audrey Nicoll MSP thanked John Scott QC for his update and opened the question and answer session.

Barry Gale asked whether the SMHLR is proposing a complete redrafting of the three Acts and if this would involve the fusion of the legislation. John Scott QC replied that there's not going to be a complete redrafting of all three Acts. He advised that the question of Fusion is something that will be asked in the consultation as the team still has an open mind on the matter.

Claire Muir asked why people don't have any human rights. John Scott QC explained that human rights are built into the Scotland Act and that the Scottish Government, public bodies and the Scottish Parliament are all obliged to respect the European Convention on Human Rights. John added that if there are issues with people accessing their rights then the courts are a way to secure them, although he acknowledged this can be a costly and lengthy process; this is something the SMHLR hopes to improve by looking at the role of Mental Health Tribunals. Claire responded by saying she believes every human right is violated against in current

legislation. John Scott QC did not agree and stated that he believes that everyone has human rights.

Hunter Watson asked how the SMHLR is considering the views they heard from a UN Special Rapporteur and other international experts who believe that forced treatment constitutes psychological torture. John replied that the discussions had with these experts are continuing to inform the SMHLR's approach and thanked Hunter for his regular correspondence with the team.

Gordon Johnston asked if proposals on support for individual rights, including further rights to advocacy support and status for advance statements, would be included in the consultation paper. John Scott QC said that the final paper is still being fleshed out but that these aspects should be included.

Andrew Muir asked how patients can secure the prosecution of practitioners who make false statements or do harm. Andrew highlighted that his petition on investigating the lack of prosecutions under the Mental Health Act was recently closed by the Scottish Parliament's Citizen's Participation and Public Petitions Committee. John stated that he believes accountability is important and that practitioners are often people acting in good faith to help people, although he acknowledged that some people have been very badly treated in the system. John highlighted that various professions have ways of taking action against someone without the need for prosecution. John also explained that the SMHLR is more about reframing human rights than regulating practitioners.

Emma Harper MSP asked whether the SMHLR will look at the process of sectioning young adults and the termination of a compulsion order when someone voluntarily agrees to treatment. John Scott QC replied that this is something being considered and that the Mental Welfare Commission had provided useful data on the time frames of orders.

Ele Davidson asked if the SMHLR proposals will deal with issues on transparency and trust, as were highlighted in the submission to the Review from people supported by CAPS Advocacy. John advised that transparency will be important as things are reshaped with human rights at the centre, he hopes this will lead to individuals feeling more empowered.

Barry Gale wondered how the SMHLR had been able to listen to the voices of lived experience on the Adult Support and Protection Act given there had been no consultation on it since it was introduced. John Scott QC explained the Review has had various meetings on the issue and noted that the Act had been mentioned in relatively fewer responses in the call for evidence than the other legislation. John also noted that there is a sense amongst practitioners that the Act is currently working well, however it is an issue that is expected to feature in the consultation paper.

Hunter Watson spoke of National Care Standards and the more recent Health and Social Care Standards which permitted the use of chemical restraint. Hunter expressed his view that this is a breach of human rights and asked whether the SMHLR will take account of this. John replied that when someone is detained it

shouldn't mean that other measures of coercion should automatically follow without separate consideration or the involvement of the individual, their family and carers. John again advised that these issues will feature in the consultation paper.

John Scott QC finished by thanking the CPG for the invitation to attend the meeting and for members' future contributions to the consultation paper.

4. Inquiry into the Impact of the COVID-19 Pandemic on Mental Health: People with pre-existing health conditions and disabilities

a. SAMH presentation summarising the submissions to the call for evidence

SAMH presented a summary of the submissions received to the call for evidence (slides are available on request from PublicAffairs@samh.org.uk). A total of 18 responses had been received, including five from other relevant Cross Party Groups. The submissions show that people with pre-existing mental and physical health problems, chronic illnesses and disabilities had been particularly affected by the pandemic. However, some people with mental health problems reported finding it easier to cope in lockdown. Shielding had caused profound isolation, however many felt more anxious about the prospect of unlocking. People lost access to mental and physical health specialist services over night with very little put in place to mitigate the effects this has had on people's health; many reported feeling abandoned and hopeless.

b. Discussion

Audrey Nicoll MSP spoke of the challenges that staff in mental health units have faced, particularly in lockdown and with social distancing requirements which caused disruption to the caring role they were able to play. Hannah Brisbane highlighted evidence received from the Fife Health and Social Care Partnership that described difficulties clinicians had faced through adequately treating and supporting people through remote appointments or from requirements to wear Personal Protective Equipment (PPE).

Emma Harper MSP highlighted the Health, Social Care and Sport Committee's ongoing inquiry into Perinatal Mental Health in Scotland which has found a lot of exacerbated issues caused by Covid-19. The Committee is also conducting an inquiry into Child and Adolescent Mental health and Wellbeing, during which Emma has raised the increased number of people presenting with eating disorders. Emma Broadhurst agreed that the evidence is showing more people in eating disorder referrals which started at the end of the first lockdown (August/September 2020). Emma advised that Beat also saw an increase in people accessing them for support. Emma highlighted that when someone is in the system for an eating disorder, they might stay in it for years so this is not something that is going to decrease quickly, especially as referrals are still coming.

Ruth Ann McCalla shared her own experience of lockdown having been advised to shield. Ruth concurred with what the evidence had shown from people who had been shielding finding it more difficult to get out and about again, and needing to stay careful. Ruth also reflected on how difficult it can be for people to admit that they are struggling to cope. In any future pandemics, Ruth would like to see more resources available for people with mental ill-health.

Shalhaviv Simcha Cohen highlighted the need to make resources more accessible so that people know what's available for them, including different treatment options that might work better for people's needs. Shalhaviv also promoted a festival she is organising in Edinburgh called Posifest to try and bridge the gap between the ivory tower and the mainstreams.

Hannah finished by letting members know that the first CPG report will be shared with members soon for review and that SAMH will now start work on a draft of CPG; the second interim report.

5. AOB

a. Mental Health Foundation and See Me, Scottish Mental Illness Stigma Survey

Jo Finlay promoted the Scottish Mental Illness Stigma Survey being conducted by the Mental Health Foundation and See Me, in partnership with Glasgow Caledonia University. Jo explained the survey is the first national survey of its kind and will be used to make recommendations that will help make Scotland free of prejudice and discrimination. Jo asked members to promote the survey or take it themselves if eligible, it will be live until the 18th of February.

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