

## **SAMH Written Evidence to the Equalities and Human Rights Committee - April 2018**

### **Introduction**

Around since 1923, SAMH currently operates over 60 services in communities across Scotland providing mental health social care support, homelessness, addictions and employment services, among others. These services together with our national programme work in See Me, respectme, suicide prevention, sport and physical activity; inform our policy and campaign work to influence positive social change.

Thank you for the opportunity to submit evidence to this inquiry. Our response focuses on human rights issues that impact people affected by mental health. We also detail the work SAMH do ourselves and with other organisations to support people to access their rights and to raise awareness of human rights issues.

### **Human Rights and Mental Health**

Everyone living in the United Kingdom, including those with a mental health problem, should be able to live experiencing the basic freedoms and protections set out in the Human Rights Act. We all have human rights. However, those experiencing a mental health problem are more likely to experience having their human rights infringed.

Mental health care and treatment involves rights such as the right to life,<sup>1</sup> liberty,<sup>2</sup> freedom from inhuman and degrading treatment,<sup>3</sup> and respect for private and family life.<sup>4</sup> Restrictions can be placed on a person's human rights if they are treated under the Mental Health (Scotland) Act 2015, which can lead to detention in hospital.

It is essential human rights are upheld for those affected by mental health. SAMH work to inform and increase understanding of human rights empowering more people to understand and exercises their rights on mental health.

### **Key Issues**

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<sup>1</sup> [Human Rights Act 1998, Article 2](#)

<sup>2</sup> [Human Rights Act 1998, Article 5](#)

<sup>3</sup> [Human Rights Act 1998, Article 3](#)

<sup>4</sup> [Human Rights Act 1998, Article 8](#)

## **Human Rights Legislation – Mental Health**

SAMH welcomes the commitment to a human rights approach by the Scottish Government in the Mental Health Strategy 2017-27. Specifically that improvements set out in the strategy will be centred on the human rights based PANEL principles (Participation, Accountability, Non-discrimination and equality, Empowerment and Legality).<sup>5</sup>

The Mental Health Strategy commits to a review of current Adults with Incapacity Legislation to enable greater human rights compatibility particularly with the UN Convention on the Rights of Persons with Disabilities. SAMH welcomes the review and notes that the Scottish Government is currently consulting on proposals to reform the Adults With Incapacity Act 2000.

The Mental Health (Scotland) Act 2015 plays a fundamental role in promoting the human rights of people with mental health problems.<sup>6</sup> The 2015 Act made changes to the law on named persons, advance statements and independent advocacy. This followed the McManus review and consultation with organisations such as SAMH on ways to improve access and awareness of rights. The Mental Welfare Commission publishes an annual report monitoring the use of the Mental Health Act and includes figures on advance statement use and hospital detentions.

SAMH welcomes the steps taken to ensure that in future all practice relating to mental health in Scotland take a rights based approach and minimises interference in peoples' liberty, ensuring the dignity of the individual is at the centre of decision making.

### **Awareness and Accessibility**

SAMH has consistently heard that people do not know how to enforce their rights, with many being unaware of the rights they have. SAMH produced the Know Your Rights guide to inform those affected by mental health of the rights they have.<sup>7</sup> People have the right to access the highest attainable standard of health as well as receiving the healthcare that is relevant to their needs. SAMH has previously raised concerns of these rights being denied in mental health care and treatment.<sup>8</sup> 40% of the people we consulted had been treated disrespectfully whilst using an NHS mental health service meaning their right to be treated with dignity and respect had been denied.

SAMH has also heard of instances where human rights aren't always respected by health professionals. People have felt they have been

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<sup>5</sup> Scottish Human Rights Commission, [A Human Rights Based Approach](#) to the Mental Health Strategy, 2015

<sup>6</sup> [The Mental Health \(Scotland\) Act 2015](#)

<sup>7</sup> SAMH, [Know Your Rights](#)

<sup>8</sup> SAMH, [Response to Health and Sport Committee Consultation on Clinical Governance](#)

discriminated against by their doctors due to their history of mental illness, often not receiving treatment for physical complaints.<sup>9</sup>

The Human Rights Act empowers individuals to challenge discrimination and bring about improvements in their own lives. For this to happen there first must exist an understanding of what human rights we have and the responsibilities of public bodies to uphold these rights. SAMH would welcome the explanation, promotion and realisation of human rights in an accessible format in all healthcare settings.

## **Stigma and Discrimination**

The Human Rights Act prohibits discrimination, but people with mental health problems are still less likely to be employed,<sup>10</sup> more likely to live in poverty and have a lower life expectancy than the general population.<sup>11</sup> SAMH is a partner in See Me, Scotland's Programme to end mental health stigma and discrimination, where human rights form the basis of anti-stigma and discrimination work.

A See Me YouGov survey, April 2015, found 48% of Scottish workers think someone in their work would be unlikely to disclose a mental health condition for fear of losing their job.<sup>12</sup> Clear steps need to be taken to ensure people affected by mental health can be confident that their human right to non-discrimination and equality is going to be met in all walks of life from employment to healthcare.

Lowered life expectancy can be connected to the discrimination people have felt when physical ailments have been attributed to their mental ill-health by health care professionals.<sup>13</sup> People with a mental health problem are more likely to have physical illness and less likely to receive interventions.<sup>14</sup> Human rights viewed through a wider prism could positively impact both mental and physical health. If, they are harnessed to create a Scotland free from stigma and discrimination where rights are realities for all.

## **Other Points**

SAMH supports the Rights for Life Declaration, created by See Me and other organisations through an extensive engagement process with people with lived experience of being affected by mental health. The Declaration combines the rights, principles and standards set out in international human rights laws to clearly set out the rights someone affected by mental health

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<sup>9</sup> The Royal College of Psychiatrists in Scotland, [Briefing Paper on Stigma – a harm and safety issue](#), 2015

<sup>10</sup> Scottish Government, [Disability and Employment in Scotland: A Review of the Evidence Base](#), 2005, Ch 6

<sup>11</sup> Mental Health Foundation, [Fundamental Facts about Mental Health](#), 2015, p89

<sup>12</sup> See Me Scotland, [YouGov survey April 2015](#)

<sup>13</sup> The Royal College of Psychiatrists in Scotland, [Briefing Paper on Stigma – a harm and safety issue](#), 2015

<sup>14</sup> Scottish Government, [Mental Health in Scotland: Improving the Physical Health and Wellbeing of those experiencing Mental Illness](#), December 2008

has.<sup>15</sup> SAMH call for the Rights for Life Declaration to be promoted and adhered to throughout all areas of mental health care and treatment. SAMH also support SCVO's The Right Approach encouraging a human rights based approach in the third sector.<sup>16</sup>

#### **Further information**

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<sup>15</sup> [Rights for Life Declaration](#)

<sup>16</sup> SCVO, [The Right Approach](#)