

Health, Social Care and Sport Committee
Tuesday, 3 June 2025
17th Meeting, 2025 (Session 6)

Mental Welfare Commission – Note by the Clerk

Background

1. At a recent work programme discussion, Members of the Committee decided they wished to undertake periodic scrutiny of the work of the [Mental Welfare Commission](#) (MWC) in the form of a one-off evidence session.
2. The Mental Welfare Commission is an independent organisation originally established in [1960 under the Mental Health Act](#). It is listed amongst the responsibilities of the Minister for Social Care, Mental Wellbeing and Sport.
3. Its primary role is to safeguard and promote the rights and welfare of any individuals who are vulnerable due to a mental disorder, mental illness, learning disability, dementia, and associated conditions.
4. The Commission is comprised of professionals with expertise in mental health and learning disability services, as well as medical practitioners, social care and legal experts.
5. It is responsible for fulfilling statutory duties as outlined in current mental health and incapacity legislation – such as ensuring that individuals' rights under the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) and the [Adults with Incapacity \(Scotland\) Act 2000](#) are upheld.
6. The Commission also plays a broader role in promoting best practices in mental health care according to current legislation. This includes ensuring that the support and treatment provided to individuals adhere to the Principles of the Acts, particularly in cases where an intervention order or guardianship measures are in place.

Inspections and complaints

7. The MWC has a duty to visit certain individuals receiving care and treatment under the Mental Health Act and the Adults with Incapacity (Scotland) Act 2000. This includes individuals subject to compulsory treatment orders or individuals under the care of an appointed welfare guardian. The Commission can conduct visits in hospitals, care homes, or private residences. Additionally, if an individual requests a visit, the MWC can meet with them to directly assess whether they feel their rights are being respected within their care and treatment arrangements. The MWC also conducts 'local visits' to groups of individuals in hospital, care homes and prisons, which can be announced or unannounced. However, the MWC distinguishes that these visits are not inspections and that their visit reports only share findings from the day of the visit.

8. The MWC identifies cases for investigations through various means, including visits to individuals and services, following up on phone calls to its advice line, and when an individual's paperwork raises concerns. When the MWC determines that an investigation is necessary, a member of the Commission presents the case to the Operational Management Group. This group decides whether a full investigation is required and determines the approach it will take. Once approved, an investigation team is assembled to carry out this work.
9. A [report](#) compiled by the Scottish Government and the MWC outlines the specific individuals who can contact the Commission for information and guidance, or to raise concerns about whether an individual is receiving appropriate care and treatment. It advises that this includes anyone with a mental disorder, carers, staff working in care services, independent advocates supporting individuals with mental health needs or learning disabilities and 'named persons'¹ acting in the interests of the individual they represent.

Skye House

10. [Skye House adolescent in-patient unit](#) is a specialist psychiatric facility that provides care for young people aged 12 to 18 years old from the West of Scotland Health Board areas, including Dumfries and Galloway, Ayrshire and Arran, Lanarkshire, Greater Glasgow and Clyde (GGC) and Forth Valley. The unit has 24 beds, divided into three eight-bedded wards: Harris, Lewis and Mull. Skye House primarily offers assessment and treatment for young people diagnosed with a mental illness. However, due to the ongoing lack of inpatient provision for young people with learning disabilities in Scotland, as well as limited access to intensive psychiatric provision for young people nationally, Skye House is occasionally required to accommodate individuals whose needs fall outside its primary design and purpose.
11. A [BBC Disclosure Programme](#) aired in February 2025 raised serious concerns about the treatment of young people admitted to Skye House. The documentary featured testimonies from several former patients admitted to the facility between 2017 and 2024. [They alleged](#) being mocked by nursing staff regarding their suicide attempts, experiencing assault and inappropriate and frequent use of physical restraint, and the inappropriate use of sedative medications, among other complaints.
12. In response to the allegations and concerns raised in the programme, NHS Greater Glasgow and Clyde released a [statement](#) apologising that several young people had not received a level of care that was expected at the facility.
13. During the period of the allegations, the MWC carried out several announced and unannounced visits to Skye House. The MWC reports from Skye House visits did not raise any concerns about abuse. However, these reports have consistently highlighted problems with staffing at the facility which the MWC highlights has an impact on service delivery.

14. Other concerns raised during this period by the MWC included the consistently limited food options available to inpatients, the growing complexity of the needs of the young people being admitted to the facility and medication at the facility.
15. The Minister for Social Care, Mental Wellbeing and Sport responded to concerns about treatment of in-patients at Skye House in a [statement to the Scottish Parliament on 25 February 2025](#).

Powers of the Mental Welfare Commission

16. The MWC has legal powers to monitor, investigate, and provide advice and recommendations regarding the care and treatment of individuals with mental disorders, mental illnesses, and learning disabilities. The MWC carries out its responsibilities in several ways, including:
 - Visiting individuals to assess their wellbeing and care;
 - Monitoring service compliance with the current Mental Health Act and Adults with Incapacity (Scotland) Act 2000;
 - Conducting investigations;
 - Providing information and advice; and
 - Challenging services when concerns arise regarding an individual's care and treatment.
17. The MWC does not have legal powers to enforce the recommendations it makes to services, but can escalate concerns to management, relevant regulatory bodies, and Scottish Ministers if necessary.
18. In 2022, the Scottish Government commissioned the Scottish Mental Health Law Review (SMHLR) to assess Scotland's existing mental health and capacity laws to ensure they align with human rights principles and reflect the lived experience of individuals directly impacted. The SMHLR subsequently published a [review of its findings](#) which included several recommendations regarding the role and powers of the MWC.

Long-term detainment and delayed discharge of individuals with learning disabilities and complex needs

19. In 2000, the Scottish Executive published the [‘Same as You?’](#) consultation report, reviewing existing services for individuals with learning disabilities and Autism Spectrum Disorder. Since the publication of the ‘Same as You?’ report, several other key publications, including the Scottish Government's 2013 [Keys to Life](#), the MWC's 2016 [No Through Road](#) report, and Dr Anne MacDonald's 2018 [Coming Home](#) report, have all highlighted the persistent problem of delayed hospital discharge for individuals with learning disabilities in Scotland.
20. Under the direction of the Scottish Government and COSLA, a Short Life Working Group (SLWG) was established to investigate the ongoing problem of delayed discharge for individuals with learning disabilities and mental health conditions. A

key recommendation from the SLWG was the creation of a national Dynamic Support Register, to be maintained at a local level. The primary purpose of this register was to increase the visibility of individuals with learning disabilities within strategic planning and enable more effective monitoring of hospital admissions and discharges for these individuals, including inappropriate out-of-area placements.

21. In January 2025, the MWC published the [Hospital is Not Home report](#). This outlined that the Commission requested the details of all patients with mental health conditions and learning disabilities across all health and social care partnerships (HSCPs) who were on a Dynamic Support Register or who had remained in a mental health hospital for over a decade, including individuals receiving active treatment and those who were considered ready for discharge (delayed discharges). All HSCPs responded.

Mental health and capacity law reform

22. The MWC oversees the operation and implementation of certain Scottish legislation including the Mental Health (Care and Treatment) (Scotland) Act 2003, the Adults with Incapacity (Scotland) Act 2000 and the Adult Support and Protection (Scotland) Act 2007.
23. These laws were reviewed by the [Scottish Mental Health Law Review](#) chaired by John Scott KC, over two and a half years, culminating in a final report in September 2022. The review recommended changes to the law to align with human rights standards, including enhancing decision-making autonomy and support.
24. The Scottish Government subsequently established the Mental Health and Capacity Reform Programme to update and modernise the legislation in line with international standards on human rights. The Programme's action plan set out actions to be delivered between October 2023 and April 2025, including potential amendments to the law.

Key challenges to mental health services

25. In 2023, the Scottish Government published its [latest Mental Health and Wellbeing Strategy](#) which highlighted several ongoing challenges facing existing mental health services.
26. In its 2023 [report on Adult Mental Health](#), Audit Scotland noted that limited and short-term funding across many mental health services created additional challenges in addressing staff recruitment issues. It highlighted further challenges arising from the lack of coordination across the mental health system in Scotland and significant gaps in routine data collection, alongside widespread variations in data recording and collection systems across services in health care, social care, and the third sector.

Today's meeting

27. In advance of today's meeting, the Mental Welfare Commission was invited to make a written submission about its work which can be accessed [here](#).

28. At today's meeting, Members will have the opportunity to put questions to a panel of witnesses representing the Mental Welfare Commission.

Clerks to Committee and SPICe

May 2025