SCOTTISH PARLIAMENT CROSS PARTY GROUP ON MENTAL HEALTH

REPORT: PRIORITIES FOR RIGHTS, INFORMATION USE AND PLANNING

This report was written by SAMH (Scottish Association for Mental Health) in its capacity as Secretariat to the Cross-Party Group on Mental Health. The information in this report was collated through a call for evidence and an oral evidence session. The views expressed reflect the discussions at CPG meetings.

FOREWORD

Emma Harper MSP

Co-Convener

As Co-Convenor of the Scottish Parliament's Mental Health Cross Party Group (CPG), I welcome the opportunity to provide a foreword to this report, which is the Group's fourth report in this session of Parliament. This report focuses on Priorities for Rights, Information Use and Planning in relation to mental health policy.

Throughout our work to put this report together, it became very clear that a human rights-based approach is absolutely essential to mental health policy. Indeed, a human rights-based approach is a way of empowering people to know and claim their rights. It increases the ability and accountability of individuals, organisations and the relevant professionals who are responsible for respecting, protecting and fulfilling rights. This means giving people greater opportunities to participate in shaping the decisions that directly affect them and we welcome that this is the approach the Scottish Government aims to take.

Throughout our work, it became clear that human rights are closely aligned to the national health and wellbeing outcomes of the Scottish Government. For example, the Government has developed the national health and wellbeing outcomes to reflect the desire for people to have the highest possible standard of health and to reflect the principle that everyone should have a right to independent living. A human rights-based approach can offer a practical framework to help people to work together to achieve the national health and wellbeing outcomes. However, the CPG found that we need more focus on embedding human rights-based practice in mental health care and treatment and enabling people with mental health problems to realise their rights.

Key to achieving a human rights-based approach to mental health policy is ensuring that people receive the best possible support at the earliest opportunity and in the least intrusive way. Doing this will help people to stay well and prevent people from reaching a crisis point, allowing them to fully realise their rights. However, there will always be situations when someone does experience a crisis or deteriorating mental health. We need much more focus on how people with mental ill-health can realise their rights while they are unwell, both when they are in hospital and when they are living in the community. We all have mental health and we all have human rights and, as such, we need to ensure our policies enable people to realise their rights no matter their circumstances.

I hope you find this report useful and we look forward to continuing positive dialogue with the Scottish Government and all other stakeholders.

CONTENTS

ABOUT THE CROSS PARTY GROUP ON MENTAL HEALTH

The Scottish Parliament Cross Party Group on Mental Health has 90 member organisations and individuals, with representation from across service delivery, policy and research, and lived experience. The Group aims to influence mental health policy and practice by bringing together the mental health sector and community in Scotland.

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Introduction

The Mental Health Strategy 2017-27 was the Scottish Government's first 10 year strategy, demonstrating a commitment to try and achieve sustained focus on improving mental health support across Scotland. Following the next Scottish Parliament election, the strategy will be approaching its fifth year, as well as its half way mark. The Cross Party Group on Mental Health is undertaking a two-year long inquiry into the four different themes within the Strategy:

1. Prevention and early intervention;
2. Access to treatment, and joined up accessible services;
3. The physical wellbeing of people with mental health problems;
4. Rights, information use, and planning.

This is the Cross Party Group's fourth report, which explores the theme of rights, information use and planning. As with the previous three interim reports, the report will examine where good progress has been made on the actions in this theme, and where more work is required. The findings have been gathered from written and oral evidence provided by people with lived experience, CPG members or individuals represented by member organisations.

It is important to note that the Group embarked on this inquiry before the coronavirus pandemic. However, the pandemic has raised new issues related to the theme of rights, and so the findings in this report raise issues that existed both before and during the coronavirus outbreak. It is hoped that the Scottish Government, Integration Authorities (by which we mean Integration Joint Boards and Health and Social Care Partnerships) and other stakeholders will use the learning in this report to inform their work as Scotland begins its transition out of the pandemic.

Methodology

To gather the views of the CPG members, a call for evidence was issued that asked members to consider:

- What progress has been made in promoting people's rights and taking a rights based approach to mental health care and treatment?
- Is there on-the-ground evidence of Actions 32-37 in the Mental Health Strategy being implemented?
- To what extent will the Strategy help to promote people's rights and implement a human rights based approach to mental health care and treatment? What further action will be needed?

The call for evidence received responses from seven members, including from organisations providing direct support, as well as people with lived-experience (the full list of respondents can be found in Appendix 1). Findings from the call for evidence were presented and discussed at a CPG meeting which was attended by 33 member organisations and individuals. At the same meeting, the Group heard evidence from an individual with lived experience of compulsory treatment. For the purposes of this report, this person has been anonymised.

Executive Summary

The evidence presented by members and those with lived experience highlights where good progress has been made and should continue, but it also demonstrates where refocus is required. The evidence also established where there are gaps within the Strategy that should be addressed.

It is particularly important that these gaps are addressed from the perspective of upholding people's rights. People with mental health problems are at a higher risk of being denied or not being able to access their rights, in particular the right to adequate healthcare; adequate standard of living; work opportunities; and participation in communities.[1] [2] The increase in psychological distress and worsening mental health as a result of the coronavirus pandemic created an urgent need to increase and improve access to mental health care and support in Scotland. This will likely require additional responses and resources.

Key Findings

- A human rights based approach is still not fully embedded in mental health care and treatment both in hospital and in the community
- Incidents of compulsion are continually increasing, which is a cause for concern that needs urgent action
- Consideration needs to be given to the adequacy of the safeguards around the administration of covert and involuntary medication
- People with mental health problems continue to be discriminated against in the labour market
- There is a lack of diversity in the mental health workforce, which creates barriers to accessing support
- Barriers still exist which prevent people affected by deafness from accessing the care and treatment they require

The report explores the key findings in more depth and provides recommendations grouped within three priority areas:

1. Support in hospital and in the community
2. Administration of medication
3. Employment and mental health in the workplace
4. Diversity in the mental health workforce

[1] Scottish Human Rights Commission, Mental Health
[2] MWC, Rights in Mind

Progress and Good Practice

The written and oral evidence submitted by members of the CPG highlighted a number of examples which demonstrate progress and good practice of promoting people's rights and taking a rights-based approach in mental health care and treatment.

Firstly, many members welcomed the on-going Scottish Mental Health Law Review, commissioned by the Scottish Government and being led by John Scott QC. Indeed, many members have made their own submissions to this independent review and are hopeful it will lead to mental health law in Scotland that takes account of international developments in human rights law.

Similarly, the Group welcomed the completion of the Independent Review of Learning Disability and Autism in the Mental Health Act. In particular, people with lived experience told the Group that they were pleased that the review has recommended that autism and learning disability are no longer defined as a mental disorder. Members also rated positively the recommendation for a clinical review on prescribing practice of psychotropic medications.[3] Some members highlighted the need for more work to ensure that any proposed changes are implemented in a safe way that does not inadvertently harm people with autism, learning disabilities and mental health problems.

Outwith the Strategy, Members noted the commitments on employment and the workplace in the Scottish Government's Mental Health Transition and Recovery Plan.[4] The promotion of Mentally Healthy Workplaces and fair working practices in particular will be important for addressing stigma and discrimination experienced by people with mental health problems and upholding people's right to work.

The Group also heard about guidance on positive risk taking for occupational therapists produced in 2018 by the Royal College of Occupational Therapists. This guidance underlines the role of practitioners to enable the people they support to do the activities that matter to them.[5]

The Mental Welfare Commission's Rights in Mind work was also viewed as an example of good practice. The Rights in Mind booklet includes an illustrated pathway of patients' human and legal rights while they are inpatient care.[6] Designed in consultation with patients, relatives and staff with experience of adult acute settings, the pathway aims to improve practice in mental health care and treatment. The pathway is also accompanied by a good practice guide which explains how human rights relate to the delivery of mental health care and treatment and how staff should respect these.

Finally, The Group notes that the Royal College of Psychiatrists Scotland is seeking to increase workforce diversity through efforts like the creation of an Ethnically Diverse Community (EDC) reference group and Scottish Transcultural Group. The Royal College is supporting these groups to implement the UK College's

[3] Independent Review of Learning Disability and Autism in the Mental Health Act, Final Report, 2019
[4] Scottish Government, Mental Health – Scotland's Transition and Recovery Plan, 2020
[5] Royal College of Occupational Therapists, Embracing risk; enabling choice, 2018
[6] Mental Welfare Commission, Rights in Mind, 2017

equality action plan for the specialist mental health care workforce. The Group hopes this will dismantle barriers to access and support people's right to adequate healthcare.

Support in Hospital and in the Community

There is consensus amongst people with lived experience in the Group that a human rights based approach to mental health care, treatment and support is still not fully embedded. People with mental health problems have a right to adequate healthcare, yet many struggle to get help at the first time of asking. Members with lived experience described times when they had been discriminated against and faced stigma because of their mental health problems when trying to access support. Incidents like these left people feeling powerless, like they weren't taken seriously and unable to open up about their mental health.

The Group also heard that mental health stigma and discrimination is not limited to healthcare settings. One member described an incident which took place in 2020 when they were arrested while experiencing mental ill-health. The person was kept in a cell for over ten hours without seeing a health professional. When they were eventually released after midnight they had no charge on their phone and there were no available taxis. They felt that there was very little consideration for their human rights throughout this incident. While the Group recognises that significant progress has been made in training police in mental health awareness and not using police stations as places of safety, without a doubt, mental health stigma and discrimination still exists in our communities preventing people from getting the help they need.

Moreover, members feel there has been limited progress in supporting people to understand their rights. Some members of the Group with lived experience said they couldn't recall a time when they had been told about their rights; there is consensus within the Group that people should be proactively informed about their rights. Specifically, the new Code of Practice for the Mental Health Act should prioritise informing people about their right to an advance statement, a named person and independent advocacy. The Code of Practice should also clarify the roles of independent advocates and named persons, and guide practitioners in having conversations about the rights contained within the Act. Practitioners also need to feel confident that there are adequate resources to enable people to realise their rights, in particular there needs to be increased investment in independent advocacy.

This work is particularly important as episodes of compulsory treatment continue to increase each year. In 2018/19, 6,038 episodes of compulsory treatment were recorded by the Mental Welfare Commission, the highest number since the implementation of the Mental Health Act.[7] Furthermore, between March and August 2020 there was an increase of 333 detentions (7%) compared to the same period in 2019.[8] Of particular concern to the Group is the increase in the number of emergency and short term detentions, especially for young people.[9]

The Group also notes that the number of detentions made without input from a Mental Health Officer (MHO) continues to rise. In 2018/19, only 50% of Emergency Detention Certificates (EDC) had the consent of a mental health officer, having decreased from 65% in 2009/10.[10] Between March and August 2020, this fell again to 45%. Some members agreed that the involvement of MHOs is an important safeguard. However,

[7] Mental Welfare Commission, Mental Health Act monitoring report 2018-19, 2019
[8] Mental Welfare Commission, The use of the Metal Health (Care and Treatment) (Scotland) Act 2003 during Covid-19, 2020
[9] Mental Welfare Commission, Mental Health Act monitoring report 2018-19, 2019
[10] Mental Welfare Commission, Mental Health Act monitoring report 2018-19, 2019

other members described negative experiences with MHOs. One person explained that the involvement of a MHO in their care made them feel a loss of control, which resulted in distress and disengagement. As such, the Group feels that there should be enough MHOs to meet current and rising levels of compulsory care and treatment, but that there should also be an urgent focus on reducing instances of compulsion.

Similarly, the number of Short Term Detention Certificates (STDCs) issued increased by 39.9% between 2009/10 and 2018/19. Most STDCs (89%) record mental illness as the reason for detention.[11] Short Term Detention Orders should be the usual route to compulsory treatment, as they have more safeguards than an EDC. In particular, STDCs can only be granted by an approved medical practitioner with the consent of an MHO. The approved medical practitioner should also take into account the views of someone's named person.[12] Some members raised concerns that there is no way to ensure that such a consultation takes place before a short term detention order is issued. It was acknowledged that while there may be times where it is not practicable to consult with the named person, members agreed that every effort should be made to listen to their views.

For those who do need hospital care and treatment, whether through compulsion or not, the Group agrees that care needs to improve. Members listened to the testimony of someone who received care and treatment in hospital for four months while under compulsion. They described a lack of privacy, witnessing distressing incidents involving other patients and being excluded from outdoor recreational activities because of their diagnosis. In particular, they said that being excluded from activities made them feel more isolated and stigmatised.

They explained to members that they preferred being in an Intensive Psychiatric Care Unit (IPCU) compared to an acute ward. They had more privacy in the IPCU, including their own bedroom. They felt that this should be the standard across all inpatient psychiatric wards, as having privacy helps with recovery while a lack of privacy could prevent people from getting better. They also noted that there were more staff in the IPCU, which made participating in recreational activities easier. Moreover, the facilities in the IPCU – a games room and recreational space – were better. Based on this experience, they believe that their recovery would have been quicker, had they experienced the same level of privacy and support in the IPCU for the duration of their treatment.

The Group also heard of issues in psychiatric wards specific to people who are lesbian, gay, bisexual and trans - including lack of knowledge around gender identity, prejudicial attitudes and a lack of understanding of the impact of discrimination on mental health. This is despite the fact that people in Scotland who are lesbian, gay or bisexual are more likely to have lower mental wellbeing than heterosexual people, and trans people are at a higher risk of experiencing anxiety and depression.[13] [14] The Group feels that there needs to be increased training opportunities for staff in mental health inpatient settings, so that they are able to fully deliver inclusive care. There also needs to be increased efforts to improve staffing levels on wards. Finally, the physical environment within mental health inpatient settings must be of a standard that allows people to have privacy, which is particularly important for LGBT people and women.

[11] Mental Welfare Commission, Mental Health Act monitoring report 2018-19, 2019
[12] Scottish Government, Mental health (care and treatment) (Scotland) Act 2003 code of practice volume 2, 2005
[13] The Scottish Government, The Scottish Surveys Core Questions, 2016
[14] Stonewall Scotland, LGBT in Scotland – Health Report, 2019

It was suggested by some members that current policies and processes relating to mental health care and treatment are sometimes overly risk averse, while recognising that practitioners are often making difficult decisions balancing someone's right to life and security of person, with their right to liberty. Evidence from the Royal College of Occupational Therapists (RCOT) reiterated the importance of people participating in activities that matter to them. The RCOT would like to see a better balance between perceived risks and the risk of denying people autonomy. Achieving an effective balance would require a more joined up approach between health professionals in conversations about sharing risk, as well as the adoption of an enabling approach.

Finally, the person who gave testimony to the Group described how, prior to absconding from hospital, they had told the staff on the ward about their plan. They also told their family, who in turn raised concerns with the ward staff about the person's intention to abscond. The person feels that because of their diagnosis they weren't taken seriously, and neither was their family. As a result, they did succeed in absconding, causing much distress. The Group agrees that more needs to be done to reduce mental health stigma that can result in people not being taken seriously; people should feel heard and understood, especially when raising concerns about safety.

Recommendations

The CPG would like the Scottish Government to:

- Make public the reports on staffing for mental units from each NHS Board, as is outlined in Section 12IM of the Health and Care (Staffing) (Scotland) Act 2019
- Develop a workforce plan for mental health to address staffing levels across mental health services
- Fund the improvement of the physical environment in all mental inpatient settings in Scotland and, additionally, work with NHS Scotland and people with lived experience to create wellbeing spaces in all mental health inpatient settings in Scotland
- Increase the proportion of investment in community health and social care to support a preventative approach

The CPG would like NHS Scotland to:

- Provide training for staff in mental health inpatient settings, which supports them to take an enabling approach
- Provide training for staff in mental health inpatient settings and key community settings, including primary care and the police, on mental health stigma and discrimination
- Consider the development of a human rights based assessment to be used alongside an assessment of Significantly Impaired Decision Making (SIDMA)
- Promote the Mental Welfare Commission's Rights in Mind booklets to both mental health service staff, including medical practitioners, and people who use services
- Develop good practice guidance on communicating with families and carers when someone is in hospital for mental health care and treatment

The CPG would like Integration Authorities to:

- Increase funding for mental health in-reach services, including occupational therapy services, which support people in mental health inpatient settings to leave hospital timeously and safely
- Adopt an enabling approach in all mental health service design and delivery

Administration of Medication

The administration of medication was also a key issue, with some members raising concerns about the use of antipsychotic drugs, with the number of people receiving antipsychotic medication increasing by 30% over past 10 years. In particular, some members are concerned about the prescribing of these drugs to people with dementia. Antipsychotic drugs may be used to alleviate symptoms of dementia like hallucinations, agitation or aggression; however, there can be significant side-effects, including dizziness, poor-coordination, chest infections, and increased risk of falls and in some cases strokes.[15] Alzheimer Scotland has previously raised concerns about the use of antipsychotics to treat the behavioural symptoms of dementia.[16]

In 2014, the Mental Welfare Commission was concerned about the high use of antipsychotics, often in combination with anxiolytics or sedative antidepressants, in NHS units providing longer-term care for people with dementia. Forty-five per cent of people in 52 of these units were receiving antipsychotic drugs, with over a third (35%) of these people receiving three or more.[17] Furthermore, almost a quarter (24%) were prescribed Quetiapine, of which there is little evidence to support its use in treating stress and distress symptoms in people with dementia, while 23% were prescribed Haloperidol which can cause significant side effects in people with dementia.[18]

Antipsychotics can currently be given to people with dementia, as long as the prescribing doctor is satisfied that there is no reasonable alternative and there will be a clear benefit to the patient. Some members argue that the use of psychoactive medication in this way conflicts with the right to life and the right to freedom from torture and inhuman or degrading treatment, although other members feel strongly that it does not.[19],[20] Nonetheless, it is permitted by the Scottish Government's Health and Social Care Standards and Standards of Care for Dementia in Scotland.[21], [22] These standards were reiterated to care providers in September 2020 through a communication from the Scottish Government.[23] Some members of the Group highlighted that use of this option can indicate a lack of availability of other resources like specialist nursing staff. As such, to minimise the use of these medications and avoid inappropriate administration, the Group believes that there needs to be an increase specialist nursing staff and carer support, as well as an increased focus on developing alternatives.

The Group welcomes the recommendation by the Independent Review of Learning Disability and Autism in the Mental Health Act for a review of prescribing practice in relation to psychotropic medications.[24] The Scottish Government's National Dementia Strategy 2017-2020 also included a commitment to commission and publish a renewed study on the prescribing of psychoactive medications for people with dementia.[25]

[15] Alzheimer Scotland, Anti-psychotic drugs: what to do if you are worried, 2019
[16] Alzheimer Scotland, Anti-psychotic drugs: what to do if you are worried, 2019
[17] Mental Welfare Commission, Dignity and respect: dementia continuing care visits, 2014
[18] Mental Welfare Commission, Dignity and respect: dementia continuing care visits, 2014
[19] Council of Europe, European Convention on Human Rights,1953
[20] UN, Convention on the Rights of Persons with Disabilities, 2006
[16] Scottish Government, Health and Social Care Standards: my support, my life, 2017
[22] Scottish Government, Standards of Care for Dementia in Scotland, 2011
[23] Scottish Government, Communication – Dementia – psychoactive medication prescribing and review, 2020
[24] Independent Review of Learning Disability and Autism in the Mental Health Act, Final Report, 2019
[25] Scottish Government, Scotland's National Dementia Strategy 2017-2020, 2017

Such a study has yet to be published; however recent figures from England suggest that there has been an increase in the use of these drugs during the Covid-19 crisis.[26] This further underlines the need to get a clear picture on the use of antipsychotic drugs in Scotland's care settings, including during the pandemic.

Similar concerns were raised about the use of covert medication, which is when someone is given medication without them knowing about it. According to the Adults with Incapacity (Scotland) Act 2000 Code of Practice, the use of covert medication is permitted in "certain, limited circumstances" when a person lacks capacity to consent to treatment.[27] In these cases, an authorised health professional should complete a section 47 certificate to certify that an adult lacks capacity – this is a legal safeguard. In 2019/20, 76% of all individuals on a guardianship order who required a section 47 certificate had one in place; for those with a section 47 certificate in place 99% were found to be appropriate.[28]

This indicates that in instances when a section 47 is in place, the use of covert medication is overwhelmingly in adherence with standards. However, over a fifth of people receiving covert medication do not have a section 47 certificate in place, meaning many people could be receiving medication inappropriately. Some members acknowledged that there may be circumstances when health professionals need to administer covert medication. However, others felt strongly that covert medication would always be an inappropriate and potentially harmful infringement of someone's rights. Many members agreed that the current safeguards for the use of covert medication did not adequately protect people's rights, as they are not always adhered to.

Finally, while the Mental Health Act does include safeguards for the use of involuntary medication for a period of over two months, there are fewer safeguards for short term involuntary treatment.[29] This is particularly a problem for people who are given care and treatment under a Short Term Detention Certificate (STDC). The European Court of Human Rights has ruled that when someone is detained, this does not automatically authorise the use of involuntary medication.[30] However, in Scotland once an STDC is granted, a person can be given treatment involuntarily without additional scrutiny or oversight into how treatment is administered.

The Group feels that this issue needs to be explored, to ensure that there are appropriate levels of safeguarding, while ensuring that people can still get the care and treatment they need at the earliest opportunity. The Group also feels it is important to consider more closely the right to legal capacity in the context of mental health care and treatment – that is, someone's right to make decisions about their care and treatment. This has not been given enough attention since the Mental Health Act was introduced in 2003, and must now be a focus for Scotland in efforts to reduce instances of compulsion.

[26] Howard, Burns and Schneider, Antipsychotic prescribing to people with dementia during COVID-19, 2020
[27] Scottish Government, Adults with incapacity: code of practice for medical practitioners, 2010
[28] Mental Welfare Commission, Adults with Incapacity Act monitoring report 2019-20, 2020
[29] Scottish Human Rights Commission, PE1667/F Scottish Human Rights Commission submission, December 2017
[30] ECHR, Case of X v. Finland, 2012

Recommendations

The CPG would like the Scottish Government to:

- Fulfil Commitment 18 in Scotland's National Dementia Strategy 2017-2020

The CPG would like the Scottish Mental Health Law Review to:

- Consider how to improve the safeguards around the use of covert medication under the Adults with Incapacity Act
- Consider how to improve the safeguards around the short term administration of involuntary treatment under the Mental Health Act
- Explore how to implement supported decision making in the context of reducing substitute decision making for people with mental health problems in line with United Nations Convention on the Rights of People with Disabilities

Employment and Mental Health in the Workplace

The Group agreed that employment can be good for people's mental health. However, many members emphasised the need for good quality employment; when people have control over their working conditions and are supported by understanding employers. Moreover, the United Nations' Convention on the Rights of People with Disabilities (UNCRPD) protects the right of people with disabilities "to work, on an equal basis with others" in an environment which is "open, inclusive and accessible to persons with disabilities".[31]

Despite the progress made on Actions 36 and 37 of the Mental Health Strategy, which relate to employment, people with mental health problems continue to have the lowest employment rate of all people with disabilities in Scotland.[32] Members of the Group that have lived experience shared that they still face barriers when seeking employment. Some described incidents of being rejected before a job interview, feeling that rejection was in part because they had disclosed mental health problems.

Research from Rethink Mental Illness found that 83% of people responsible for hiring in the UK worry that someone with a severe mental illness wouldn't be able to cope with the demands of the job and about three quarters would worry that they would need a lot of time off. [33] Additionally, See Me Scotland's anti-stigma programme found that over one in ten people in Scotland would not recommend someone for a job if they had a mental health problem.[34] However, over half of respondents to the Rethink Mental Illness survey believed they'd be more likely to employ someone with a mental health problem if they were better equipped to support them, for example by receiving training.[35]

With regards to mental health in the workplace, some members of the Group feel that employers have made gradual improvements to support people with mental health problems and protect them from stigma and discrimination. However, some suggested that employers' commitments do not always translate into meaningful action. In 2019, over a third of people who had disclosed a mental health problem to their employer felt ignored and 8% said they had been dismissed or disciplined.[36] It is clear that employers still need to do work to ensure that workplace policies and practice, especially in relation to hiring and absence, are not discriminatory and do not stigmatise people struggling with their mental health.

The Group also wants to see more focus on making workplaces a psychologically safe and positive environment, so that work does not increase stress but is instead felt to be good for our mental health. The person who provided oral testimony to the Group described how work-related stress and a high-pressure working environment had contributed to their breakdown, which resulted in them spending four months in hospital. We also know that around two in five employees in Scotland report experiencing mental health symptoms related to work.[37]

[31] UN, Convention on the Rights of Persons with Disabilities, 2006
[32] Scottish Government, Disabled people in the labour market in Scotland: 2018, 2020
[33] HR Magazine, Employers concerned about hiring mentally ill people, 2017
[34] See Me, Survey of Scots Reveals that a Quarter Don't Feel Comfortable Talking About Mental Health At Work, 2019
[35] HR Magazine, Employers concerned about hiring mentally ill people, 2017
[36] Business in the Community, Mental health at Work 2019 Report: Scotland Focus, 2020
[37] Business in the Community, Mental health at Work 2019 Report: Scotland Focus, 2020

There was consensus among Group members that there should be a push to promote a whole-organisation approach to protecting and improving mental health in the workplace. It was highlighted by members with lived experience that it is often other employees, as opposed to employers, who contribute to or cause work-related stress and distress. A survey commissioned by the Mental Health Foundation found that 46% of people who chose not to disclose their mental health problems at work did so because they feared discrimination or harassment from colleagues.[38] It's also important to recognise that people from minority groups, including LGBT people and people of minority ethnic background, can face dual stigma and discrimination – that is both mental health stigma and discrimination, and stigma and discrimination based on other protected characteristics.

Finally, the Group felt there was a lack of evidence that meaningful connections have been made between mental health, disability and employment support. In fact, one member with lived experience told the Group that respective health, disability and employability services "fight their own corner and don't give full consideration to the whole picture". However, many members did acknowledge that the Scottish Government's No One Left Behind Delivery Plan does include actions on improving the role of healthcare services to support people to remain in or enter work.[39] [40]

Recommendations

The CPG would like the Scottish Government to:

- Provide direct funding for mental health training and support interventions for public sector employees, as well as grant funding for small/medium sized businesses and not-for-profits
- In completing Action 36 and developing mental health standards for the public and private sectors, work with NHS Scotland and others to promote a whole-organisation approach to improving and protecting mental health in the workplace, which should prioritise inclusivity and diversity
- Consider how both national and local government can take a more joined up approach to disability, health and employment

The CPG would like employers to:

- Ensure that mental health is listed as a reason for absence in recording procedures
- Develop and implement annual mental health action plans in consultation with employees
- Undertake routine employee supervision, which should include a question about mental wellbeing

[38] Mental Health Foundation, Mental Health in the Workplace, 2018
[39] Scottish Government, No One Left Behind: next steps for the integration and alignment of employability support in Scotland, 2018
[40] Scottish Government, No One Left Behind: delivery plan, 2020

Diversity in the Mental Health Workforce

Members with lived-experience also told the Group they would like the mental health workforce to be more diverse and inclusive. Some members believe that a lack of diversity in the mental health sector contributes to increased stigma and poorer quality treatment. We know that particular groups of people are at higher risk of experiencing mental health problems and may face unique challenges when accessing services. Members felt that one way to break down barriers to support, and ensure people have a right to adequate healthcare, would be to have a more representative workforce.

For example, people in Scotland from Black, Asian and other minority ethnic backgrounds are at a higher risk of developing an acute mental health problem and tend to be overrepresented in compulsory treatment.[41] [42] However, these groups tend to be underrepresented in the NHS workforce. At the last workforce census of NHS Scotland psychology services, 91.63% of whole time equivalent (WTE) staff members were White, while only 2.5% were of Mixed, Asian or Black ethnicity.[43] Having a more ethnically and culturally diverse workforce will break down barriers such as cultural and religious stigma, not speaking English as a first language, and not feeling understood.

Similarly, people who experience poverty are more likely to experience poor mental health. While the Group does not have data on the proportion of the mental health workforce that has experienced poverty, we do know that research has shown that the majority of medical students in Scotland (54%) come from the most affluent postcodes. Only 4.3% of medical students, according the research, came from the poorest postcodes.[44] The Group feels that increasing mental health workforce diversity in relation to socio-economic background is crucial, given the known link between poverty and mental health.
The Group also heard that barriers still exist which prevent people affected by deafness from accessing support and treatment. In particular, evidence from deafscotland highlighted the communication barriers in talking therapies; not all talking therapies translate easily into British Sign Language (BSL) or tactile BSL. This means that common support options are often not an option for people who experience deafness or deafblindness.[45] People affected by deafness also continue to experience a postcode lottery of services, which means they are forced to wait longer for treatment and, as such, may need treatment for longer. Therefore, the Group would like to see increased efforts to recruit deaf mental health professionals, including medical practitioners and psychologists. This is an important issue for the Group, as people affected by deafness are four times more likely to have anxiety and depression than hearing people.[46]

[41] Narinder Bansal, et al., (2013), Disparate patterns of hospitalisation reflect unmet needs and persistent ethnic inequalities in mental health care: the Scottish health and ethnicity linkage study, Ethnicity & Health
[42] Mental Welfare Commission, Mental Health Act Monitoring Report 2018-19, 2019
[43] NHS Education for Scotland, Psychology Services Workforce in NHSScotland: Quarter Ending 30 September 2020, 2020
[44] Steven, Dowell, Jackson and Guthrie, Fair access to medicine? Retrospective analysis of UK medical school application data 2009-2012 usng three measures of socioeconomic status, 2016
[45] Deafscotland, Mental Health Summit Report 2020, 2020
[46] Deafscotland, Mental Health Summit Report 2020, 2020

Recommendations:

The CPG would like the Scottish Government to:

- Adequately support and resource the Equality Stakeholder Forum for Mental Health and ensure the participation of people with lived experience, including people with lived experience from under-represented groups

The CPG would like NHS Scotland to:

- Ensure diversity is at the centre of all workforce planning for mental health
- Undertake an Equality Impact Assessment of all recruitment practices for NHS mental health services
- Work with universities and colleges to increase the intake of students onto mental health courses, including medicine, from under-represented groups
- Prioritise the recruitment of people from Black, Asian and other minority ethnic backgrounds, people from deprived areas and deaf people into mental health services

The CPG would like Integration Authorities to:

- Ensure there is co-production with people affected by deafness in the planning and design of mental health services to ensure their inclusivity

Conclusion and Recommendations

The Cross Party Group on Mental Health would like to thank all those who gave written and oral evidence to this stage of this inquiry. While the Group welcomes the progress made to improve the rights of people with mental health problems, the findings in this report clearly demonstrate the need for more action. Addressing these issues will be a vital part of the response to the increase in demand for mental health support and treatment as a result of the pandemic.

The CPG would like the Scottish Government to:

- Make public the reports on staffing for mental units from each NHS Board, as is outlined in Section 12IM of the Health and Care (Staffing) (Scotland) Act 2019
- Develop a workforce plan for mental health to address staffing levels across mental health services
- Fund the improvement of the physical environment in all mental inpatient settings in Scotland and, additionally, work with NHS Scotland and people with lived experience to create wellbeing spaces in all mental health inpatient settings in Scotland
- Increase the proportion of investment in community health and social care to support a preventative approach
- Fulfil Commitment 18 in Scotland's National Dementia Strategy 2017-2020
- Provide direct funding for mental health training and support interventions for public sector employees, as well as grant funding for small/medium sized businesses and not-for-profits
- In completing Action 36 and developing mental health standards for the public and private sectors, work with NHS Scotland and others to promote a whole-organisation approach to improving and protecting mental health in the workplace, which should prioritise inclusivity and diversity
- Consider how both national and local government can take a more joined up approach to disability, health and employment
- Adequately support and resource the Equality Stakeholder Forum for Mental Health and ensure the participation of people with lived experience, including people with lived experience from under-represented groups

The CPG would like the Mental Health Law Review to:

- Consider how to improve the safeguards around the use of covert medication under the Adults with Incapacity Act
- Consider how to improve the safeguards around the short term administration of involuntary treatment under the Mental Health Act
- Explore how to implement supported decision making in the context of reducing substitute decision making for people with mental health problems in line with United Nations Convention on the Rights of People with Disabilities

The CPG would like NHS Scotland to:

- Provide training for staff in mental health inpatient settings, which supports them to take an enabling approach
- Provide training for staff in mental health inpatient settings and key community settings, including primary care and the police, on mental health stigma and discrimination

- Consider the development of a human rights based assessment to be used alongside an assessment of Significantly Impaired Decision Making (SIDMA)
- Promote the Mental Welfare Commission's Rights in Mind booklets to both mental health service staff, including medical practitioners, and people who use services
- Develop good practice guidance on communicating with families and carers when someone is in hospital for mental health care and treatment
- Ensure diversity is at the centre of all workforce planning for mental health
- Undertake an Equality Impact Assessment of all recruitment practices for NHS mental health services
- Work with universities and colleges to increase the intake of students onto mental health courses, including medicine, from under-represented groups
- Prioritise the recruitment of people from Black, Asian and other minority ethnic backgrounds, people from deprived areas and deaf people into mental health services

The CPG would like Integration Authorities to:

- Increase funding for mental health in-reach services, including occupational therapy services, which support people in mental health inpatient settings to leave hospital timeously and safely
- Adopt an enabling approach in all mental health service design and delivery
- Ensure there is co-production with people affected by deafness in the planning and design of mental health services to ensure their inclusivity

The CPG would like employers to:

- Ensure that mental health is listed as a reason for absence in recording procedures
- Develop and implement annual mental health action plans in consultation with employees
- Undertake routine employee supervision, which should include a question about mental wellbeing

The Conveners of the CPG have written to the Minister for Mental Health, Claire Haughey about this report. The Cross Party Group for Mental Health hopes to receive a response from the Scottish Government in relation to its recommendations.

This is the final interim report of the CPG's inquiry into the Mental Health Strategy 2017-2027. The next steps of the inquiry will be to publish a summary report. The previous three reports can be found on SAMH's website here.

If you are an organisation working within the mental health sector, you can attend meetings as an observer or request to join the group as a member by emailing publicaffairs@samh.org.uk.

Appendix 1

Call for evidence respondents:

- CAPS Independent Advocacy (Lothian Voices Group)
- deafscotland
- Hunter Watson
- Maurice Frank
- Mental Welfare Commission
- Royal College of Occupational Therapists
- Scottish Mental Health Co-operative
- See Me Scotland

Appendix 2

The following organisations contributed to the final report:

- Equality Network
- Psychiatric Rights Scotland
- Royal College of Psychiatrists

A full list of members of the Cross Party Group on Mental Health can be found on the Scottish Parliament's website here.