

# MENTAL HEALTH LAW

Updated 15 January 2020

The principal aim of the review is to improve the rights and protections of persons who may be subject to the existing provisions of mental health, incapacity or adult support and protection legislation as a consequence of having a mental disorder.

**When we talk about mental health legislation we are referring to;**

**The Mental Health Act (MHA)**

This means the law called the Mental Health (Care and Treatment) (Scotland) Act 2003. This law applies to anyone who may be suffering from a mental disorder. That can include people with mental illness, personality disorder or learning disability

**The Adults with Incapacity (Scotland) Act 2000 (AWI)**

The review will also have to consider the AWI Act. This means the law called the Adults with Incapacity (Scotland) Act 2000. This law can put in place procedures and safeguards to enable decisions to be made for people who are unable to make decisions about their lives for themselves. That can include people with mental illness, personality disorder or learning disability. It can also include other people who have lost the ability to make decisions for themselves because of a brain injury or other accident or illness that affects their ability to make decisions.

**The Adult Support and Protection (Scotland) Act 2007 (ASPA)**

The review can also talk about the ASPA. This means the Adult Support and Protection (Scotland) Act 2007. This law can put in place measures to protect people who may be vulnerable because of illness, disability or some other reason and therefore may be more at risk of harm, from their own behaviour or the behaviour of other people.

**Mental Disorder**

As part of the review we describe people as having a mental disorder. The Mental Health Act describes someone who has a mental disorder as being someone who has a mental illness, a personality disorder or a learning disability. We know that some people are uncomfortable with this description. However it is the definition used in the law just now and is therefore the definition we have to use for now.