

Scottish Mental Health Law Review

Capacity and Supported Decision Making Advisory Group

Date: Tuesday 30th June 2020
via Microsoft Teams

Present; John Scott, Jill Stavert, Marianne Morritt, Sandra Macdonald, Arun Chopra, Simon Bradstreet, Becky Leach, Paul Hutton, Pearse McCusker, Ronnie Franks, Jan Killeen, Joanna Dymock

Secretariat: Kirsty McGrath, Sophie Ryder

Areas for consideration

The group agreed that going forward the group will concentrate on these specific areas;

- How are capacity/SIDMA assessments made, do they need to/can they be improved (if so, how) and can they ever be free from discrimination?
- Should capacity thresholds be used for non-consensual interventions?
- If capacity thresholds are used as the basis for non-consensual care and treatment and/or accessing support, how can this best be framed in the law?
- What should support for decision-making achieve and is there any evidence yet of this actually happening/what is needed for this to happen?
- Considering the use and role of independent advocacy and advance statements.
- How can support for decision-making best be reflected in the law? Avoiding gaps between law and practice.
- In considering this weight will need to be given to the European Convention of Human Rights (ECHR) and the Convention on the Rights of Persons with Disabilities (CRPD).

Approach

- Agree terms of reference
- Identify research already available in relation to the areas for consideration

- Identify and consult stakeholders and other experts who can contribute to these areas of work
- Mini consultations on specific areas with lived experience
- Make recommendations to the Review Executive Team

Actions

- Map out the research that is available in relation to the areas for consideration.
- Circulate the final report on capacity assessing in practice conducted by Sandra McDonald for consideration
- The Secretariat will send out a poll and schedule dates for all meetings until December.