

Scottish Mental Health Law Review

Minute of the Communication and Engagement Advisory Group

Location: Virtual Meeting via MS Teams – link to be sent separately

Date: 27th October 2021

Time: 9:30 – 10:30

Chair: Karen Martin

Secretariat: Sophie Ryder

1. Advance Planning

Members of the group had received the paper on 'advance planning' prior to the meeting. Karen spoke to this paper throughout the meeting. The following points were raised;

- An advance statement is only brought to your attention if you are in hospital or admitted to hospital. It isn't something that is routinely talked about.
- A member of the group touched on their own personal experience advising that an advance statement was not something discussed. This is something that should be discussed right away, this is particularly important when there are more locums treating patients.
- The advance statement should be looked at every consultation.
- Advance statements should be for everybody and not just for people who have been diagnosed with a mental illness, this would serve to reduce the stigma attached to mental health.
- This also aligns with CRPD – we shouldn't treat somebody with mental disabilities differently – so in essence it is discrimination to only allow advance statements to those with mental disabilities.
- One of the members of the group touched on their own personal experience and advised that their advance statement had only ever been discussed when they were in hospital.
- Nobody seems to want to take responsibility for an advance statement and furthermore professionals do not seem to understand who's responsibility this is. As a result it is difficult to keep it relevant.
- CPN's and MHO's are a captive audience for training in advance statements
- Social workers are not trained on advance statements. Whilst they are encouraged to discuss things like guardianship, capacity and POA during the assessment process, advance statements are not something routinely discussed.
- The advance statement should go to the GP automatically. As it currently stands this is not what happens. A paper goes into the psychiatric file and then is only referred to if you fall under the act.
- At the moment advocacy can help write advance statements but they can't witness them – who's duty should this be?
- There isn't enough uptake on advance statements, because people think they are pointless due to the fact that they can be overridden. It was suggested

that there needs to be better training for psychiatrists so that they pay attention to them.

- Advance statements are important as they state who should be involved in care and treatment. This offers a safeguard so that professionals cannot use data protection as an excuse not to communicate with carer.

2. Language and Scope

The group were asked whether they thought the term 'advance statement' was appropriate and whether they felt that the scope of the advance statement was broad enough. The following points were raised;

- It is confusing to use different words to describe the same thing, i.e. 'advance statement' and 'advance directive'.
- The word 'directive' sounds like it holds more weight but it actually holds less weight.
- 'advance statements' have more weight so this is perhaps what we could build and develop on.
- England uses a different term which makes it even more confusing
- If we simplified the language, people would have a better understanding of what we are talking about.
- There is a risk that if we come up with something else then this could add to the confusion.
- The term 'statement of wishes and preferences' was suggested.
- The term 'statement' carries negative connotations.
- At the moment the advance statement only focuses on treatment – question whether it should be broader than this.
- Whatever we call it we need to ensure that it carries weight necessary. The law will underpin this.
- We need to bring this language into common use.
- It was agreed that the advance statement should be broader in scope and should include economic, social and cultural rights such as accommodation, where you want to stay and where you don't want to stay. Should also include things about a person's culture and religious beliefs, but we need to be careful not to dilute the importance of the advance statement by including too much.
- The MWC have already done quite a bit of consulting and research in this area which is contained in a document called 'my views, my treatment' They distinguish between a personal statement and advance statement, but it was suggested that these be tied together so that the personal statement would also come under the legislation. This would include things like spiritual beliefs, preference with regards to the caring responsibilities for pets etc.
- There is a difference between being an expert in medication and an expert in what will help somebody to recover. The expert in this is more likely to be the individual.
- The ALLIANCE would support this more holistic approach.
- The WHO have a template for advance statements that could be considered.
- Dundee voluntary action also sent out a template for this a while ago.

- Is it possible to tie the advance statement into POA? Social work encourage people to complete a POA before they need to.
- The group spoke about the difference between the 'treatment plan' and 'advance statement'. The 'treatment plan' is made by professionals at the time of treatment. Not all patients will have seen the care plan. The advance statement could help in writing the care plan.

Action – Karen to disseminate template from WHO

3. Awareness

The group were asked whether they felt there was a sufficient level of awareness around advance statements. The following points were raised;

- We need do far more to raise awareness.
- Social work could have more involvement in making people aware of advance statements as they often do the initial assessment.
- GP's should also be required to make people aware of advance statements as this is often the gateway to treatment for many people with mental disorder. Also a GP is a medical professional who may have been involved in that patients care and treatment for a long period of time. This is often a good basis for a trusting relationship and therefore could be a good opportunity to discuss and advance statement. Awareness needs raising with GP's.
- It was suggested the peer groups could be used as influencers to raise awareness amongst young people.
- It was questioned why there is a lack of awareness in Scotland. The mental welfare carried out an awareness campaign on this, why didn't this work?
- Vicky suggested that she could raise awareness through the peer support programme that she runs at HUG.
- Peer support programmes could be a good avenue into raising awareness. Advocacy very stretched at the moment.
- There is the potential to use libraries as local hubs to raise awareness of advance statements in conjunction with an online awareness campaign.

Summary

- An advance statement should be available to everybody and everybody should be encouraged to make one regardless of whether they have mental disabilities.
- The current name is not appropriate and needs to change. This needs to be simple and reflect the scope of the 'statement'.
- The scope of the 'advance statement' needs to be wider to capture things beyond care and treatment, such as cultural and religious beliefs, financial affairs and wishes and preferences linked to more domestic things.
- There needs to be far more awareness around advanced statements.
- It needs to be clear where responsibility lies for making people aware of advance statements when they present with mental illness. It is recommended that the responsibility lie with GP's, Social workers, CPN's and MHO's.

- Medical professionals require more training to understand the importance of advance statements
- It should also be mandated by law, that if somebody has an advance statement, this should be considered at every consultation in relation to that persons mental health, that way it is kept relevant.
- The advance statement should form part of your records so that it transfers with the individual if there is any change in geographical location.

It was recognised that any recommendations made to change the law with regards to advance statements needs to be made in conjunction with a culture shift.

Secretariat – SMHLR
27/10/21