

**SMHLR  
Executive Team Meeting Minute  
Teams Meeting - 26<sup>th</sup> October 2021**

**Present:** John Scott, Colin McKay, Alison Rankin, Karen Martin, Jill Stavert

**Secretariat:** Sandra McDonald, Kirsty McGrath, Sophie Ryder, Karen Colvin, Simon Webster, Isla Jack

**Apologies received from:** Graham Morgan

**AGENDA**

**1. Staffing Update**

A joint Project and Communications Manager, Morag Peberdy will commence secondment on 15<sup>th</sup> November 2021.

Seeking a Research Assistant to assist with consultation in spring / analysing what we have already.

**2. Feedback From Meetings**

***SG Human Rights Bill***

A meeting was held last week. Currently thinking through implications of co decision on UN Convention of rights of children. Agreed to keep in touch, share information, whilst maintaining the independence of review. Consultation planned for Spring 2022, so need to be mindful not to overburden people.

***BMcS / GQ meeting***

Notes were circulated from GQ meeting for review, with queries on mental health capacity / legal capacity discussions. Feedback to be given to SR.

Conversations with both were useful. Sensed they have broken UNCRPD down themselves into something manageable. A lot about framing. Qualities theme, to take same approach, may make it more manageable when handing over to the Scottish Government, when they are trying to link up across different portfolios.

Meetings were very productive.

**3. Forthcoming Meetings**

JSc and CMc meeting with DB, checking on regulatory framework and work following Tayside report.

MWC meeting agenda questions to be sent to KC by 29/10/21.

CMc to respond to Mental Health Foundation to give better understanding re purpose of meeting request with the network.

KC to arrange meeting with Master Hilary Wells (Northern Ireland) on behalf of JSc, for end Nov/early Dec.

Contact Sheriff D Mackie to arrange a meeting KC / KM.

#### **4. Action Plan – check in on progress**

Project plan shared on screen with group, agreed October actions were on track.

November plan, group happy with action plan and on track.

Work on Fusion, currently waiting feedback first on Assessment Framework then to start feeding into work on Fusion.

#### **5. Refugees and Asylum Seekers – Issues For The Review**

An article around the Refugees and Asylum Seekers was circulated round the group. Contact has been attempted with the groups to get feedback on the issues faced, currently pending a response.

JustRight Scotland are keen to engage but want to know more about what we want to ask them. How do we want to focus this piece of work with regards to Just Right Scotland?

Concern that there is a lot of underlying issues that have arisen in the tribunal process, needs not being well met by legislation or services. Could there be a training issue around practitioners and the level of trauma? Translator issues, who pays? Sometimes they use family members, but not appropriate. Not getting the rights to the safeguards. Majority of cases seem to be coming from Glasgow areas.

Problems faced by those seeking asylum is all wrapped up in whole host of other problems relating to housing, physical health etc, and mental health not being separated out. What issues do they come across in terms of their normal work under the mental health heading, if they could separate it out for our purpose? Key thing for them being the asylum claim, how that's dealt with?

There is a general sense of do people get access to mental health support when they need it?

Is there evidence of this system worsening people's health in serious way?

Public funds for people?

Post discharge, support for people? Experience in the detention system?

An example was shared of someone who had been through the asylum process.

Mental health issues may not manifest themselves until much later in process of those seeking asylum. Number of young people who are asylum seekers who are going missing. What protection do child asylum seekers have?

Need to be mindful that some of the issues are out with scope of the review / Scottish Government.

Question asked at initial consultation, asking if people they felt they'd been treated differently in the mental health sector due to race or ethnicity. Consider documenting this.

JustRight Scotland – set up initial discussion.

## **6. Forensic Workstream – note and initial discussion on approach for the Review**

Direction of travel, where do we want to go with this workstream? Parameters, what can we achieve within the time scales?

To re work paper, move towards any foundational points, suggest a couple of places we could consult with.

The awareness point is key, Article 13 may well fit in there and other sections considering forensic aspects of legislation.

Personality disorders, when things too difficult to deal with via a mental health path. When dealing with Forensic cases, they are relatively simple with regards to the path we're going to do. If done properly and honestly, with assessments, far more people should be going down the mental health path in the criminal procedure Scotland act than there are. Surprisingly uncommon.

Data on how often examination of facts? This will be looked into. Qualifying criteria – should be happening more often.

Psychiatrist with regards to a personality disorder, will send people down the criminal justice path. From the 2003 act, sense that wasn't meant to happen.

Trauma informed movement within the law to try and address issues. Genuine ignorance / partly woeful blindness.

First point of contact – recognised as key, at least in relation to policing, there has been more done in triage work with mental health to try and have early awareness and identification, if it doesn't work, very often never caught within system, individuals will end in young offenders institution or prison. Failure to pick them up at earlier stages can lead to them never being picked up at all.

Awareness of 'patchy' services around personality disorders, need for therapeutic psychological therapies, services, awareness and recourses not there.

Only 4 or 5 accredited mental health specialist by Law Society of Scotland – Most people dealing with forensic are ordinary solicitors, no training or awareness or who don't do tribunal work, which exacerbates problems.

Discrimination or reasonable accommodation, at the moment it appears doing things differently for those who we do identify or assess with mental disorder. Its right we don't probe or push them down criminal justice path. Importance of not using reasonable accommodation as cover.

Point made at MF meeting, equality of treatment might mean we treat everyone equally badly. The right to be treated equally badly is not something we should be pushing. Perhaps triggers other human rights principles in relation to inhumane/degrading treatment.

Learning disability, making the recommendation that more should be done of removing disability from the definition of mental disorder, then look at far greater support, may be a wider range of means of supporting and guiding someone through criminal justice process with reasonable adjustments.

Those who are 'badged' through mental health processes ending up in detention of some sort for a much longer period of time, than if they had gone through criminal justice processes.

In terms of consultation – Scottish personality disorder network, might be useful to consult with.

Prospect of Single system – even with reasonable accommodations.

Accused persons generally – we don't look at the question of traumatising, after thought even by defence.

Specific issues of law:

- Detentions without end
- The role of Scottish ministers and progression – vulnerable to challenge
- Recording matters and recording forensics cases – absence of
- Right to vote
- Risk assessment
- Absence of a jury as a fact finder
- Provision of reports issues – great degree of inconsistency with approach

Issues around training awareness and lack of time – In summary cases, there is so little time to mark a case and identify if there may be issues of a person's mental health.

A comprehensive and complicated system, with 12 different orders, that apply to a small number people, about 100 people a year end up on hospital orders or variants. Thousands of people a year go through the criminal justice system who have mental health needs – system is very elaborate for a tiny amount of people. We need to think about different ways that gap is addressed for other people with mental health needs. Will send in more comments summarising.

Conscious whole forensic side seems to be a bit of a lottery, no great protocol, depends if defence lawyer is sensitive to mental health, or if mental health workers available in at crisis point. People have passed comment going via a criminal justice system, they get a fixed sentence and know when it ends.

Diversion – picked up at earlier stage – many of whom will miss it. Lack of awareness.

Confusion over legislation, what are they in for, restrictions. Issues also around cross borders barriers.

Noted, the SG response to the Barron review will be next week.

Shortage of low secures beds in terms of forensic services - new site for rehabilitation, 30 spaces for low secure. Many people sent for out of area. Impact on the individuals experience.

## **7. AOB**

No matters arising.

Secretariat - SMHLR